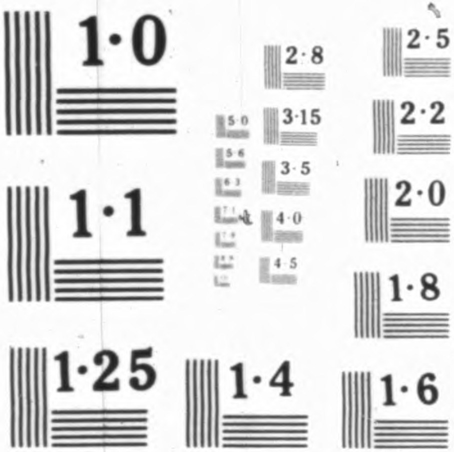
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# GREAT BRITAIN
# LAW OFFICERS' OPINIONS

Clive Parry
Editor

Erwin C. Surrency
Microfilm Editor

Dobbs Ferry, New York
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1976

# GREAT BRITAIN
# LAW OFFICERS'
# OPINIONS

# REEL

# 2

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OF

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**CONFIDENTIAL.**

# Law Officers' Reports: 1867.

## Brazil.

### No. 1.

*The Queen's Advocate to Lord Stanley.—(Received March 9.)*

My Lord, *Doctors' Commons, March 9, 1867.*

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that he was directed to transmit to me a copy of a newspaper Report of an action at law brought in this country by a sailor of the steamer "Thames" against the owner of that vessel, in which the Lord Chief Baron is reported to have censured the conduct of Mr. Hollocombe, the Acting British Consul at Rio de Janeiro. A Report from Mr. Hollocombe of his proceedings in this case was also inclosed; and Mr. Hammond was pleased to inquire whether it is possible to obtain such authentic report of the Judgment in this case as will enable your Lordship to instruct Mr. Hollocombe as to his proceedings, and to request that I would report to your Lordship as to what those instructions should be.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That there does not appear to be any very material difference in the facts as stated in the newspaper Report and in the Report of Her Majesty's Consul at Rio de Janeiro. The principal facts appear to be, that the "Thames" had practically been employed as a tender to two Peruvian ships of war, either when war was *imminent*, or after it had broken out; and that, at all events, she was employed in supplying them with warlike stores, though it is alleged by the Consul that the master said these stores would be discharged at Rio.

I have conferred with the Solicitor-General, who appeared at the trial on behalf of the master of the ship, the defendant. The story told by the sailors was, that they were engaged in ignorance of any war between Peru and Spain, and that at Rio they discovered that they were to be employed in assisting Peru in belligerent operations, and therefore claimed to be released from a contract which was broken. The defence was that, at the time they were engaged, Spain and Peru were at peace, and that the contract was not broken up at the time of their arrival at Rio, when a new state of having arisen, they were free to remain with the ship, or not, as they pleased. The verdict was for the sailors, the plaintiffs; but the question of law was reserved. It seems also that the truth of the statements made by the sailors is very questionable. In any case, however, the conduct of the Consul was incorrect. Her Majesty being neutral in the war between Spain and Peru, her subjects ought not to be employed in carrying contraband of war to either belligerent, still less in acting as a crew on board a tender to a belligerent ship of war. In the former case they were liable to be seized, with the vessel, as prize, and to be detained as witnesses during the trial; in the latter case they were liable to be treated as prisoners of war. The statement of the master to the Consul, that the warlike stores would be delivered at Rio, did not justify the Consul in telling the sailors that they ought to return to the vessel which was to be so employed.

The carriage of contraband in time of war gives rise to very nice questions of international law, and the vessel, with her crew, would certainly have been exposed to capture, whatever the result of the trial might be. The men ought not, in these circumstances, to have been ordered back to the ship, or to have been treated as deserters.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 2.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 21.)

My Lord, *Doctors' Commons, March* 21, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Minister at Rio de Janeiro (No. 10, February 5), transmitting a statement which he has drawn up on the position of the English claims presented to the Mixed Commission which was organized under the terms of the Convention between this country and Brazil of June 2, 1858; that I should see that Mr. Thornton was anxious to have the opinion of the Law Officers of the Crown upon certain points connected with these claims; and Mr. Hammond was, in compliance with Mr. Thornton's wishes, to request that I would furnish your Lordship with any observations I may have to offer thereon.

In obedience to your Lordship's commands I have considered these claims, and have the honour to report—

That I have read the observations of Mr. Thornton upon each of these fifty-two claims.

The question as to what general principles should govern Her Majesty's Government in maintaining these claims is certainly of considerable importance, both on account of the expedience of fixing clearly and adhering steadily to the principles applicable to all such cases; and also on account of the large amount of these claims which, after undergoing a severe, but I doubt not a just, pruning, and including a very moderate European, and not an immoderate Brazilian, rate of interest, reaches a total of 93,280*l*. 9*s*. 11½*d*.

With respect to that important category of claims which are founded on the fact of losses sustained by firms or individuals resident in the Brazilian dominions in consequence of the violent acts of insurgents and rebels overpowering for the time the regular authorities of the State, I am of opinion that the proper rule to be applied is the following:—

These foreign residents are entitled to whatever compensation or redress is accorded to native Brazilian subjects; in other words, that in this particular respect the foreigner is to be considered and treated as a native by the Brazilian Government. This, I may observe, was the rule which the Foreign Office was advised to apply to British subjects resident in the territory of the United States during the late Civil War.

I rather presume that the application of this rule will have the same result in diminishing the claims as that which flowed from Mr. Thornton's opinion that the Brazilian Government was not liable at all to demands of this kind. It may be, however, that native subjects have received some compensation for similar losses.

With respect to Claim No. 1 (Messrs. Hardiman and Co.)—This would be excluded by the rule which I have stated.

With respect to the Claim No. 2 (on behalf of the "Perseverance").—I am clear that it ought not to be received, for the reason alleged by Mr. Thornton, and because it is by no means certain that the collision was not the result of inevitable accident.

As to Claim No. 3.—No remark is needed; and so as to Claim No. 4.

Claim No. 5 is governed by the answer to No. 1.

As to Claim No. 6 (Davenport and Co.)—I agree with Mr. Thornton, that the circumstances take it out of the application of the principle which has been stated, and that it should be satisfied.

As to Lyon and Parkinson (No. 3 of No. 6), I agree with Mr. Thornton in his reasoning on Claim 40, that the Brazilian Government ought not to pay for the gunpowder imported in the ship "Cabotia."

The Claim of Messrs. Rostron and Co. (No. 4) falls under the principle which I have already stated, and is properly excluded.

The Claim of Mr. Marback, arising out of the compulsory destruction of houses to prevent the spreading of the conflagration, appears to me to be properly dealt with by Mr. Thornton.

With respect to John O'Dwyer, no legal claim can be made upon the Brazilian Government; the utmost that can be done is to appeal to the equity of that Government in the particular circumstances of the case; and certainly nothing should be said upon the subject of interest.

In regard to Claim No. 7, I have not sufficient information to form an opinion whether it does fall under the principle which exempts the Government from liability: I should be inclined, from the brief statement of Mr. Thornton, to think the contrary; and with respect to—

Claim 8 (Mr. Vice-Consul Burnett's), I agree that he is entitled to compensation.

Claim No. 9 requires no observation.

Claim No. 10 (officers of "Raleigh" and "Inconstant") is, I presume, properly treated by Mr. Thornton.

Claim No. 11 (creditors of Antonio Uzett).—If the premises of Mr. Thornton be correct, his conclusion that the Brazilian Government ought not to pay is just.

No. 12 (Claims of Messrs. Proudfoot and Co.)—I suppose that Mr. Thornton is satisfied on good grounds that this claim ought to be reconsidered.

No. 13 (owners of Constantine).—I think this claim should be admitted.

No. 14 (Claim for undue seizures, &c.)—I agree with Mr. Thornton.

No. 15.—No remark necessary.

No. 16 (Petty and Co.)—I agree with Mr. Thornton.

No. 17 (Mr. W. Youle).—The interest seems properly added.

No. 18 (Claim of Mr. F. Wilton).—The delay is fatal in this case.

No. 19 (British creditors of Dutton and Co.)—This involves a question of Brazilian constitutional law, namely, whether the Treasury has a privilege of priority with respect to the debts of a bankrupt. Mr. Thornton thinks that it has, and I have no reason to gainsay his opinion.

No. 20 (Mr. Laing's Claim).—This claim is for a large sum of money. I do not agree with what appears to me to be the opinion of Mr. Thornton, that if a foreign Government has shown bad faith in its contract with a British subject, the British Government ought not to interfere; though I agree with him that such interference should not be founded on the mere disappointment of the British subject in not obtaining the gain which he expected to derive from the contract. And, also, I agree with Mr. Thornton that, unless a clear injustice has been done to Mr. Laing, Her Majesty's Government ought not to interfere. And I am bound further to add that, upon a perusal of his statement of the case, I see no sufficient reason to doubt that the refusal of Mr. Thornton to interfere was a sound exercise of the discretion entrusted to him.

No. 21 (Claim of Her Majesty's Government).—I agreed with Mr. Thornton that it would not be expedient that Her Majesty's Government should insist upon this claim.

No. 22 (Claim of Charles Lucas).—I come reluctantly to the conclusion that this claim should not be pressed.

No. 23 (Claim of John Swan).—I have no doubt that Mr. Thornton is right in refusing to press this claim.

No. 24 (Claim of Edward Gibbon Swan).—I agree with Mr. Thornton that Mr. Swan is entitled to be indemnified for the missing articles of his property; and though his misfortunes were certainly brought upon him in the first instance by his own fault, I think that, having regard to the inhumanity of his treatment in prison at Breves, and the conduct of Dr. Danim at Parà, that he is also entitled to some further compensation, in which respect I slightly differ from Mr. Thornton; but the amount of that compensation should not be large, and left entirely to Mr. Thornton's discretion.

No. 25 (Claim of Edward Hammond).—I agree with Mr. Thornton as to the reduction necessary in this claim.

No. 26 (Claim of Mr. John George Young).—I have felt some doubt with respect to this claim; but, on the whole, I see no sufficient reason to dissent from the conclusion at which Mr. Thornton has arrived.

No. 27 (Claim of James Calder).—No observation arises upon this claim.

No. 28 (Claim of Simon Samuel).—I agree with Mr. Thornton that the Brazilian Government are liable to indemnify the owners for the loss of this gunpowder. The circumstances take the case out of the application of the rule with respect to the destruction of property by rebels.

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No. 29 (Claim of Messrs. Heskith).—I agree that this claim should be paid.

No. 30 (Claim of Messrs. Broun).—I am clear that Her Majesty's Government ought not to interfere in this case.

No. 31. (Claim of Mr. R. Rogers).—Materials are insufficient to pronounce upon this claim.

No. 32 (Claim of Messrs. Crabtree).—This appears to be a fair claim.

No. 33 (Claim of the Master of the "Indian").—I agree that the utmost demand upon the Brazilian Government should be for the remission of the fine without interest.

No. 34 (Claim of Mr. M. de Lima).—This claim falls under the rule, and ought not to be supported.

No. 35 (Claim of Mr. J. Barber, and others).—I agree that the Brazilian Government are not responsible.

No. 36 (Claim of Messrs. Sadler and Co.); No. 37 (Claim of J. Currell); No. 38 (Claim of J. and W. Bryson).—These claims appear to be just, and founded on a violation of our Treaty.

No. 39 (Claims of eighteen British merchants).—I agree with Mr. Thornton as to this claim.

No. 40 (Claim of Mr. T. Tobins).—I have already referred to this in Claim 3 (of No. 6); and I think that Mr. Thornton's distinction between the parts of the claim which ought to be, and which ought not to be, paid, is just.

No. 41 (Claim of Mrs. Georgina Younghusband).—This claim cannot be urged.

No. 42 (Claim of Messrs. Crabtree).—I agree that "this claim needs no comment."

No. 43 (Claim of Mr. Findlater).—This falls under the rule, and cannot therefore be sustained.

No. 44 (Claim of Messrs. Moon and Co.)—I agree with Mr. Thornton. This should be paid.

No. 45 (Claim of Messrs. Bielby and Co.)—This claim ought not to be pressed as a matter of right; whatever the Brazilian Government may think fit to do, as a matter of generosity.

No. 46 (Claim of Underwriters at Lloyd's)—This refers to Claim 7. It would seem to me that this claim might be fairly put forward; but I think Mr. Thornton should be directed to exercise his discretion respecting it.

Nos. 47, 48, 50 (Messrs. Ewart and Co., and others).—In the absence of the necessary documents these claims cannot be pressed.

No. 49 (Claim of Mr. J. Bradshaw).—I agree with Mr. Thornton that this claim is just.

No. 51 (Claim of Messrs. Amando and Co.)—This is a claim for excess of duties of the same nature as No. 49.

With the general observations upon the whole of this class of cases, made by Mr. Thornton, I entirely agree.

It is most probable that the loss which the merchants really sustained, arose from the diminished consumption of the goods, and the consequent lessening of their profits. Whether Mr. Thornton be right in the criterion which he adopts as fixing the amount of this diminution and loss, I cannot tell; but I am clearly of opinion that a certain rate of compensation, considerably below what is claimed, should be agreed upon to cover all losses.

No. 52 (Claim of Messrs. J. Macnab and Co.)—This is of the same nature as No. 28; and I think it should be paid,

I have, &c.  
(Signed) ROBERT PHILLIMORE.

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## No. 3.

*The Queen's Advocate to Lord Stanley.*—(*Received May* 23.)

My Lord, *Temple, May* 22, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant stating that he was directed by your Lordship to transmit to me the accompanying letter which has been received from Mr. Lang, relative to his claim on the Brazilian Government, together with an opinion formerly given by me. That this case was included in Mr. Thornton's Report on Brazilian Claims which was submitted to me on the 11th March last; and Mr. Hammond was pleased to request that I would take Mr. Lang's letter into consideration and furnish your Lordship with my opinion as to the answer which should be returned to that gentleman.

In obedience to your Lordship's commands I have the honour to report—

That I think an answer should be sent to Mr. Lang to the following tenor and effect:—

That your Lordship has considered his letter and the opinion inclosed in it. That by the opinion Mr. Lang was advised that his best course was to endeavour to obtain an arbitration upon his claim, and that it was reasonable to hope that Her Majesty's Government would assist him in obtaining such an arbitration.

His claim has subsequently been fully and carefully considered in all its details by Her Majesty's Representative at the Brazilian Court. That in the first place he was advised by an eminent lawyer at Rio Janeiro that it was competent to Mr. Lang to have sued the Brazilian Government in the Courts of that State, and that, in several instances, claimants had obtained sentence in these Courts against the Government; but that, however this might be, Her Majesty's Representative was of opinion, that whatever might be the strict law on the principal subject, namely, as to Mr. Lang's refusal to be bound by the opinion of the majority of the Board, that the contract with the Brazilian Government should be cancelled; the equity of the case was in favour of the Brazilian Government, and that at all events the circumstances, fully and duly considered, were not such as to render it proper that this claim should be pressed by Her Majesty's Government upon the Brazilian Government.

That in this opinion Her Majesty's Government agree.

I have, &c.  
(Signed) ROBERT PHILLIMORE.

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## No. 4.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 2.)

My Lord, *Temple, November* 30, 1867.

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of October 11th, stating that he was directed by your Lordship to transmit to me two despatches from Her Majesty's Minister at Rio (No. 2 Slave Trade, and No. 14 Commercial), calling attention to the employment of slaves in the mines of Morro Velho, by the St. João del Rey Mining Company, which he states to be practically an English Company; and he was to request that I would take these papers into my consideration, and favour your Lordship with my opinion as to the legal position of British subjects holding shares in that Company, and as to the course which should be pursued in dealing with the case.

In obedience to your Lordship's commands I have taken these papers into consideration and have the honour to report—

That it would be difficult to define in any general terms the legal position of British subjects holding shares in the Morro Velho Company, not merely because different considerations of law will apply to different classes of shareholders, but because it is by no means certain what are the considerations of law which will apply to each class.

This difficulty arises from the different views of the law expressed by the Judges in the case of Santos *v.* Illidge, which was discussed first in the Court of Common Pleas, and afterwards, on appeal, in the Exchequer Chamber. In this case, some of the Judges held that by 5 Geo. IV, cap. 113, no British subject could lawfully, as regards the statute law of Great Britain, hold slaves in any foreign country, because he could not lawfully acquire possession of them in the course of trade; others held that 5 Geo. IV, cap. 113, did not forbid British subjects to hold slaves, although it imposed a penalty upon the acquisition of them in the course of trade; whilst others held that 5 Geo. IV, cap. 113, did not prevent British subjects from acquiring slaves in the course of trade, or holding them in countries where slavery was sanctioned by the law of the land.

A majority of the Judges were in agreement on this point, that prior to 6 and 7 Vict., cap. 98, there was no statute which made it illegal for a British subject to hold slaves in a country where slavery was sanctioned by the *lex loci*. Under this view of the statute law, if the most favourable position be assumed for the Company, namely, that the slaves which are represented to be owned by the Company came into its

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possession prior to the 1st of November, 1843, all British subjects, at whatever period they may have received their shares in the Company, will stand upon a common platform of legality as regards British law by virtue of the exemptions contained in 6 and 7 Vict., cap. 98, s. 6, which exempts from all penalties or punishment under that statute, which was passed to supplement 5 Geo. IV, cap. 113, all persons for receiving any shares in any joint stock company established before the passing of that Act in respect of any slave in possession of the company before that time.

It may be observed that there is nothing upon the face of the account furnished by Mr. Earle to Mr. Watson which forbids the adoption of the most favourable view of the Company's position, inasmuch as the slaves represented to be owned by the Company are only one-sixth of the number employed in the mines, the remainder being hired slaves.

It is possible, however, that a less favourable view may be consistent with the facts of the case, namely, that the Company itself may not have been in possession of all its slaves antecedently to the 1st of November, 1843, but may have come into possession of some of them by operation of law since that time, as being the offspring of slaves which were in its possession prior to that time, such offspring, by the law of Brazil, devolving as slaves to the Company in its character of owner of the parent slaves. This state of things would be attended with different legal results as regards different classes of shareholders. Such shareholders as may have been in possession of their shares prior to the 1st of November, 1843, or may have become possessed of their shares by operation of law subsequently to that time, will be protected from penalties, whilst those who have purchased shares subsequently to that time will have infringed the statute law in respect of the slaves acquired by the Company since the 1st of November, 1843, and will be liable to penalties for having purchased, though not for holding, their shares; whilst a third class of shareholders, who have succeeded by inheritance, bequest, devise, marriage, or other operation of law to shares purchased since the 1st of November, 1843, will not be exposed to penalties.

The least favourable view which can be taken of the shareholders' position is, that the Company may have acquired in the course of trade, since the 1st of November, 1843, a considerable number of the slaves which it now owns, or, as is not very probable, even the whole number of slaves in its present possession. On this supposition, all the present shareholders who are British subjects will have been guilty of a violation of the statute law of Great Britain, whether they were actual shareholders prior to the 1st of November, 1843, or have acquired their shares since that time, unless, in the latter case, they have come into possession of their shares subsequently to the purchase of the slaves, by inheritance, bequest, devise, marriage, or other operation of law. There would thus appear to be no common standard for determining the legal position of British subjects holding shares in the Morro Velho Company, except in two cases—

1. Where all the slaves have been in possession of the Company prior to the 1st of November, 1843;

2. Where the shareholders have succeeded to their shares by inheritance, bequest, devise, marriage, or other operation of law.

In all other cases the position of a British shareholder will be a position of doubtful legality, always liable to be impeached in a civil suit before a British Court of Law, but which may be capable of being sustained upon proof of certain facts, the burden of which proof will fall on the shareholder.

With regard to penalties, one of the Judges in the Exchequer Chamber, in the above-mentioned case of Santos *v.* Illidge, expressed an opinion that the statute law does not constitute the holding of slaves by British subjects, in a country where such holding is authorized by the *lex loci*, a penal offence; and as the Judges did not think it necessary to determine this point in order to decide that case, the question may still be regarded as not yet settled.

Under these circumstances, it would be advisable for your Lordship to direct further inquiry to be made into the circumstances under which the Company have become possessed of the slaves which it is represented to own at the present time, before any steps are taken, if your Lordship should be so disposed, to challenge the legality of the position which the shareholders individually occupy.

I have, &c.
(Signed) TRAVERS TWISS.

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## Buenos Ayres.

### No. 5.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 19.)

My Lord, *Lincoln's Inn, January* 18, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th of January instant, stating that with reference to the Law Officers' Report of the 28th of June last, on the subject of imprisonment of Mr. Stewart, he was directed by your Lordship to transmit to us the accompanying further despatch which has been received from Her Majesty's Minister at Buenos Ayres (No. 8), reporting that a sentence unfavourable to Mr. Stewart has been pronounced by the Inferior Court, but that the subject will be brought by appeal before a higher tribunal and inclosing a translation of the Judges' opinion from the Buenos Ayres "Standard;" and Mr. Hammond was also directed to request that we would favour your Lordship with any observations we may have to offer thereupon. The former papers were inclosed therewith.

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report—

That we have read the Report of the sentence of the District Federal Judge at Buenos Ayres in Mr. Stewart's case, against which sentence we learn from Mr. Mathew's letter an appeal is pending, and on that account he makes no comment at present on the sentence; and we do not think that we can at present give any useful opinion thereon; and we would only suggest that Her Majesty's Minister at Buenos Ayres should be directed to keep himself informed as to the progress of the appeal, and forward a copy of the Judgment to Her Majesty's Government as soon as it has been pronounced.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

## Central America.

### No. 6.

*The Queen's Advocate to Lord Stanley.*—(*Received August* 29.)

My Lord, *Temple, August* 28, 1867.

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 17th instant, stating that with reference to the Report of my predecessor of the 23rd of June, 1863, on the claim preferred by the owners of the San Geronimo estate on the Guatemalan Government for losses sustained by them in consequence of depredations committed on that estate in 1838 by revolutionary bands under the command of Laureano Carrera, brother and Lieutenant of Rafael Carrera, who subsequently made himself President of the Republic, he was directed by your Lordship to transmit to me a correspondence that has passed since that date, by which I should see that Her Majesty's Government have continued to support the claim, although they informed the applicant that they were not prepared to enforce it; that the representations of Her Majesty's Government have led to no result; that the Guatemalan Government admit the claim, but on various grounds postpone a settlement; and that, finally, as will be seen from Mr. Corbett's despatch of the 29th May last, they proposed, with a view to a settlement of the claim, that a person should be appointed on the part of

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the Guatemalan Government to investigate, in conjunction with a representative of the claimants, the accuracy of the items of the claims, and to examine all the documents and depositions of persons taken at the time the damage was done; and that these two gentlemen should frame a Report showing what amount of compensation is due to the parties interested; but that Captain Harris, the representative of the owners of the estate, declines to agree to this proposal, and urges that more positive instructions be given to Her Majesty's Chargé d'Affaires; and Mr. Murray was pleased to request that I would reconsider the whole case, and its present position, and furnish your Lordship with my opinion upon the course which Her Majesty's Government should adopt in the matter.

The former papers were inclosed for convenience of reference.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That the most advisable course, in my opinion, under the existing circumstances of this case, will be for Her Majesty's Government to assent to the proposal of the Guatemalan Government, that the items of Captain Harris' claim shall be submitted to a reference; but I should advise Her Majesty's Government to attach this condition to their assent, namely, that the referees shall be bound to report their award within a stated time after the agreement to go to a reference has been signed, and that the Guatemalan Government shall pay the sum awarded by the referees within a stated time after the award has been made.

The proposal of the Guatemalan Government that the items of the claim shall be submitted to a reference is, in itself, not unreasonable. On the other hand, as the documentary evidence on which it is proposed that the referees shall make their award is ready at hand, there are no good grounds why the referees should not be required to report within a given time, which would serve to remove Captain Harris' objection to the proposal of the Guatemalan Government on the ground of delay.

It may be observed that Captain Harris will derive this double advantage from the reference being agreed to, subject to the condition above suggested, that whilst it will involve an admission on the part of the Guatemalan Government of the principle upon which his claim rests, he will be assured of receiving some compensation within a reasonable time; and as he has already intimated in his letter of the 15th October, 1863, his readiness to acquiesce in a large reduction from his claim if an early settlement of it could be obtained, he will have no difficulty in giving to his representative at the reference such instructions as will enable him to meet in an amicable spirit the views of the Guatemalan Government, who are evidently seeking by the reference to effect some reduction in his claim, and not to avoid it altogether.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 7.

*The Queen's Advocate to Lord Stanley.*—(*Received October* 4.)

My Lord, *Temple, October* 3, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th ultimo, stating that with reference to my Report of the 28th August last on the claim preferred against the Guatemalan Government by the owners of the San Geronimo estate, he was directed by your Lordship to transmit to me therewith a further letter, dated the 11th ultimo, on the subject, from Captain Harris, in answer to one which, by your Lordship's direction, he addressed to him on the 6th ultimo, on the receipt of my above-mentioned Report; and Mr. Hammond was pleased to request that I would take these further papers into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these further papers into consideration, and have the honour to report—

That, with regard to the conditions of the reference which Captain Harris suggests in his letter of September 11, 1867, for your Lordship's approval, I am of opinion that your Lordship may properly assent to the substance of the first, third, fourth, fifth, and tenth paragraphs; that the second is unnecessary; and that the sixth, seventh, eighth, and ninth conditions should not be approved by your Lordship, as the Commissioners ought to have full discretion as to the evidence to be received by them, and the weight to be given to it.

# CENTRAL AMERICA.

## No. 6*.

*The Queen's Advocate to Lord Stanley.*—(*Received September* 10.)

My Lord, *Temple, September* 10, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to me the translation of a letter from Señor Martinez, Envoy from Nicaragua, relating to the arrangements come to under the Treaty of Managua of 1860, with regard to the Mosquito territory, and Mr. Hammond was pleased to request that I would take that paper into consideration, and report to your Lordship my opinion as to the answer which should be returned to Señor Martinez' note.

In obedience to your Lordship's commands, I have the honour to report—

That I have carefully considered the three questions discussed in the letter of his Excellency Señor Tomas Martinez, the Envoy from Nicaragua, and am of opinion that the position which his Excellency seeks to maintain on behalf of the Nicaraguan Government on each of those questions is wholly untenable.

The first of those questions has regard to the payment of the subvention stipulated by Article V of the Treaty of Managua. His Excellency asserts that Nicaragua has "neither denied nor refused the payment of the stipulated subvention, which is reserved for the satisfaction of those persons or individuals only of whom the Convention speaks, and not of those who have come from without to appropriate what does not belong to them."

It will be seen, however, that the Treaty of Managua stipulates in express terms that the subvention shall be paid by half-yearly payments to the person authorized by the Chief of the Mosquito Indians to receive it, and there is no provision in the Treaty which entitles the Nicaraguan Government to control the use of it by the Chief. It will be the plain duty, therefore, of the Nicaraguan Government to make the half-yearly payment to the agent of the Chief, irrespective of any consideration touching the contingent application of it by the Chief, and the only ground upon which the Nicaraguan Government can with any pretence of right refuse to pay the subvention will be the want of due authority on the part of the individual applying for it.

His Excellency appears to lay some stress upon the fact that the agent for the Chief of the Mosquitos is an alien, not a native Indian, but he does not impeach the validity of his mandate *quâ* Agent; on the contrary, the observations of his Excellency seem directed against the title of the Chief himself. In other words, he impugns the election of the present Chief of the Mosquitos. It may be necessary, therefore, to consider what are the Treaty rights of the Republic of Nicaragua as regards the election of the Chief of the Mosquito Indians. The Treaty contains no express provisions on this head, but the IIIrd Article, which is concerned with the government of the Mosquito Indians, secures to them the right of governing themselves, and all persons resident within the Mosquito Reserve, "according to their own customs, and according to any Regulations which may from time to time be adopted by them, not inconsistent with the sovereign rights of the Republic of Nicaragua."

The Treaty elsewhere recognizes a Chief of the Mosquito Indians, to whom the subvention is to be paid, and whom it regards as the Head of the Mosquito Government.

His Excellency in objecting to the election of the present Chief, as being an infant, expresses a view on the part of the President of the Republic of Nicaragua, that it was brought about by foreign adventurers, and was not carried out by the Mosquitos themselves.

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His Excellency, however, has not suggested that the election of an infant, as Chief, is a proceeding at variance with the customs of the Mosquitos, it being borne in mind that the uncle of the present Chief, his immediate predecessor, was an infant when he was crowned at Belize, and recognized as Chief by Her Majesty's Government; or that his election is inconsistent with the sovereign rights of the Republic of Nicaragua; whilst it cannot have escaped his Excellency's attention, that the Republic of Nicaragua has expressly bound itself by the concluding words of the IIIrd Article of the Treaty of Managua to respect the acts of the Government of the Mosquitos, subject only to the reservation that they are not inconsistent with the sovereign rights of the Republic.

There being nothing alleged on the part of the Nicaraguan Government as regards the succession of the present Chief to show that it is inconsistent with the provisions of the Treaty of Managua, Her Majesty's Government may, in my opinion, reasonably insist upon the Government of the Republic of Nicaragua fulfilling its Treaty obligations as respects the payment of the half-yearly subvention.

The second question touched upon in his Excellency's letter regards the Decree of the 4th December, 1864: that Decree, according to his Excellency's own words, "directs that the importation of foreign goods intended for the consumption of the Mosquito Indians should take place by the port of San Juan del Norte, the goods being subject to the same regulations and the same imposts as those intended for the consumption of the rest of the Republic."

In other words, that Decree has constituted San Juan del Norte the only place of entry for foreign goods intended to be imported into the Mosquito Reserve, and, further, has authorized the same duties to be levied upon those goods, which are paid upon goods intended to be imported into the inland districts of the Nicaraguan territory.

Now, there is no provision in the Treaty of Managua which authorizes the Government of Nicaragua to control the foreign trade by sea with the Mosquito Reserve, or to prohibit any such trade except through the port of San Juan del Norte: on the contrary, the spirit of the Treaty in securing to the Mosquito Indians the right of governing themselves, and in expressly recognizing a sea frontier to the Mosquito Reserve, forbids the exercise of any such control on the part of the Nicaraguan Government.

Further, in regard to the duties, which his Excellency states to be levied by the Nicaraguan Government upon goods imported from foreign countries into San Juan del Norte, and re-exported by sea to the coast of the Mosquito Reserve, such duties are in my opinion levied in direct violation of the VIIth Article of the Treaty of Managua, which declares San Juan del Norte to be a free port.

There is one consideration as regards the claim of the Nicaraguan Government on this point which may deserve not to be overlooked, as being practically conclusive against their claim, namely, that if the Government of Nicaragua were at liberty to constitute San Juan del Norte the only port of entry for foreign goods to be imported into the Mosquito Reserve, and were at liberty to levy duties on the importation of such goods into the Mosquito Reserve, it would virtually have the power not merely to elude, but to invert, the provisions of the Treaty as regards the subvention to be paid by it to the Mosquito Chief; and would be able to compel the Mosquito Indians, as the consumers of those goods, not merely to supply the funds necessary to make up the stipulated subvention due from the Nicaraguan Government to their Chief, but also to supply funds in subvention of the Government itself of the Nicaraguan Republic.

The third question may be briefly disposed of. His Excellency states that the Nicaraguan Government, in granting to certain British subjects the privilege of cutting mahogany along the coast of the Mosquito Reserve, has been actuated by a wish to increase its revenues with a view not merely to discharge what remains of its internal debt, but also to prepare the means to liquidate and cancel that which exists in favour of Her Britannic Majesty's subjects.

However much the motives of the Government of the Republic may commend themselves to Her Majesty's Government, the question which it has to consider is whether the position of his Excellency upon the question of right is tenable when he urges that, the Reserve being under the sovereignty of Nicaragua, and being a part of the territory of the Republic, as it is declared to be by the Treaty of Managua, it is quite evident that the Government of the Republic has the right to make such concessions.

I think that his Excellency's view of the rights incidental to the sovereignty of Nicaragua over the Mosquito Reserve is not well founded. The term "sovereignty," which is used in the Treaty to mark the new relations of the Republic of Nicaragua to the Mosquito Indians, as distinguished from the term "protection," which marked the former relations of the British Crown to them, implies, no doubt, some degree of territorial jurisdiction, and the degree itself of jurisdiction may be gathered from the various provisions of the Treaty to be merely a *supremacy*, or what jurists have termed the *right of eminent domain* (*dominium eminens*, or *dominium supremum*), a modified sovereignty, analogous to that which the Supreme Lord enjoyed under the feudal system, and by right of which he could prevent the alienation of the fief in favour of a third party. Such a right is secured to the Republic of Nicaragua by Article II of the Treaty of Managua, whilst the other Articles secure to the Mosquito Indians the undisturbed possession of the Mosquito Reserve, and all the rights of government within that Reserve.

I am of opinion that the Mosquito Indians have not been divested of any *possessory right* by this Treaty; that the forests within the Mosquito Reserve are part of the possessions of the Mosquito Indians, and that it appertains to the Mosquito authorities to make such Regulations as they shall think fit for the cutting of the timber in those forests, short of alienating the land to a foreigner, to the exclusion of all interference on the part of the Nicaraguan Government.

I have, &c.
(Signed) TRAVERS TWISS.

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I may add that I think Captain Harris would be well advised if he were to reduce his claim for interest.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 8.

*The Queen's Advocate to Lord Stanley.—(Received November 20.)*

My Lord,
*Temple, November* 19, 1867.

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of 31st ultimo, stating that with reference to my Report of the 3rd ultimo, on the claim of the owners of the San Geronimo estate against the Guatemalan Government, he was now directed by your Lordship to transmit to me, therewith, a further letter, dated 28th ultimo, from Captain Harris, in answer to one which was addressed to him, on the 8th ultimo, on the receipt of my above-mentioned Report, and which was also inclosed; and Mr. Egerton was pleased to request that I would take these papers into my consideration and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That Captain Harris' further letter of 28th October appears to have been written under an imperfect apprehension of the terms of the proposal made by the Guatemala Government, as stated in the despatch of Mr. Corbett of 29th May, 1867. That proposal contemplates the appointment of two referees whose business it will be to examine the documents and depositions of persons *taken at the time* when the damage was done, and upon that examination to frame their Report as to the amount of compensation due to the persons interested.

Under the terms of this reference it will be competent to Captain Harris to produce before the Commissioners the documents upon which he justly lays stress in the ninth of the conditions submitted for your Lordship's approval in his letter of September 11th, 1867; and it will be the duty of the Commissioners to examine them as being the depositions, to use the words of Captain Harris, "of witnesses of the sacking of the estate taken before the proper authorities immediately afterwards," and, as such, clearly within the scope of the reference; but when Captain Harris requests your Lordship to insist upon his ninth condition, that these documents "shall be received as *bonâ fide* evidence of actual damage done," he either means that your Lordship should insist that they shall be received as the statements of witnesses speaking with *good faith*, which is unnecessary, regard being had to the specific terms of the reference; or if he means that your Lordship should insist beforehand that the Commissioners shall be bound to give unqualified credit to the items, such a condition would be inconsistent with the special object of the reference.

The seventh of Captain Harris' proposed conditions is almost identical with the proposal of the Guatemalan Government, except that it limits the inquiry to the depositions of parties "living *at or in the vicinity* of the estate at the time of its pillage and destruction."

I think it would be unreasonable to propose the limitation of the inquiry and to exclude from the notice of the Commissioners any contemporaneous documents, or any depositions taken at the time of the pillage which the Guatemalan Government might produce, because the parties were not actually living *at or in the vicinity* of the estate. On the other hand, the eighth condition proposed by Captain Harris, that the claimants should be allowed to produce such evidence *as they may think proper*, subject to the limitation that it shall be the evidence of persons living *at or in the vicinity* of the estate at the time of the pillage, would enlarge the inquiry beyond what is contemplated in the proposal of the Guatemalan Government, whilst it is calculated to open a door for evidence fabricated *ad hoc* on either side, as the Guatemalan Government would reasonably claim a like liberty, and the result of admitting such evidence might prove more disastrous than advantageous to Captain Harris.

The remaining condition, which is the sixth in Captain Harris' list, I have considered to be not a becoming condition for your Lordship to propose to the Guatemalan Government, namely, that "Her Majesty's Government cannot assent to the reception of the evidence of a notorious criminal either for or against the claim." Captain Harris appears to have taken alarm at a statement made to him by the

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Private Secretary of the Guatemalan Minister, as detailed in Captain Harris' letter of July 30th, 1867, that his Government had a letter from a notorious criminal named Knoth, which may account for his suggesting such a condition. Upon a careful reconsideration of the above four conditions, I am unable to arrive at any other conclusion than that which I ventured to submit to your Lordship in my former Report. If, however, there should be any doubt or difficulty in regard to the documents referred to in Captain Harris' seventh condition, as being in the Archives of the British Consulate, I see no objection to special provisions being made in settling the terms of the reference that they shall be accepted by the referees as *genuine* documents. It is possible that such may be the meaning of Captain Harris in wishing it to be stipulated that they shall be received as *bonâ fide* evidence.

I have, &c.
(Signed) TRAVERS TWISS.

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No. 9.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 5.)

*Temple, December* 5, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to me a despatch and its inclosure from Her Majesty's Chargé d'Affaires to the Central American Republics (No. 46), together with a Memorandum drawn up in the Foreign Office, asking whether Mr. Hall, Her Majesty's Consul at Sonsonate, is entitled to the privileges of a British subject within the Republic of Guatemala; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That Mr. Hall, being a natural-born citizen of Guatemala, cannot claim, within the territory of Guatemala, the *protection* of Her Majesty's Government against the Government of Guatemala; but as Mr. Hall, although born abroad, is, by the law of Great Britain, deemed to be a natural-born subject of the Crown, by reason of his being the child of a natural-born subject of Her Majesty, your Lordship may properly consider Mr. Hall to be entitled to the *good offices* of Her Majesty's Government, if any difficulty should arise between him and the Guatemalan Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## Chile.

No. 10.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 9.)

*Doctor's Commons, March* 9, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that, with reference to my Report of the 9th of November last on the case of the British vessel "Thalaba," captured by a Chilean man-of-war on the ground that she had been chartered as a Spanish transport and was laden with stores for the Spanish squadron, he was directed by your Lordship to transmit to me a letter which has been received from Messrs. Freshfield and Newman requesting, on behalf of an Insurance Company and of certain underwriters at Lloyds, information as to the condemnation of the "Thalaba" by a competent Tribunal; and Mr. Hammond was pleased to request that I would take this paper into consideration

and inform your Lordship what reply should be returned to Messrs. Freshfields' and Newman's application.

In obedience to your Lordship's commands I have the honour to report—

That I think the proper answer to Messrs. Freshfield and Newman would be to the effect that the "Thalaba" appears to have been seized by a Chilean ship-of-war as lawful prize, and to have been tried before a Chilean Prize Court; but that Her Majesty's Government have, as yet, received no information as to whether sentence of condemnation has or has not been passed upon this vessel.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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No. 11.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 14.)

*Doctors' Commons, March* 14, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that, with reference to my Report of the 24th December last with regard to the rights of British subjects in Chile to exemption from forced loans, he was directed by your Lordship to transmit to me a despatch from Her Majesty's Chargé d'Affaires at Santiago, inclosing a copy of a law which had been passed by the Chilean Congress, imposing a contribution of 5,000,000 dollars on the inhabitants of Chile; that Mr. Thomson inclosed a copy of a circular which he had addressed to the British Consular officers in Chile, giving instructions as to the steps to be taken when British subjects are called upon to pay their quota towards the sum in question; and Mr. Hammond was pleased to request that I would take these papers into consideration, and inform your Lordship of my opinion as to the nature of the reply which should be returned to Mr. Thomson's despatch.

In obedience to your Lordship's commands I have the honour to report—

That I think an answer should be sent to Mr. Thomson to the following effect:—

That he is right in considering the imposition of 5,000,000 dollars as coming under the category of "a forced loan," and in his opinion that the XIth Article of the Treaty of Santiago, October 4, 1854 (Hertslet, vol. ix, page 948), exempts Her Majesty's subjects from the compulsory payment of a contribution to such loan. I see that by the IIIrd Article of the French Treaty (St. Cloud, August 8, 1853) French subjects are exempted from the payment of "emprunts forcés," and I suppose, therefore, that the French Minister will act in concert with Mr. Thomson.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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No. 12.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 12.)

*Temple, April* 11, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that, with reference to his letter of the 2nd of March last, and to the previous correspondence relative to the seizure by the Chilean authorities of the British vessel "Thalaba," he was directed by your Lordship to forward to me therewith a further despatch on the subject which has been received from Her Majesty's Chargé d'Affaires at Santiago (No. 20, February 15, 1867), inclosing a copy of the sentence by which the vessel is declared to be a good prize; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with any observations which I may have to make thereon.

In obedience to your Lordship's commands I have considered these papers, and have the honour to report—

That according to the grounds laid in the sentence, this vessel was rightly condemned as lawful prize.

If, as probably was the case, the evidence warranted the conclusions drawn by the Court, the "Thalaba" was certainly in the service of the belligerent, and justly treated as enemy's property.

I have, &c.
(Signed) ROBERT PHILLIMORE.

## No. 13.

*The Queen's Advocate to Lord Stanley.—(Received April 17.)*

My Lord, *Doctors' Commons, April* 16, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed to transmit to me therewith two despatches from Her Majesty's Chargé d'Affaires in Chile relative to the refusal of the authorities at Valparaiso to admit the British vessel "Colina," arrived there from Malaga with a cargo of Spanish produce; and to request that I would take these papers into consideration and furnish your Lordship with my opinion as to any instructions which should be sent to Mr. Thomson in the matter.

In obedience to your Lordship's commands I have taken these papers into consideration and have the honour to report—

That I think instructions should be sent to Mr. Thomson to the following effect: That with respect to the general duty of Her Majesty's Chargé d'Affaires as to advising British subjects resident at Valparaiso, Mr. Thomson is right in his view that he is not bound to act as legal adviser of any British firm upon questions of international law, and even when an actual grievance is complained of, it may often be necessary that he should refer the matter to Her Majesty's Government and await instructions from home before he decides upon the course which is proper to be pursued. At the same time no general rule can be wisely laid down on this subject which would          , in all cases, without regard to circumstances, the discretion of Her Majesty's Representative.

It does not appear, for instance, that any harm would have accrued if Mr. Thomson had in this particular instance caused a reply to have been sent to Messrs. Huth and Co., to the effect that it appeared to Mr. Thomson that it was competent to the Chilean Government to prohibit the landing of the goods, but that Messrs. Huth and Co. would do well to take proper advice upon the subject.

It should be observed that Consul Rouse, in his letter No. 10 of the 22nd of February, 1867, to Mr. Thomson, states clearly and correctly the international law upon the subject in the following passages: "I have not failed verbally to remind them that British merchants taking up their residence in Chile might be considered not as neutrals but as Chileans; that war existing between Spain on the one hand, and Chile on the other, all commercial intercourse between the subjects of each must cease."

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 14.

*The Queen's Advocate to Lord Stanley.—(Received May 23.)*

My Lord, *Temple, May* 22, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that, with reference to my Report of the 15th ultimo, relative to the case of the British vessel "Colina," he was directed by your Lordship to transmit to me together with the former papers, the accompanying despatch from Her Majesty's Chargé d'Affaires at Santiago; and was to request that I would take these papers into consideration and report to your Lordship my opinion as to any fresh instruction which should be addressed to Mr. Thomson in this matter.

In abedience to your Lordship's commands, I have considered these papers and have the honour to report—

That I am of opinion that the course pursued by Her Majesty's Representative at Santiago has been right and proper; and that the answer which he has given to Messrs. Huth and Co. should be approved of by your Lordship.

It does not appear to me necessary to send any fresh instrnctions in this matter.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 15.

*The Queen's Advocate to Lord Stanley.—(Received November 5.)*

My Lord, *Temple, November* 5, 1867.

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 19th ultimo, stating that, with reference to my predecessor's Report of the 9th of May, 1866, he was directed by your Lordship to transmit to me a note, dated the 14th ultimo, and its inclosures, from the Minister of the Chilean Republic at this Court, respecting the capture of the Chilean barque "Alice Ward" by Spanish cruizers in the Bay of Gibraltar; and Mr. Egerton was pleased to request that I would take these papers into my consideration and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the documents inclosed in the despatch of his Excellency the Minister of the Chilean Republic are insufficient to establish any such presumption as suggested by his Excellency of a violation of the neutral waters of Great Britain by the Spanish captors of the Chilean barque "Alice Ward," as would warrant your Lordship in acceding to the request of his Excellency that you should reconsider this matter, and make further investigation respecting it.

The document upon which his Excellency places reliance, as raising a presumption that the vessel was boarded and captured within British waters, is a protest made at Gibraltar on 28th April, 1866, by the master, the second mate, and a seaman of the Chilean barque, but his Excellency is probably not aware that the second mate and the seaman, upon whose evidence he lays stress as eye-witnesses of the capture, have made depositions on oath at Gibraltar, five days before they set their names to the protest, which are calculated to deprive the protest of all pretension to be regarded as evidence on the part of eye-witnesses of the place where the barque was boarded.

Those depositions, which are inclosed in the despatch of Lieutenant-General Sir Richard Airey of 26th April, 1866, state that the second mate and the seaman left the barque shortly before 4 A.M., whilst she was still adrift, and after they had been told by the Spanish boatmen, whom they had hailed from the barque, that she was in Spanish waters, and that they left the barque in charge of the first mate, and that when they left her there were no Spanish boats near her. They state further that they pulled away to Her Majesty's ship "Samarang," and reported to the Commander that the barque was adrift, and that they were directed by that officer to go on shore and inform the captain of the barque, who was on shore, of that fact. It is clear from these depositions that not a single one of the three persons who have signed the protest can speak of the place of capture from knowledge; on the other hand, it appears from the official Report made by the Captain of the Port of Gibraltar on 24th of April, 1866, which is also inclosed in Sir Richard Airey's despatch, that the barque was observed from the "Samarang," about 5 A.M., on the 22nd of April, 1866, being about an hour after the second mate had left her, and that at such time she was brought up on the Spanish coast, and shortly afterwards was taken possession of by the Spanish gun-boat.

The other documents which his Excellency has forwarded to your Lordship contain statements from third parties as to the calm state of the weather, and circulation of Spanish boats in the Bay of Gibraltar, on the morning of 22nd February, when the barque went adrift, and his Excellency suggests that those statements raise a presumption that the Spanish boats which captured the barque had maliciously dragged or cut the chain of the barque whilst she was in British waters. But the depositions already referred to show that the chain was not cut at all, as more chain was let out to the starboard anchor when the second mate found the barque was adrift, and before the port anchor was let go; and with regard to the alternative suggestion, that the Spanish boats had contrived to drag the anchor of the barque, it deserves to be borne in mind that she had brought up very near to Her Majesty's ship "Samarang," in waters where no Spanish boat would venture, whilst there is a total absence of evidence that any Spanish boat was near her when she went adrift; on the contrary, the same depositions show that the barque had already drifted into deep water before the crew were called up to let out more chain, and that they were in the middle of the Bay, where they could get no soundings, before they saw any Spanish boat. Further, the Captain of the Port of Gibraltar reports that the night was squally, with wind from the eastward, and that the master had been cautioned that it was not safe to ride at single anchor.

I am of opinion that neither of these suggestions of his Excellency as to a fraud against the neutral rights of Great Britain having been committed by the Spanish boats, rest on any basis of fact; on the contrary, the facts in evidence all point the other way.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 16.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 30.)

*Temple, December* 30, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that, in transmitting to me a despatch which had been received from Her Majesty's Chargé d'Affaires at Santiago (No. 95, November 1), inclosing a copy of a contract between the Pacific Steam Navigation Company and the Government of Chile, for the establishment of a line of packets between Liverpool and Valparaiso, he would call my attention to that part of the contract by which the vessels of the Company may be called upon to convey criminals; and he was to request that I would take this point into my consideration as regards the competence of a British Company to enter into such an engagement with a foreign Power.

In obedience to your Lordship's commands, I have taken the point above stated into consideration, and have the honour to Report—

That it would not be competent for a British Company to hire out its vessels, if they sail under the British flag, to a foreign Power for the conveyance of criminals, if such criminals are to be kept under *duresse*, by the authority of the foreign Power when the vessels of the Company are on the high seas.

I have, &c.
(Signed) TRAVERS TWISS.

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# China.

## No. 17.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 10.)

*Lincoln's Inn, January* 10, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th January instant, stating that he was directed by your Lordship to transmit to us despatches and their inclosures from Her Majesty's Minister at Peking and Her Majesty's Consul at Shanghae, relative to certain regulations for pilotage in that port; and also to transmit to us a letter from the Board of Trade, to which office these despatches were referred, on the same subject; and to request that we would take the correspondence into our consideration and favour your Lordship with our opinion on the subject of these regulations.

In obedience to your Lordship's commands we have taken the matter into consideration, and have the honour to report—

That we see no objection to these Regulations.

We have, &c.
(Signed) JOHN ROLT.

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## No. 18.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 16.)

*Lincoln's Inn, January* 15, 1867.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th December last, in which he stated that he was directed by your Lordship to transmit to us a letter, dated the 17th ultimo, with its inclosures from the Colonial Office relative to a question which had arisen as to the extent of British jurisdiction over waters which are within three miles both of Hong Kong and also of the coast of China.

Mr. Hammond was pleased to say that we would perceive that Lord Carnarvon suggested that our opinion should be asked on this point with a view of coming to an understanding with the Chinese Government in regard to the pursuit of criminals in those waters, and also upon another point as to what islands were acquired by the British Government on the cession of Hong Kong and Cowloon; and that for facility of reference in regard to these questions, copies of the Treaty of Nanking of 1842, and of the Convention of Peking of 1860, as well as the Acts of Parliament referred to in the Colonial Office letter were sent therewith, and also the Order in Council of March 9, 1865.*

Mr. Hammond also states that he was to request that we would take the several points into our consideration in connection with the Law Officers reports of the 3rd of December, 1862, and 1st of May, 1863, on the subject of the Queen's jurisdiction over the banks of the Bahamas and Bermudas, and favour your Lordship with our opinion on the whole matter.

In obedience to your Lordship's commands, we have taken the matters submitted to us into consideration and have the honour to report—

That, in order to advise on the matters submitted to us by your Lordship, it is necessary to call attention to the Treaties and Acts of Parliament relating to the cession of Hong Kong by the Emperor of China to Her Majesty.

This island was ceded by the IIIrd Article of the Treaty of Peace and Amity of 29th August, 1842 (Hertslet, vol. vi, p. 222), for special reasons and on special grounds pointed out in that Article, and the Island was to be governed by such laws and regulations as Her Majesty's shall see fit to direct.

By Order in Council, 4th January, 1843 (page 228 same volume), reciting the 3rd and 4th William IV, and the Order in Council, 9th December, 1833, empowering a Court with Criminal and Admiralty Jurisdiction to be held at Canton, or on board a British ship in the port or harbour of Canton, by the Chief Superintendent, Her Majesty ordered that the Court should thenceforth be held in the island of Hong Kong; and that the same should have jurisdiction for the trial of offences committed by Her Majesty's subjects within the said island, and within the dominions of the Emperor of China in the ports and havens thereof, and within the high seas within 100 miles of the coast of China.

The Order in Council in effect transferred the Court which had been constituted under the Act of William IV, and the Order in Council made in pursuance of the 6th section of that Act, from Canton to Hong Kong; and it appears to have treated the Jurisdiction for the trial of offences committed by Her Majesty's subjects within the Island of Hong Kong, on the same footing as offences by the same persons within the dominions of the Empire of China.

In August 1843, the Act of the 6th & 7th Vict., cap. 80, was passed, by which Her Majesty was empowered to authorize the Superintendent of Trade to enact, with the advice of the Legislative Council of the Island of Hong Kong, "such laws and ordinances as may from time to time be required for the peace, order, and good government of Her Majesty's subjects being within the dominions of the Empire of China, or being within any ship or vessel at a distance of not more than 100 miles from the coast of China;" and section 3 reserves powers to Her Majesty also to make laws for the government of Her Majesty's subjects within similar limits.

The Commission giving powers to the Superintendent of Trade, issued in pursuance of this Act, will be found in same volume, page 255, and it bears date August 1843.

The Treaty of 8th October, 1843, page 262, does not call for special remarks.

Then follows the Ordinance, 24th January, 1844 (ib. 270), vide especially 1, 2, and 3 Articles, giving the Court of Hong Kong jurisdiction over British subjects committing crimes beyond the limits of Hong Kong.

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* Hertslet, vol. vi, p. 221; Ibid., vol. xi, 112; 6 & 7 Vict., caps. 80 and 94.

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It is also important to notice the Order in Council, 17th April, 1844, same volume, 276, and which is framed with reference to the 6th & 7th Vict., cap. 94, the Foreign Jurisdiction Act. Hong Kong being appointed as the British Colony wherein crimes and offences committed by British subjects in China should be tried.

Passing over some further Ordinances relating chiefly to Consuls and Consular authority made before 1853 (and which will be found in vols. vii, viii, and ix, of Hertslet), we come to the British Order in Council of 13th June, 1853, Hertslet, vol. ix, page 210 (now repealed), which, amongst other things, recites the Foreign Jurisdiction Act, and consolidates and amends existing Ordinances.

The Treaty of June, 1858 (Hertslet, vol. xi, p. 86), need not be specially referred to.

The Act of 1859, 22nd and 23rd Vict., cap. 9, has no immediate bearing upon the questions proposed to us.

By the Convention of 1860 (Hertslet, vol. xi, p. 112), Article 6, that portion of the township Cowloon, of which a lease was granted to H. S. Parkes, Esq., is ceded to Her Majesty, "with a view to the maintenance of law and order in and about the harbour of Hong Kong," the lease being cancelled.

The last Order to which we need advert, is that sent to us with these papers, viz., the Order of Her Majesty of the 9th March, 1865, establishing a Supreme Court at Shanghae for China and Japan, repealing several Orders, and amongst others that of June 1853, and declaring under head xii, the authority and jurisdiction of the Courts of China and Japan, and that of Hong Kong, over British subjects who have committed crimes within British, Chinese, or Japanese vessels, or vessels not lawfully entitled to claim protection of the flag of any State, within 100 miles from the coast of China.

We are informed that no Treaty, or as we understand, engagement of any kind is in existence, which gives a right to exercise jurisdiction over Chinese subjects within 100 miles of the coast of China; nor is there, as far as we are aware, any express stipulation that the water to the distance or extent of a marine league or any greater or less distance from the shores of Hong Kong, is to be deemed to be ceded with Hong Kong, and to be British territory.

The map which has been sent to us shows generally the geographical position of Hong Kong, and its harbour, and the surrounding islands, &c.; and the questions proposed for our consideration are, whether any and what islands have been acquired by the British Government as appurtenant to Hong Kong or Cowloon; and next, what is the extent of jurisdiction, if any, of Her Majesty over the seas surrounding Hong Kong (whether broad seas or straits), or over islands near the coast of Hong Kong, which beyond doubt have never been ceded to this country, and are not appurtenant to Hong Kong or Cowloon.

As regards the first question, we notice that Stone Cutter's Island was a part of the territory included in the lease to H. Parkes, Esq., and we think that (if, by that lease, and during the continuance of it, this island was treated as a "part of the township of Cowloon, in the Province of Kwangtung, and if the island has since been occupied by the British as a portion of the part of the township ceded), it may well be considered to be a part of Her Majesty's dominions.

From the information before us, we do not think that any other neighbouring island can be claimed as having formed part of the ceded territory.

We think, too, that (it may reasonably be contended that), the whole of the water of the Victoria harbour between the shores of that part of Cowloon which was ceded, and Hong Kong, is exclusively under British jurisdiction.

And we also think, that water between headlands may also be considered as such.

As regards open sea, that is, water which extends for considerably more than six miles from the shores of Hong Kong without being met by Chinese lands, we think that (it may reasonably be contended that) for a marine league in extent, such water passed on the cession of Hong Kong to Her Majesty, so as to vest in Her Majesty the same rights in and over the same, as that which she possesses in or over the waters to that distance from any other part of Her Majesty's dominions.

But as regards the narrow waters, that is, sea which is interrupted by mainland or islands (still part of Chinese territory), less than six miles distant from the coast of Hong Kong, we do not think that the rule of the marine league can be considered applicable; and although we think that the free right of passage over these waters may be claimed by Her Majesty for the purpose of having the full use of the ceded territory, Her Majesty cannot claim, in the present state of our Treaty engagements with China, exclusive jurisdiction at all events over the marine league from the shores of Hong Kong; but we think that Her Majesty's Government would be, under the

circumstances, justified in insisting that the *medium filum* of such waters should be claimed as the boundary of territorial jurisdiction. In straits, such as the Leymoru Pass, we also think that the claim to exclusive jurisdiction cannot be maintained, although in this case again the right from the shore to *medium filum* (with of course the unlimited privilege of passing and repassing over the whole of the straits), may reasonably be claimed.

We advise, it must be clearly understood, upon the assumption that no custom or usage exists by which the territorial limits of the British and Chinese possessions can be more clearly defined. The marine-league rule is one of which the application must in many cases be controlled by the geographical conformation of the land, by usage, and perhaps by other circumstances. It is founded on the principle that the State to which the land belongs shall be secured from injury by exercising for this purpose a territorial jurisdiction over adjacent waters. The reason of the thing, aided by usage rather than by any arbitrary law universally applicable and generally recognized, must in each case govern the question of common or exclusive jurisdiction over narrow straits and land-locked waters.

We are clearly of opinion that the questions involved in the case should, if possible, be settled by Treaty, for, in the present state of things, no satisfactory conclusion can be arrived at as to the extent of the British territory or jurisdiction.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 19.

*The Law Officers of the Crown to Lord Stanley.—(Received February* 21.)

*Lincoln's Inn, February* 21, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th February instant, stating that with reference to our Report of the 15th January last, relative to the extent of British jurisdiction over certain waters in the neighbourhood of Hong Kong, he was directed by your Lordship to transmit to us a letter from the Colonial Office, inclosing a draft of a despatch on the question which it is proposed to address to the Governor of that Colony, and to request that we would inform your Lordship whether we concur in the terms of the draft.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that, subject to the slight alterations we have made, the letter of the Earl of Carnarvon to the Governor of Hong Kong is right and proper to be sent.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 20.

*The Queen's Advocate to Lord Stanley.—(Received February* 21.)

*Doctors' Commons, February* 21, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed by your Lordship to transmit to me a despatch from Sir R. Alcock (No. 45) and its inclosures, on the subject of the tenure of land at Hankow; and to request that I would take these papers into consideration, and furnish your Lordship with my opinion thereupon.

The former despatches from Her Majesty's Chargé d'Affaires at Peking (Nos. 35, 50, 52, and 147) on the subject, which were submitted to Her Majesty's Law Officers on the 5th June, 1865, were also inclosed for convenience of reference, together with a despatch to Mr. Wade, which was founded on the Law Officers' Report of the 11th July, 1865.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the most material question considered in the despatches of Mr. Wade and of Sir R. Alcock, appears to be that which relates to the duty of the Chinese Government to provide (under Article XVIII of the Treaty of 1858) the police necessary for the protection of life and property, and the inexpediency of any measure adopted by the

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British land renters, whereby the Chinese Government would be relieved from this obligation. And upon this question it appears from Sir R. Alcock's despatch of November 20, 1866, that he does not practically differ from the opinion of Mr. Wade, which has been misunderstood as to this matter by Sir E. Hornby.

Sir R. Alcock and Mr. Wade are agreed that the *exclusive* employment of a Chinese native police force would be impracticable, and both are agreed that the Chinese Government ought to discharge a part, if not the whole, of the cost of an efficient police. Sir R. Alcock's proposal that there should be introduced into the Municipal Council (or whatever it is to be called) a Representative of the Chinese Government, and that then the police should be under the direction of this Council, so constituted as to give the Chinese Government "a controlling vote in all that touched their jurisdiction or their interest," appears to be a wise solution of the difficulty, which arises from the abstract Treaty obligation of the Chinese, on the one hand, to furnish the necessary protection, and their, apparently, notorious practical inability, on the other hand, to discharge this obligation.

With respect to the remaining questions as to the use of the terms of "concession" and "municipality," the answer of Sir E. Hornby (whose opinion upon the subject Lord Russell desired should be taken, and which had not been received when his Lordship directed the discontinuance of these terms) does seem to me to go far towards establishing the position that, without impugning the soundness of the general reasoning of Mr. Wade against their original adoption, their discontinuance now is, on the whole, inexpedient.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 21.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 4.)

My Lord,

*Temple, April* 4, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that he was directed by your Lordship to transmit to me a letter and its inclosures from the Admiralty relative to the detention of a Chinese boat taken with kidnapped coolies by Her Majesty's gun-boat "Drake" and to request that I would take these papers into consideration and furnish yonr Lordship with my opinion as to the proceedings reported therein, and as to the instructions which the Admiralty should be requested to send to their officers in China for their guidance in such cases.

In obedience to your Lordship's commands, I have the honour to report—

That I am of opinion that my Lords of the Admiralty should be informed that it is competent to the Commanders of Her Majesty's ships, with the advice of Her Majesty's Consul, to act in aid of the proper Chinese authorities in stopping this Slave Trade, carried on by Chinese subjects under the pretext of transporting coolies; that difficulties may arise in the case of such a trade being carried on under the flag of a foreign Christian state; and that, where such flag is lawfully borne, and the vessels really belongs to the subject of a foreign Christian State, I do not advise (though the occupation of such vessels is not far removed from piracy) that Her Majesty's ships be directed without the consent and co-operation of the Consul of the State to which the vessel belongs, as well as of the Chinese authority, to seize such vessels. It may be necessary, it would certainly seem to be expedient that communications should be entered into with the Representatives of the foreign Christian States, (whose subjects are traders at Swatow) having for their object to concert a common plan for the prohibition of this nefarious traffic; and it is most desirable that direct, positive, and, if possible, written authority should be obtained from the Mandarin or Principal Chinese authority, authorizing the Consul to request the Commanders of Her Majesty's ships to seize all Chinese vessels belonging to Chinese suspected of carrying on this new Slave Trade.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 22.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 5.)

My Lord,

*Lincoln's Inn, April* 4, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th ultimo, stating that he was directed to transmit to us a letter which

has been addressed by Her Majesty's Consul at Shanghae to the Registrar-General inclosing the Returns of Births, Deaths, and Marriages, for the year 1866. That this letter which has been sent under flying seal to the Foreign Office contains remarks on the operation of the Foreign Marriage Act, and that, as it appears to your Lordship to enter into matters beyond the province of the Registrar-General, your Lordship does not think it necessary to forward it to that officer; and Mr. Hammond was pleased to request that we would take this letter into consideration, and furnish your Lordship with our opinion as to the course that should be pursued with regard to it.

In obedience to your Lordship's commands, we have the honour ro report—

That, with reference to the first reason urged by Consul Winchester for an amendment of the Foreign Consular Marriage Act, 12 and 13 Vict., cap. 68, we are of opinion that unless it should be found that the Foreign Marriage Act is not effective in other Foreign ports and places besides China and Japan, it would not be expedient to amend the Act simply to provide for the cases referred to by Mr. Winchester.

If, however, the same inefficiency of the law as it now exists in China should be shown to prevail elsewhere, the remarks of Mr. Winchester will be valuable, and entitled to due consideration in the event of an amendment of the existing Act being proposed. They appear to us to show that some amendment is necessary.

With respect to the second reason of Mr. Consul Winchester, we are of opinion that the amendment proposed is not expedient.

And lastly we agree with your Lordship that there is no necessity for any communication with the Registrar-General on the subject.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 23.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 5.)

*Lincoln's Inn, April* 4, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed to transmit to us a despatch from Sir E. Hornby, forwarding a Notification which, on his recommendation, has been issued by Her Majesty's Minister at Peking with regard to the surveillance of British subjects of the rowdy class in China.

And Mr. Hammond also inclosed despatches from Sir R. Alcock and Sir H. Parkes, sending copies of correspondence on the subject; and requested that we would take these papers into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this case into consideration, and have the honour to report—

That it appears to us that there does exist a state of things with respect to Her Majesty's subjects in China, which renders the issuing of this Regulation expedient, and we think that such a Regulation may legally be issued under the authority of the 85th section of the Order in Council of 1865, and that it shall be duly approved by your Lordship in compliance with the requisitions of that Order.

The reasons assigned by Sir H. Parkes for thinking that it is not necessary at present to publish this Regulation in Japan appear to us to be sufficient.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 24.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 16.)

*Lincoln's Inn, April* 16, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th January last, stating that he was directed by your Lordship to transmit

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to us a collection of papers which, for our greater convenience, had been stitched together, having reference to a question that had arisen at Shanghae respecting the Land Regulations at that port, and a claim set up by the French in regard to what is called the French Concession; and he was to request that we would report to your Lordship our opinion whether the new Regulations so far as regards the British Settlement are proper to be approved, and to what extent the claims set up by the French Government and authorities in regard to the French Concession should be accepted or acquiesced in by Her Majesty's Government.

We were also favoured with a further letter from Mr. Hammond, dated the 12th of February last, in which he stated that with reference to his letter of the 8th of January, submitting papers for our opinion on the question of the Land Regulations at Shanghae, he was directed by your Lordship to transmit to us a further volume of papers on the subject, which he requested we would also take into consideration before making our Report to your Lordship.

In obedience to your Lordship's commands we have taken the papers submitted to us into consideration, and have the honour to report—

That in order to express our opinion satisfactorily on the two questions submitted to us in your Lordship's letter, viz.:—

1. The propriety of these Land Regulations;
2. As to the claims of the French Government;

We think it expedient to state what we conceive to be the most material facts upon which our Report is to be founded. They appear to be the following:—

1. By the Treaties of Nanking, Hoomun-chow, and Tien-tsin, the Emperor of China has ceded to Her Majesty absolute jurisdiction over her subjects commorant or being wheresoever in the Imperial dominions.

2. Whatever be the character of the grants made by the Emperor of China to France with respect to their occupation of territory south of the Yang-tze (Kiang), it is subsequent in date to the concession made to England by the Treaties above referred to. It was not, therefore, competent to the Emperor of China to make any concession to France which would intrench upon this previously granted privilege, whatever authority over his own subjects the Emperor might think fit to concede to France.

3. Certain territory on the north and south side of creeks called Yong Kin Pong and Loo-chow, formed by affluents of the great arteries of China the Yang-tze (Kiang) were permitted by the Emperor of China to be rented by Europeans for the purposes of a commercial establishment, the Emperor retaining as lord of the soil, the *dominium eminens*, and receiving rent from the European occupiers.

4. It soon became necessary that some authority should control the European renters. The English led the way in forming a Committee, to be elected by the majority of renters, but intended to be composed of all Europeans, who were to institute and pay a police force for keeping order within these districts. The subjects of the United States of North America, of Prussia, and of Holland, appear to have heartily co-operated in this scheme, though the American Consul always maintained that at present no binding legal validity could be given to the resolutions of this Committee.

It appears, however, that a general sense of the usefulness of their resolutions has at present supplied the place of positive law.

The French, however, insisted on placing the Executive authority in the hands of their Consul-General, who claimed a right to nominate on behalf of the French occupation or site the members of the Committee.

5. Two-thirds of the French occupation or site, unhappily termed "concession," were inhabited by English and other foreigners. The object of the French Consul was to confine the power to French authorities over French subjects, an object which a free election would obviously have defeated.

6. Eventually the French Consul referred the matter to his Government, which issued a certain "Règlement d'organisation municipale de la concession Française en Shanghae," which put an end to all notion of a fusion between the English, American, and French settlements, and a common Municipal Government elected by land renters.

7. It was quite competent to the French to adopt this system of separate Municipal Government under the control of their Consul, so far as the French subjects were concerned, but it was not competent to the French Government to assume or exercise thereby any personal jurisdiction over the subjects of other States resident or commorant in the French occupation or site, or on any other part of the Chinese territory, inasmuch as those subjects had obtained by Treaty with the lord of the soil the right of exemption from all jurisdiction but that of their own State.

8. The 16th Article of the Règlement was so expressed as to lead to the conclusion that the French Government claimed such jurisdiction within the limits of their concession. M. Drouyn de Lhuys has, however, distinctly disclaimed any such intention on the part of the French Government, which, however, claims the right of keeping order within their limits, and maintaining that the Chinese Government has assigned exclusively to them as sole lessees the land enclosed in those limits, and all authority over it.

9. It is certainly very difficult to distinguish, so far as the Chinese Government is concerned, the claim of the French as to this "concession" from the claim of governing an independent Colony; and there is much in the remarks of Consul Winchester which is worthy of grave consideration by Her Majesty's Government upon the inevitable tendency of such a "concession" to become simply a territorial possession of France. Any such claim or pretension if advanced on the part of France, should we think be strenuously resisted.

We think Article XVI of the French Règlement as it stands in print would have been objectionable; but assuming that such Article were to be altered in accordance with the spirit of the Memorandum without date or signature in the last page of the volume first sent us, and which follows the letter of the 17th September, 1866, from the French Consul to his colleagues, we think the article would be satisfactory, or if the French Government have bound themselves to an interpretation of the 16th clause in harmony with that Memorandum it might we think he assented to. We do not find amongst the papers any actual modification of the text of the 16th clause agreed to by France. But M. Drouyn de Lhuys, in his letter to Lord Cowley of the 6th June, 1866, in speaking of the modifications he proposes in the clause, says, "Les étrangers habitants la concession Française ne cessent pas d'être justiciables de leurs juges naturels," and more to the same effect, and the French Consul in his letter of the 17th September, 1866, to which we have above referred, speaking of the same modification of or interpretation to be put upon the 16th clause, says that that the Consuls of other European Powers may at their pleasure send their warrants to the French Consul-General, to be countersigned or address themselves directly to the Chief of the French municipal police, who by an agent of his police will accompany the foreign constable. This is not in our minds so satisfactory as an admission that the French make no claim of right to interfere with the regular warrants issued by the competent authority of the other Treaty Powers, they agreeing as a matter of courtesy to have their warrants sanctioned by the French authorities, which is the language of and is proposed by the Memorandum at the end of the first volume. It may be that the French Government intend to keep this claim of right alive. But probably Her Majesty's Government will think it right to accept the arrangement proposed by the French Government, on the distinct understanding that its acceptance does not involve an admission by Her Majesty's Government of any such right on the part of the French Government to interfere with regular warrants issued by competent authorities of the British Government, or any admission of territorial right in France to the so-called concession.

10. It remains to express our opinion on the validity of the British Land Regulations in their bearing upon British subjects, a subject analogous to that which is stated to have come under the consideration of the Supreme Courts in "Kerwick and others *v.* C. Willis and another," in construing the Order of Council of the 13th June, 1853.

We think that these Regulations may be fairly said to relate to "the peace, good order, and government of British subjects resident in and resorting to China," and that under Article 85, Section 7, of the subsequent Order of the 9th March, 1865, regulations might be made binding upon British subjects by the approval of Her Majesty, duly signified through one of Her Majesty's Principal Secretaries of State.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 25.

*The Law Officers of the Crown to Lord Stanley.*—(*Received May* 29.)

*Lincoln's Inn, May* 27, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to

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us a despatch from Sir E. Hornby, Chief Judge of Her Majesty's Supreme Court for China and Japan, forwarding a printed copy of the Instructions which he has addressed to Her Majesty's Consular Officers in those countries on the mode of conducting their judicial business; and Mr. Hammond was pleased to request that we would take this document into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the Instructions appear to us to be generally useful and adapted to their object.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 26.

*The Law Officers of the Crown to Lord Stanley.—(Received May 29.)*

*Lincoln's Inn, May* 28, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st of April last, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in China (No. 3), forwarding copies of a circular and notification which he had recently issued to the Consuls under his superintendence respecting the protection to be afforded to British subjects of Chinese origin, and which is, in part, founded on a Report from the Law Officers of the late Government, dated March 10, 1866.

Mr. Hammond was also pleased to inclose a letter dated the 23rd March ultimo, and its inclosures, on the same subject, from the Colonial Office, and to request that we would take these papers into our consideration and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we do not find amongst the papers the Regulations described by Sir Rutherford Alcock in his despatch to your Lordship of the 17th January, 1867, as having been submitted to him by Sir E. Hornby, and forwarded for your Lordship's approval in his despatch No. 5.

Addressing ourselves to the Circular No. 9 of 16th June, 1866, from Sir R. Alcock to Her Majesty's Consuls, and a similar Circular, No. 13 of the 26th November, 1866, with the Notification of the 28th November, we are of opinion that these Circulars are in point of authority legal, and may properly receive your Lordship's sanction, if their policy is approved by your Lordship. Their object appears to be to warn all persons of Chinese race entitled to protection as British subjects that they are not entitled to establish themselves in the interior of China and assume the privileges of Chinese subjects; and to provide that all such persons so acting on being taken by the Chinese authorities to a Consular port will be liable to punishment, as any other British subject would be for a similar violation of Treaty; and further to provide that passports should not be granted for the interior of China except for a time to be limited by reference to the exigencies of the occasion for which individuals may propose to go there.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 27.

*The Law Officers of the Crown to Lord Stanley.—(Received May 29.)*

*Lincoln's Inn, May* 29, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that with reference to his letter of the 1st ultimo (upon which we have already made our Report), he was directed by your Lordship to transmit to us a further despatch (No. 12) and its inclosures from Sir R. Alcock relative to the amount of protection to be afforded to British subjects of Chinese extraction; and Mr. Hammond was to request that we would take these papers into consideration, together with those then before us, and furnish your Lordship with our opinion thereupon.

We are also honoured with Mr. Hammond's letter of the 14th instant stating that with reference to his two former letters, he was directed by your Lordship to transmit to us the accompanying despatch (No. 19), with its inclosures, from Her Majesty's Minister in China, in regard to this subject; and was to request that we would take these papers into consideration, together with those previously sent to us, and furnish your Lordship with our opinion as to the course to be pursued in the matter.

In obedience to your Lordship's commands we have taken these further papers into consideration, and have the honour to report—

That the further papers before us appear to suggest the following matters for consideration:—

1. The case of Chinese resident at Hong Kong or Cowloon, at the time of the cession of these places to Her Majesty.

We are of opinion that they are entitled to British protection everywhere, even in China, according to the rules and principles of international law applicable to the subject; and that the duty of affording this protection in case of need cannot properly be relinquished or neglected.

The same observation applies to the children of these persons.

2. The case of Chinese who have become domiciled in the ceded places.

They are not entitled to British protection beyond British territory, and certainly not in the dominions of the Emperor of China, whose subjects they originally were. Even if naturalized by our Colonial laws, such naturalization would, we think, under the provisions of the 10th and 11th Vict., c. 83, not extend beyond the limits of the Colony.

3. The case of Chinese born in the ceded places, but the children of Chinese parents.

We may assume that the Chinese authorities would claim the allegiance of such persons when in China, and we think it should be conceded to them, and that no claim of jurisdiction over such persons when in China should be asserted or allowed by Her Majesty's Government. It would be quite consistent with principles of international law to abstain from the assertion of any such jurisdiction.

Applying the foregoing opinions to the facts stated in the papers before us, it appears that there are but few Chinese entitled to be ranked as British subjects. We think it would be a legitimate exercise of power by Her Majesty's Government (if, as a matter of policy, it should be thought right to exercise it) to lay down a regulation that British subjects of the Chinese race, travelling or being in China, if they propose to claim British protection in case of need, shall, while in China, adopt some distinctive habit or costume which shall distinguish them from the admitted and avowed subjects of the Emperor of China; and that if they sue in Courts of Justice, or otherwise appear in public before the authorities of the Empire, they will be required to pay due respect to the Chinese authorities, not involving thereby an admission of subjection.

We understand that a view somewhat inconsistent with this has been on a former occasion expressed in a despatch from the Foreign Office to the Consular authorities in China; but unless it has been widely circulated or largely acted on, we think the advantages of imposing some terms of this kind on the protection to be afforded to Chinese entitled to the character of British subjects are sufficient to justify the attempt to impose them.

We are not prepared to advise that the suggestion of the Governor of Hong Kong, namely, that recourse should be had to Imperial legislation on the subject, should be adopted.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 28.

*The Law Officers of the Crown to Lord Stanley.*—(*Received June* 11.)

My Lord, *Lincoln's Inn, June* 10, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at Shanghae (No. 4), and one from Sir Edmund Hornby, Judge of the Supreme Court of China and Japan (No. 16), relative to the Pilotage Regulations for the Port of Newchwang, which have been sanctioned by Her Majesty's Minister in China.

Mr. Hammond was also pleased to transmit to us a letter from the Lords of the Committee of Privy Council for Trade upon this subject, to whom he referred the above despatches, together with a copy of the Pilotage Regulations in force at Shanghae, adverted to by their Lordships; and he was to request that we would take these papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands, we have taken these papers into consideration and have the honour to report—

That we agree with the opinions expressed by Sir E. Hornby and the Board of Trade, with reference to the Pilotage Regulations at Newchwang; and we think that the earliest opportunity should be taken of bringing them into conformity, so far as local circumstances will permit, with the Pilotage Regulations of Shanghae.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 29.

*The Law Officers of the Crown to Lord Stanley.*—(*Received July* 17.)

My Lord, *Lincoln's Inn, July* 16, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th of July, 1867, stating that with reference to our letters of the 15th of January and 21st of February, on the subject of the extent of British jurisdiction over the waters in the neighbourhood of Hong Kong, he was directed by your Lordship to transmit to us a copy of a letter, dated the 12th instant, from the Colonial Office forwarding a further despatch on the same subject from the Governor of Hong Kong; and he was to request that we would favour your Lordship with our opinion on the points raised by Sir Richard McDonnell.

The previous papers were inclosed for our information.*

In obedience to your Lordship's commands, we have taken this matter into consideration and have the honour to report—

That the despatch of Governor Macdonnell and the plan accompanying it, contain material information, not previously before us, on the question of what neighbouring islands could be claimed as having formed part of the ceded territory of Hong Kong and Cowloon.

It now appears that Green Island and Kellets Island are within the limits of the Harbour of Victoria as delineated on the the Ordnance map of 1845, and that this harbour is alluded to in the Convention of 1860, and is thereby recognized by the Chinese Government (as we understand) as a harbour belonging to the territory of Hong Kong. We think it will be right to presume that the limits of the harbour thus recognized are those described in the Ordnance map, and that, consequently (independently of the other reasons urged in Governor McDonnell's despatch), it will be right to hold that these islands form part of the ceded territory.

As to Aberdeen Island, it appears not only that a line drawn from cape to cape in the territory of Hong Kong would include nearly the whole of the island, but that the British Government has made grants and issued licenses for occupation of land within it, and otherwise assumed and exercised rights of absolute ownership over it, and that no doubt has hitherto arisen of his having passed by the cession of Hong Kong. We think that the fact of the island being situate within a line drawn from cape to cape in Hong Kong, if not of itself conclusive of the right of the British Government thereto,

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* Colonial Office, December 17, 1866; February 2, 1867.

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# CHINA.

## No. 28*.

*The Law Officers of the Crown to Lord Stanley.*—(*Received June* 12.)

*Lincoln's Inn, June* 12, 1867.

Jurisdiction in French Land Concession at Shanghae. Revision of Article 16 of Regulations.

My Lord,

WE are honoured with your Lordship's commands, signified in Mr. Hammond's letter of the 27th ultimo, stating that, with reference to our Report of the 16th April on the subject of the Regulations proposed to be established for the government of the French Settlement at Shanghae, he was directed by your Lordship to transmit the draft of an Instruction which has since been addressed to Her Majesty's Minister at Paris, stating what were the views of Her Majesty's Government in regard to the point under discussion with the French Government up to that time, the objections being, as we are aware, confined to the 16th Article of the Regulations. A despatch from Earl Cowley, containing the reply of the French Government on this subject, was also inclosed, and Mr. Hammond was pleased to state that your Lordship would be glad to be furnished with any observations we may have to make upon the French answer before your Lordship replies to it.

In obedience to your Lordship's commands, we have the honour to

*Report*—

That we beg leave to refer to our former Report on this subject; that we are of opinion that the Article which M. Moustier proposes to substitute for the existing 16th Article of the French Règlement, and that the practical means by which he suggests it should be executed, ought to be accepted as on the whole satisfactory to your Lordship. There can be no doubt that it is expedient that an "entente aussi complète que possible" (to borrow the words of M. Moustier) ought to prevail among the authorities of the different Settlements on the Yang-Tzee (Kiang), and that reciprocal aid, so far as is practicable, should be furnished for the due execution of justice and for the general maintenance of the Municipal Regulations of each quarter.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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forms a strong ground for such a construction of the Treaty as would include the island within the ceded territory, and the Treaty of Nanking and Convention of Peace having now been acted on by both parties upon this construction for some years, we think Her Majesty's Government may properly continue to act on this construction and assume (and in case of need insist) that not only Aberdeen Island but all other islands or rocks included within, or touched by lines drawn from cape to cape in Hong Kong or Cowloon form parts of the ceded territory.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 30.

*The Queen's Advocate to Lord Stanley.*—(*Received September* 2.)

*Temple, September* 2, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that, with reference to the Law Officers' Report of the 27th May, he was directed by your Lordship to transmit to me a despatch from Sir E. Hornby (No. 27, July 5), inclosing Rules of Procedure for the Supreme Court at Shanghae when sitting as a Court of Vice-Admiralty; and to request that I would take these Rules into consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That there is no objection to your Lordship approving the Rules of Procedure for the Supreme Court of Shanghae when sitting as a Court of Vice-Admiralty, with the exception of the introductory and concluding paragraphs of Appendix (A), which refer to the sealed packets, known in the High Court of Admiralty of England as the Preliminary Acts. It would be advisable that the introductory paragraph should be modified so as to provide that the preliminary Acts may be brought into and deposited in the Registry, instead of the Court, as the Court itself may not be always sitting, whereas the Registry of the Vice-Admiralty should be at all times accessible; and that the concluding paragraph should run as follows: "Such packets shall remain sealed, and shall not be opened save by order of the Judge, until the pleadings and proofs are filed; they may be referred to as the hearing of the cause."

That it is advisable that the words, "and used as evidence," should be omitted, as liable to mislead parties, the preliminary Acts not being evidence for the parties who bring them in.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 31.

*The Law Officers of the Crown to Lord Stanley.*—(*Received October* 8.)

*Temple, October* 7, 1867.

My Lord,

WE are honoured with your Lordship's commands, signified in Mr. Hammond's letter of the 29th of August last, stating that with reference to the Law Officer's Reports of the 10th of January, and of the 10th of June, relative to the Pilot Regulations at Newchwang and Shanghae, he was directed by your Lordship to transmit to us a copy of the General Pilotage Regulations which have now been issued by the Chinese Government.

Mr. Hammond was, at the same time, to inclose a copy of certain regulations relative to passengers' luggage, duty-free goods, and steam-tugs, and to request that we would take these several regulations into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken these regulations into consideration, and have the honour to Report—

That with regard to the Chinese General Pilotage Regulations, we are of opinion that the second paragraph of Article XIII, which provides, that "any damage sustained by a pilot-boat while alongside the ship piloted, shall be made good by such ship, the

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damage to be assessed by two competent persons, one to be chosen by the pilot, and the other by the master of the ship concerned," is too absolute, and may be worked unjustly against the ships, as no exception is allowed where such damage may have been caused by the fault of the pilot or his mates, or by the fault of third parties.

We think that this rule should be modified, so as to exclude cases where damage is sustained by the default of those in charge of the pilot-boat, or by third persons, or it might be advantageously provided that "disputes relative to damage sustained by any pilot-boat while alongside the ship piloted, shall be referred to two competent persons, one to be chosen by the pilot, and the other by the master of the ship piloted; and in case of disagreement between the referees, the dispute shall be referred to the Consul, who shall decide it summarily."

With regard to the regulations relative to passengers' luggage, duty-free goods, and steam-tugs, they appear to us to be unobjectionable, except as regards the third branch of the first (Passengers' Luggage) rule. We presume it is not intended, for instance, that the presence of dutiable goods amongst luggage is to subject all the luggage to confiscation, even where the presence of such dutiable goods is declared by the owner of the luggage. This part of the rule appears to us to require some modification.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 32.

*The Queen's Advocate to Lord Stanley.—(Received October* 11.)

*Temple, October* 9, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to me a letter from the Colonial Office dated the 28th ultimo, forwarding a correspondence which has passed between Her Majesty's Consul at Canton and the Governor of Hong Kong, with regard to the extradition of a Chinese girl from that Colony; and requesting that I would take the same into consideration, and furnish your Lordship with my opinion of the case.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That, as it appears from the correspondence between Her Majesty's Consul at Canton and the Governor of Hong Kong, that the Chinese girl referred to in that correspondence was not charged with having committed any crime, I am of opinion that the application for her extradition from Hong Kong was not warranted by any Treaty engagement between Great Britain and China; and although the representation of the Consul may be correct, that the master of the girl would have had a clear right by the law of China to demand within Chinese territory the restitution of what the Consul considers "may be termed his property in the girl," the Consul is in error in supposing that there is any obligation arising out of "the law which prevails amongst nations," which required the Governor of Hong Kong to give effect to the municipal law of China within British territory. Further, if it be assumed that Her Majesty's Consul at Canton may have intended to speak of the obligations of "international comity" when he alludes to the "law which prevails amongst nations," and that the comity of nations might have required the Governor of Hong Kong to direct the property of a Chinese subject, which had been abducted unlawfully from the Nanking territory, and found in the possession of the thief at Hong Kong, to be restored to its lawful owner on the application of the Chinese authorities, if such property had been a brute animal, the analogy would fail altogether in the case of a girl alleged to be a slave, and as such the property of the Chinese subject on whose behalf she is claimed, inasmuch as British law forbids all recognition of rights of property over a human being within British territory; I am of opinion, therefore, that in every view of the case the Governor of Hong Kong was perfectly justified in declining to accede to the request of Her Majesty's Consul at Canton.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 33.

*The Law Officers of the Crown to Lord Stanley.—(Received November* 29.)

*Temple, November* 29, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 30th of October ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office forwarding a despatch from the Governor of Hong Kong relative to a demand for the extradition of deserters made upon him by the Governor of Macao; and to request that we would take these papers into our consideration and favour your Lordship with our opinion thereupon, and especially on the suggestion made by the Governor that powers of extradition should be conferred upon the Government of Hong Kong.

Mr. Egerton was also pleased to state that the correspondence on the same subject which passed between the Foreign Office and the Colonial Office in 1862, and which is alluded to in Mr. Elliot's letter, was inclosed for our information.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we see no objection on principle to an Ordinance being passed by the Legislative Council of Hong Kong for the extradition of individuals charged with having committed offences within the territorial jurisdiction of His Majesty the King of Portugal, and of Portuguese subjects charged with having committed offences within those parts of the Chinese dominions within which the King of Portugal is empowered by Treaty Engagements with the Emperor of China to exercise jurisdiction over Portuguese subjects, and that such Ordinance should come into force like the Malta Ordinance of February 21, 1863 (Hertslet, xi, p. 872), upon the Portuguese Government enacting an Ordinance of reciprocal intent with regard to individuals charged with having committed offences within the territorial jurisdiction of Her Majesty the Queen, and with regard to British subjects charged with having committed offences within those parts of the Chinese dominions within which Her Majesty the Queen is empowered by Treaty Engagements with the Emperor of China to exercise jurisdiction over British subjects.

The details of such an Ordinance and the particular crimes to which it would be expedient to extend its provisions, would, of course, be matter for further and careful consideration.

With regard to the rendition of deserters, we observe that his Grace the Duke of Buckingham is of opinion that it would not be expedient to confer such a power on the Government of Hong Kong. Apart from the question of policy we think that in point of law, the surrender of deserters, who obtain shelter and seek refuge on British soil, might be granted, but we are not aware that Great Britain has engaged herself explicitly by any Treaty with any Power to surrender persons who may have deserted the military or naval service of such power, except in the case where the desertion has taken place within British territory, as provided for in the Treaty with Portugal of the year 1842. Upon this point, however, we would remark that the Acting Attorney-General of Hong Kong states that the Governor of Macao bases his demand on the XVIth Article of the Treaty of 1842 (Hertslet, vi, 608), and observes, "I may add that if the Governor of Macao thinks he has a claim on this Government under the second paragraph of Article XVI, it is for him, I apprehend, to direct our attention to the circumstances under which it arises."

We do not find that that the Governor of Macao has intimated whether he does, in any way, rely on circumstances bringing the case within this paragraph, but we think it right to call attention to the following considerations relative to this matter.

The paragraph referred to is as follows:—

"It is further agreed and declared that if either of the High Contracting Parties shall grant to any State any new favour or facility with respect to the recovery of deserters, such favour or facility shall be considered as granted also to the other Contracting Party in the same manner as if the said favour or facility had been expressly stipulated by the present Treaty."

In the Treaty with China in 1843 (Hertslet, vi, 262), is the following stipulation at p. 265:—

"IX. If lawless natives of China having committed crimes or offences against their own Government shall flee to Hong Kong, or to the English ships of war, or English merchant ships for refuge, they shall, if discovered by the English officers, be handed over at once to the Chinese officers for trial and punishment, or if before such discovery

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be made by the English officers, it should be ascertained or suspected by the officers of the Government of China, whither such criminals and offenders have fled, a communication shall be made to the proper English officer in order that the said criminals and offenders may be rigidly searched for, seized, and, on proof or admission of their guilt, delivered up. In like manner, if any soldier or sailor, or any other person, whatever his caste or country, who is a subject of the Crown of England, shall, from any cause, or on any pretence, desert, fly, or escape into the Chinese territory, such soldier or sailor or other person shall be apprehended and confined by the Chinese authorities and sent to the nearest British Consular or other Government officer. In neither case shall concealment or refuge be afforded."

In the carrying into effect of the provisions of this Treaty, it may be that the term "lawless natives of China having committed crimes or offences against their own Government," have been treated as including deserters from the Chinese forces, and if this should be so, the Portuguese would, as it appears to us, be entitled under the Treaty of 1842, to like "favours and facilities" with respect to the recovery of deserters as those conceded to China, and your Lordship may think it right to call the attention of the Governor of Hong Kong to this point in any communication which your Lordship may address to him on the subject of the desired extradition.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 34.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 13.)

*Temple, December* 12, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to me a despatch from Sir R. Alcock, forwarding correspondence respecting a claim preferred by a British subject named Richardson against the Chinese Government, on account of the obstructions he met with in an attempt to domicile himself for purposes of trade at Chao-chow-foo; and Mr. Hammond was pleased to request that I would take Sir R. Alcock's despatch into my consideration, in connection with my predecessor's Report of the 28th May, 1866, on the right of trade at Kiung-chow, in Hainan, and favour your Lordship with my opinion as to the merits of the case.

In obedience to your Lordship's commands I have taken Sir R. Alcock's despatch into consideration, in connection with my predecessor's Report of the 28th May, 1866, and have the honour to report—

That the privileges of trade to be allowed to British subjects at the additional ports to be thrown open under the Treaty of Tien-tsin, being declared to be the same with those which they enjoy at the ports opened to their trade under the Treaty of Nanking, must be taken to be subject to the same conditions of mutuality which applied to the trade under the earlier Treaty, the obligations of which, as they are set forth in the second Article, under which the Emperor of China agreed to allow British subjects to trade at the five ports; and Her Majesty the Queen of Great Britain agreed to appoint Consular officers to reside at each of the said ports, in order to be the medium of communication between the Chinese authorities and the said merchants are clearly reciprocal and concurrent,

It follows from this view of the analogy between the Treaties that the Emperor of China cannot be called upon to allow British subjects to reside in any of the additional ports for purposes of trade, until Her Majesty the Queen shall be pleased to appoint Consular officers to reside therein. Further that the opening of the trade of the additional ports, will be subject to the fulfilment of the same conditions which preceded or attended the opening of the trade at the five ports, either under the supplemental Treaty of Hoomun-chae, or under diplomatic arrangements between the two Governments. What those diplomatic arrangements may have been, does not clearly appear from the correspondence before me, but as it appears that certain preliminary arrangements were thought necessary and were adopted by the two Governments before the five ports were opened to trade, with a view to secure the peace, order, and good Government of the places in which foreigners were for the first time to be allowed to reside, I think that the Chinese Government may reasonably require that no British subject shall establish himself for trading purposes in any of the additional ports until analogous arrangements have been made between the two Governments; and, accordingly, that Mr. Richardson was not justified under the Treaty of Tien-tsin in proceeding to Chao-chow-foo, and establishing himself there for purposes of trade before the necessary arrangements had been completed between the Chinese and British authorities, and the opening of the port for trade formally notified as in preceding cases.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 35.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 20.)

*Temple, December* 19, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th of November last, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Peking, inclosing a copy of a despatch from Mr. Winchester relative to the registration of the civil servants of the Crown at Shanghae without the payment of fees; and Mr. Hammond was pleased to request that we would take these papers into our consideration and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands, we have taken these papers into consideration, and have the honour to report—

That there does not appear upon the face of Her Majesty's Order in Council of 9th March, 1865, Article 114, under which every British subject resident in China or Japan, and every British subject arriving at any place in China or Japan, is required to register himself at the Consular Office of the place under a penalty, to be any exception in favour of the civil servants of the Crown, and we think that the civil servants are within the rule, and must register, and under Article 115, pay the prescribed fee. Your Lordship, may, however, think it proper to exercise the discretion which you have, under the Order in Council, Article 115 to mitigate, even to a nominal amount, fees in case of the civil servants.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 36.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 20.)

*Temple, December* 19, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir R. Alcock forwarding correspondence on the question of the power of Acting Consuls to celebrate marriages; and he was to request that we would take these papers into our consideration and favour your Lordship with our opinion thereupon, and as to the answer to be returned to Sir R. Alcock.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That we think that, upon the true construction of the Act 12 & 13 Vict., cap. 68, it is not necessary that a person otherwise "*duly authorized* to act in the absence of a Consul," who has himself been directed or authorized by writing under the hand of one of Her Majesty's Principal Secretaries of State, to solemnize and register marriages, should be *specially* authorized in that behalf by writing or otherwise. Whether a particular person is so "duly authorized to act in the absence of the Consul," appears to us not to be a matter of law, but a question of fact. No particular mode of appointing such *locum tenens* is provided by the Act; and the *practice* or *rules* which have hitherto been pursued in such appointments would, we think, determine the question as to the due authority of the appointee. If the practice has varied materially, so that doubts may exist whether particular persons have been "duly authorized," it may be very expedient to pass a short Declaratory Act to validate any

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marriages which have been performed by persons whose authority to act may be questionable.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 37.

*The Law Officers of the Crown to Lord Stanley.—(Received December 30.)*

*Temple, December* 30, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that, with reference to the Law Officers' Reports of the 28th and 29th May, he was directed by your Lordship to transmit to us, together with the previous papers, a despatch from Her Majesty's Minister at Peking, inclosing the draft of a notification which it is proposed to issue in regard to the adoption of a distinguishing dress by men of Chinese origin claiming British protection; and Mr. Hammond was pleased to request that we would take the subject into consideration, and furnish your Lordship with our opinion as to whether the notification is right and proper to be enforced.

In obedience to your Lordship's commands, we have the honour to report—

That we have considered the Draft Notification proposed to be issued by Her Majesty's Minister at Peking, and have made certain alterations in it for greater simplification. As altered it merely notifies that those who do not observe the regulations will not be entitled to British protection, but leaves it open to the British authorities to extend such protection in cases where they think that circumstances warrant their overlooking the violation of the order. We would suggest that it might be expedient that the British and Chinese authorities should together determine what distinctive badge or costume should be adopted.

Having regard to the statement of Her Majesty's Consul at Amoy that the Chinese authorities hold the wearing of the queue to be a mark of fealty to the reigning dynasty, it will be deserving of consideration whether all British subjects of Chinese descent should not be required to dress their hair in a manner different from that adopted by Chinese subjects, on pain of their not being entitled to British protection in Chinese territory in the event of disobedience to the regulations.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### Inclosure in No. 37.

*Draft Notification.*

WHEREAS many persons of Chinese descent who are, or claim to be, British subjects, go to, reside, or travel, in the dominions of the Emperor of China; and whereas serious difficulty exists in distinguishing such British subjects from natives amenable to Chinese laws only, and in consequence great practical inconvenience frequently results to the parties themselves and to the authorities of both countries: And whereas it is desirable, with a view to the maintenance of order and good government of British subjects of Chinese descent resorting to China, and for the maintenance of friendly relations between British subjects, and Chinese subjects, and authorities, that a remedy should be provided for such inconvenience: Therefore, by the authority and power vested in me by the 85th section of the China and Japan Order in Council, 1865, I do declare and order that all male British subjects of Chinese descent shall, while residing or being in Chinese territory, wear

And all female British subjects of Chinese descent shall, while residing or being in Chinese territory, wear

And I do further warn all British subjects of Chinese descent so residing or being in the Chinese dominions, as aforesaid, that in the event of their infringing, or not observing, this order and regulation, they shall not be entitled to claim British protection or interference on their behalf in any Court of Justice, or elsewhere, in the Chinese dominions.

And I do further order that every British subject of Chinese descent who shall sue in any Chinese Court of Justice, or appear in public before the authorities of the Empire, shall be, and he is hereby required to pay all due respect to the Chinese authorities according to the customs and usages of the country, save and except that such British subject shall not be bound, or required to observe any custom or ceremony whereby he would admit that he is a subject of His Imperial Majesty.

Given under my hand and seal, this day of

(Seal.)
J. B. K.
C. J. S.
T. T.

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# Colombia.

## No. 38.

*The Queen's Advocate to Lord Stanley.—(Received February 2.)*

*Doctors' Commons, February* 2, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Chargé d'Affaires at Bogotá, inclosing a copy of a Decree which has been issued by the President of the Colombian Union with regard to the disposal of vessels captured by privateers during the continuance of the war now existing between Chile, Peru, and Ecuador on the one part, and Spain on the other; and Mr. Hammond was pleased to request that I would take these papers into consideration, and report to your Lordship my opinion as to the reply which should be given to Mr. Bunch's request for instructions with regard to this measure as to its possible effect on British commerce.

In obedience to your Lordship's commands, I have taken these papers into consideration, and have the honour to report—

That Her Majesty's Chargé d'Affaires at Bogotá should be directed to make an immediate and strong protest on behalf of Her Majesty's Government against this Decree; on the ground that it is not competent to one neutral State, even with the consent of the belligerents, to constitute a Prize Court, for the trial of vessels belonging to the subjects of other neutral States, and captured by either belligerent. That such an attempt is at variance both with the plain duty of a neutral State, and all the recognized principles of international law applicable to the subject, and that Her Majesty's Government will not permit any Court in the United States of Colombia to exercise the jurisdiction, incident to a Prize Court, over the property or persons of Her Majesty's subjects captured by either belligerent, upon the high seas, during the existing war.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 39.

*The Queen's Advocate to Lord Stanley.—(Received March 26.)*

*Doctors' Commons, March* 23, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed by your Lordship to transmit to me the accompanying despatch from Mr. Bunch, Her Majesty's Chargé d'Affaires and

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Consul-General to the United States of Colombia (No. 5, January 7, 1867), inclosing a correspondence which has taken place with the Colombian Government relative to a claim of a British subject, Mr. Percy Brandon, against that Government arising out of certain bonds issued by the former Government of New Granada; and Mr. Hammond was pleased to request that I would take these papers into consideration and furnish your Lordship with my opinion as to what instructions should be sent to Mr. Bunch. Some despatches referred to by Mr. Bunch were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the Circular referred to by the Colombian Government as having been issued from the Foreign Office in this country, may be laid altogether out of consideration as in no way affecting the merits of this case.

That the bonds (or "vales") in question, upon which the demand of Messrs. Watts and Jones, or their representative, arises, may be placed in two categories:—

(1stly.) Those which have never been disposed of to a Colombian subject, but have always remained in the possession of the agent of Messrs. Watts and Jones.

(2ndly.) Those which before the Decree of General Mosquera, in 1861, had been sold to a Colombian subject (Mr. Laverde) and had been repurchased by the agency of Messrs. Watts and Co., at what exact period does not appear, but after the Decree in question, and sometime before the formal application, in September 1866, by the representative of Messrs. Watts and Jones (Mr. Brandon) to the Colombian Government.

With regard to the bonds which come under the first category, there cannot be the slightest doubt whatever that, by the Convention of Bogotà (January 26th, 1824), the Colombian Government are bound to receive these bonds at the Custom-houses of the State in payment of 8 per cent. of duties of importation; and that by no subsequent Municipal Law can they divest themselves of this international engagement formally contracted with a foreign State.

With regard to the bonds which come under the second category, the Colombian Government maintain that by the Decree of 1861, the value of these bonds was reduced, and that they were placed on a different footing; that this Decree was binding upon its own subjects; and that at the time when this Decree was issued a Colombian subject was the owner of a portion of (they erroneously state all) these bonds, which were subsequently purchased or repurchased by the claimant; that the vendee cannot have greater rights than the vendor as to the thing which he has purchased; and they rely upon the maxim of jurisprudence, "Nemo plus juris ad alium transferre potest quam ipse haberet."

But I think that the above-mentioned Convention of Bogotá prevents the application of that maxim to this particular case. By that Convention the Colombian Government recognized the existence of an unpaid debt to certain British subjects; and, according to the 3rd Article, binds itself to issue, for the payment of such debts, a special "floating-stock receivable in payment of 8 per cent. of the importation dues under the same conditions as the floating-stock actually in circulation." This is the only mode of redemption for those bonds stipulated in the Treaty; there is no provision that this stipulated mode of redemption may be altered in the case of the holder selling them to a Colombian purchaser and repurchasing them. They are, in fact, guaranteed to bear that value in the market of securities; and, in my opinion, whatever may be the abstract competence or actual power of the Colombian State to diminish by retrospective legislation the existing value of public securities in the hands of its own subjects, it cannot do so with respect to these securities in the hands of a subject of a foreign State with whom it has entered into a Treaty engagement that they shall bear a particular value and be redeemable only in a particular way.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 40.

*The Queen's Advocate to Lord Stanley.—(Received July 2.)*

*Temple, July* 2, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to

me, together with the previous correspondence, and a letter from the Admiralty on the same subject, the accompanying despatch from Her Majesty's Acting Consul at Panama, relative to the increase by the President of the State of Panama of commercial taxes in Panama; and Mr. Hammond was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion as to the course which Her Majesty's Government should pursue in the matter.

In obedience to your Lordship's commands I have the honour to report—

That with respect to the tonnage dues exacted from the Panama, New Zealand, and Australian Royal Mail Company, I have nothing to add to the Report which, upon this subject generally, I have had the honour to make to your Lordship.

That with respect to the increase of the commercial taxes in Panama for the purpose of assisting the President of Panama in resisting the Federal forces of the States of Colombia, it appears that the execution of this Decree will in all probability be suspended; but directions should be sent to Her Majesty's Consul to remonstrate strongly against the imposition of this tax upon the commerce of British subjects, and the ground properly taken by the Memorialists should be mainly insisted upon, namely, that it is contrary to general good faith, as well as to Treaty engagements, to compel neutral subjects, without any previous warning or due opportunity offered of withdrawing themselves and their commercial establishments from the country, to aid by forced contributions either party in a civil war, more especially to aid the Government of one State against the general Government of the Union with whom their country is at peace, and to whom Her Majesty has for a considerable period sent an accredited Diplomatic Representative. I think orders should be sent to the proper authorities of Her Majesty's navy to support the Consul in this remonstrance.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 41.

*The Law Officers of the Crown to Lord Stanley.—(Received August 27.)*

*Temple, August* 17, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us two despatches from Her Majesty's Consul at Carthagena (No. 38 of June 29 and No. 39 of July 2), upon the subject of the seizure of the British schooner "Italian Star" by the Colombian war-steamer "Colombia," acting under the orders of General Lopez; and to request that we would furnish your Lordship with my opinion as to the legality of the seizure of the vessel in question, and as to the instructions which should be addressed to Consul de Fonblanque upon this subject.

In obedience to your Lordship's commands we have the honour to report—

That this vessel, with a provisional British register, but apparently an Italian captain, and a crew for the most part, if not actually, foreign, with a cargo of contraband of war belonging to a foreigner, and with a letter on board from a person dating "Colon," and signing himself "The Secretary-General of State, Eugenio Baccia," a letter ostensibly, indeed, directed to Curacoa, is captured within twelve or fifteen miles of that part of the Colombian coast called Galera de Zamba, close to Santa Martha, which is alleged to have been blockaded, but which, at all events, is a port in the possession of one of the belligerents. The vessel, moreover, appears to have changed her register and flag at Colon, and to have become ostensibly the property of a British owner, who, however, *had no share in the vessel* (see Inclosure No. 2 in Consul de Fonblanque's No. 39, 1867).

In these circumstances the seizure of the vessel on the high seas by a *belligerent* appears to have been justifiable, and that Her Majesty's Government ought not to interfere on behalf of the vessel, even if she were a *bonâ fide* British vessel. But we think that the present evidence tends to show that she was not the property of a British owner, and that a Prize Court would be warranted in not treating her as such, and in considering the assumption of the provisional British register as part of the scheme by which the real object and destination of the vessel was to be concealed.

We assume in this Report that the state of things relative to the civil war in

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Columbia is such as to constitute both the parties who claim to represent the Government of the country as *de facto* belligerents in their relation to foreign States.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
ROBERT PHILLIMORE.

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### No. 42.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 27.)

My Lord,

*Temple, August* 26, 1867.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 21st instant, stating that with reference to Mr. Egerton's letter of the 13th instant, he was directed by your Lordship to transmit to us the further despatch from Her Majesty's Consul at Carthagena (No. 43), relating to the case of the British schooner "Italian Star," and to request we would take this despatch into our consideration, together with the former papers now before us.

In obedience to your Lordship's commands we have taken this further paper into consideration, and have the honour to report—

That we think that the legality of the capture is properly determinable in the Prize Court of the captor.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 43.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 20.)

My Lord,

*Temple, December* 19, 1867.

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 25th ultimo, stating that he was directed by your Lordship to transmit to me a despatch and its inclosures from the Acting British Consul at Panama (No. 15), respecting an assault committed on him in the public street by a native of that city, together with one from Her Majesty's Consul at the same place (No. 1), transmitting the decision of the Judge in the case; and Mr. Egerton was pleased to request that I would take these papers into my consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it appears from the official Report of Consul Henderson that Mr. Vice-Consul Bidwell has unfortunately mistaken in the first instance the course of proceeding which was alone open to him under the Criminal Code of Colombia, and that he ought to have brought a personal action against Mr. Paredes, instead of the Colombian Government, on his complaint, instituting *ex officio* proceedings, which have been quashed by the Courts of the country for informality.

I do not think that your Lordship can properly interfere in this stage of the case, as the Executive Government has placed every facility in the way of Mr. Vice-Consul Bidwell obtaining judicial redress; and I presume the Civil Courts at Panama are still open to him if he should be disposed to bring a civil action against Mr. Paredes.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 44.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 27.)

My Lord,

*Temple, December* 26, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th of December instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,* respecting a claim for house-rent, preferred by Mr. H. D. Austin against General Mosquera, late Columbian Minister at this Court; that Mr. Austin, in his letter of the 11th instant, requested to be furnished with an extract from the despatch from Her Majesty's Chargé d'Affaires at Bogotá, reporting the steps which he had taken in the matter; and Mr. Hammond was pleased to request that we would take the papers into our consideration, and report to your Lordship our opinion as to the answer which should be returned to Mr. Austin's above-mentioned letter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we think that your Lordship is certainly not bound to give a copy of, or extract from Mr. Bunch's letter to Mr. Austin, and that he should be informed that his request cannot be complied with.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 45.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 30.)

My Lord,

*Temple, December* 28, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that he was directed by your Lordship to transmit to me therewith a letter from Messrs. Cotterill and Sons, applying for the assistance of Her Majesty's Government on behalf of the firms of Messrs. Robinson and Fleming, and of Messrs. J. E. Barnett and Sons, in obtaining payment from the Government of the United States of Colombia of claims which they respectively have against that Government, of which the particulars are specified; and Mr. Hammond was pleased to request that I would take this paper into my consideration, and inform your Lordship whether, in my opinion, Her Majesty's Chargé d'Affaires and Consul-General in Colombia may properly be instructed to bring the case officially before the Colombian Government.

In obedience to your Lordship's commands I have taken this paper into consideration, and have the honour to report—

That as it appears from the statement of Messrs. Cotterill and Sons that the claims of Messrs. Robinson and Fleming, and of Messrs. J. E. Barnett and Sons arise out of contracts made with the Representative for the time being of the Colombian Government in this country, your Lordship may properly instruct Her Majesty's Chargé d'Affaires and Consul-General at Colombia to give his official support to the agent of those gentlemen, who is now at Bogota, without pledging Her Majesty's Government to the details of the accounts, if this should be disputed by the Colombian Government.

I have, &c.
(Signed) TRAVERS TWISS.

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* To Mr. Bunch, No. 36, of July 13; Mr. Bunch, No. 93, October 15; Mr. Austin, October 30; to Mr. Austin, October 31; to Mr. Austin, December 7; Mr. Austin, December 11, 1867.

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## Denmark.

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### No. 46.

*The Queen's Advocate to Lord Stanley.—(Received February 15.)*

*Doctors' Commons, February* 14, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 12th instant, stating that he was directed by your Lordship to transmit to me a note which has been addressed to your Lordship by the Danish Minister at this Court on the 9th instant, stating that the Danish Government propose to sell to a British subject an iron-clad which has been built for them in an English naval yard, and asking the opinion of Her Majesty's Government as to the proposed mode of handing the vessel over to the purchasers, and Mr. Egerton was to request that I would take General Bulow's note into consideration, and report to your Lordship my opinion as to the answer to be returned to it.

In obedience to your Lordship's commands I have considered General de Bulow's note, and have the honour to report—

That I understand this vessel to be built for war, clad with iron for that purpose, and not fitted for the merchant service. The proposal of the Danish Government is to sell her in an English port to an English subject. It is highly improbable that she should be bought for any other purpose than that of a subsequent sale to a foreign Government. Nevertheless the law would certainly permit the English purchaser to sell her to a foreign Government not now belligerent; and in the present state of our neutrality laws it would be very difficult to maintain that this vessel might not be sold by the English purchaser to a belligerent Government, provided that she received no equipment for war, and underwent no change as to her existing equipment, subsequent to her purchase in any British port.

I venture to submit, nevertheless, that your Lordship should answer the Danish Minister to the following effect: that having regard to the exclusively warlike character of the vessel which it is proposed to sell to an English subject in an English port, and to the present existence of a maritime war in which Her Majesty is neutral, between States with whom Her Majesty has amicable relations, Her Majesty's Government think that they ought not to take any step which might hereafter appear to have facilitated the acquisition by either belligerent of a ship of war in one of Her Majesty's ports. Her Majesty's Government therefore find themselves under necessity (which they are sure the Danish Government will appreciate) of declining to send an official answer to the questions put to them by the Danish Government.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 47.

*The Queen's Advocate to Lord Stanley.—(Received December 7.)*

*Temple, December* 5, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of 26th November last, stating that he was directed by your Lordship to transmit to me the accompanying papers* relative to a claim which has been preferred by the firm of Bremer, Bennett, and Bremer, on account of the detention in 1864 of their steam-ship "Chanticleer" by the Danish frigate "Zealand," for supposed intention to break the blockade of Swinemunde. The papers include a report of the case by Her Majesty's Minister at Copenhagen and a memorandum by the Solicitor-General of the Danish Naval Department; and Mr. Egerton was pleased to request that I would be good enough to favour your Lordship with my opinion as to the merits of the claim, and as to whether any steps should be taken with regard to it by Her Majesty's Government.

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* Bremer and Co., October 30; Sir C. Murray, No. 52.

In obedience to your Lordship's commands I have the honour to report—

That it will not be proper for Her Majesty's Government to take any steps in support of the claim preferred by Messrs. Bremer, Bennett, and Bremer.

It appears from the statement on behalf of the claimants, and the memorandum from the Danish Naval Department, that the ship papers of the "Chanticleer" disclosed a contingent destination to Swinemunde, which was under actual blockade, and that the "Chanticleer" when she fell in with the blockading squadron was steering a course under steam much to the south-west of the proper course for Colberg, and which, if pursued without interruption, would have been favourable to her slipping into Swinemunde.

Under these circumstances I think the blockading squadron was justified in detaining the "Chanticleer," and sending her into a Danish port for inquiry.

I observe that the owners of the "Chanticleer" speak of her having been captured on the high seas in neutral waters: but her position at the time when she was captured, as gathered from the bearings set out in the statement on behalf of her owners, negatives that fact, as they place her on the high seas beyond the limits of any territorial waters; whilst the nearest territorial waters, if she was, contrary to her statement, really navigating within three miles of the coast, were those of Prussia, one of the belligerent Powers.

I have, &c.
(Signed) TRAVERS TWISS.

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## France.

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### No. 48.

*The Law Officers of the Crown to Lord Stanley.—(Received January 15.)*

*Lincoln's Inn, January* 14, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th ultimo, stating that he was directed to transmit to us the accompanying letter from the French Ambassador at this Court, referring to the case of the Tunisian ship "Bechir," which was sequestered in the port of Malta by order of the British authorities at the instance of certain merchants, creditors of the Tunisian Government. That we should perceive that the French Ambassador has been instructed by his Government to ascertain unofficially the view taken generally by Her Majesty's Government of this case, involving, as it does, certain judicial proceedings taken against a ship of war of a friendly Power in time of peace.

A correspondence which has already taken place upon this subject, and part of which has been referred to Her Majesty's Advocate-General, whose Report was also inclosed, was also transmitted; and Mr. Hammond was pleased to state that your Lordship thinks it advisable to defer replying to the French Ambassador until your Lordship receives our opinion as to the nature of the answer which should be returned to his Excellency's communication.

We are also honoured with Mr. Hammond's letter of the 1st instant transmitting a letter, and its inclosures, from the Colonial Office.

In obedience to your Lordship's commands we have taken this case into consideration, and have the honour to report—

That the Attorney-General and Solicitor-General agree with the opinion expressed by the Queen's Advocate in his Report of the 12th of December last, with respect to the exemption of ships of war belonging to a friendly State from all civil process of the State within whose territorial waters they happen to be.

If it be thought that an answer entering into details should be given to the letter of the French Minister, we advise that his Excellency be informed that Her Majesty's Courts of Justice generally, in common with Her Majesty's Government, fully recognize the principle of international law, that ships of war of an independent State entering the ports of a foreign friendly Power are ordinarily exempt from local jurisdiction, and

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that when process is issued for the purpose of detaining or interfering with such ships, the Courts in this country and in the colonies and dependencies have ample power to inquire into the character of the vessel, and are bound, upon ascertaining her character to be such as entitles her to immunity from the application of the local law, to set aside the process under which she may have been seized or detained.

That it cannot be assumed that Courts of law will come to an erroneous conclusion upon points of law or fact brought before them; but should a case arise in which a decision should be open to complaint, Her Majesty's Government would readily lend to the friendly Power against whose vessel process may have issued every assistance in their power for the purpose of promoting before the legal Tribunals of the country the just claim of a friendly State for the immunity of her armed vessels from detainer, and for the due recognition of the privilege attaching to such vessels. That Her Majesty's Government have no power of arbitrary interference with the Courts of Law so as to prevent them from dealing with questions of privilege from arrest or detainer brought before them for determination; but the rules acted upon in the determination of such questions are well defined and established, and are amply sufficient to secure the recognition of the proper rights, in Her Majesty's dominions, of vessels of war belonging to a foreign State at amity with Her Majesty.

It will, we think, be right to add that this answer is returned to his Excellency's question in the same spirit as that in which the question was proposed. That Her Majesty's Government, therefore, do not advert particularly to the case of the Tunisian vessel, the "Bechir," mentioned in his Excellency's letter, which was some time since brought under the attention of Her Majesty's Government, and which has already received their careful consideration.

With respect to the letter from the Colonial Office (26th December), we are of opinion that the course which Lord Carnarvon has pursued has been right and proper, and we entirely agree with his Lordship that if the law of Malta be not now sufficient (which seems to us improbable) to remove the sequestration from a ship of war of a friendly State, it ought to be made, without delay, sufficient for this purpose.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 49.

*The Queen's Advocate to Lord Stanley.—(Received April 27.)*

My Lord, *Temple, April 25, 1867.*

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Consul at Havre, forwarding a letter from M. Duval, Avocat-Général to the Court of Appeals at Rouen, in which he asks for certain information in regard to the law of England with reference to the succession and management of property of Englishwomen married to foreigners; and Mr. Murray was pleased to request that I would furnish your Lordship with my opinion as to the answer to be returned to M. Duval. Mr. Murray was pleased to add that I should observe that M. Duval is anxious to receive this information three or four days before the 2nd of May.

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That in order that my answer to these questions, propounded by the Avocat-Général of Rouen, may be satisfactory, it is necessary to impress upon him the peculiar character of personal property according to English law. Personal property is not quite identical with the terms *bona mobilia* or *mobiliers* which are in use in countries whose law is founded upon the Roman law. Personal property includes leaseholds for any determinate period, which have the name of chattels real.

The alien subject of a friendly State cannot hold real property or freehold in England; his capacity to hold what are called chattels real, in which category leaseholds of land and houses are included, is limited by the express terms of the Statute passed during the present reign, the exact language of which it is expedient to recite (7 and 8 Vict., c. 66, ss. 4, 5):—

"That from and after the passing of this Act every alien being the subject of a

## No. 48*.

*The Law Officers of the Crown and the Queen's Advocate to Lord Stanley.—(Received March 14.)*

My Lord, *Lincoln's Inn, March 13, 1867.*

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 26th ultimo, stating that he was directed by your Lordship to acquaint us that Her Majesty's Government and the French Government have deemed it expedient to come to a new arrangement relative to the fisheries of the two countries in the seas surrounding the United Kingdom and adjacent to the Atlantic coast of France, such arrangement to be substituted for the Convention of the 2nd August, 1839,* and that a draft of Articles,† a copy of which Mr. Egerton was pleased to inclose, had accordingly been prepared by a Commission which recently met at Paris for that purpose, and that the draft, after having been printed, was examined first by the Board of Trade, and then by your Lordship's Department. That the printed alterations made in the draft are those suggested by the Board of Trade, and those in red ink are the additional alterations which occurred to your Department, and are chiefly of a verbal character.

Mr. Egerton was pleased also to say that the point on which your Lordship feels most difficulty arises out of Articles XII and XIII of the Paris draft, and the Article numbered XIV proposed by the Board of Trade to be added thereto, relative to the lights to be carried by fishing-vessels; so far as regards lights to be carried to prevent collisions at sea, Regulations having been established by an Order in Council dated the 9th January, 1863, issued in pursuance of the Merchant Shipping Act Amendment Act of 1862,‡ which Regulations state that the lights prescribed therein, and no others, shall be carried by various classes of vessels from sunset to sunrise. That a new Act could, of course, repeal or alter the provisions of the Act of 1862 and of the Order in Council of 1863. But the Regulations in question have been proposed by Great Britain and France to, and have been acceded to and adopted by, nearly every maritime Power in the world, and therefore, although such accessions were not embodied in any formal Treaty, have thus acquired an international character. That, under these circumstances, it appeared to your Lordship doubtful whether any of the Powers who have adopted the Regulations can, in good faith to the others, make exceptions or even additions thereto.

Mr. Egerton was pleased to add that your Lordship requested that we would take the draft Articles into our consideration, and report our opinion thereupon, especially with reference to those which concern the question of lights.

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In obedience to your Lordship's commands we have taken the draft Articles into our consideration, and have the honour to report—

That, with the exception of the XIIth and XIIIth Articles of the Paris draft, and Article XIV, printed in italics, we see nothing in the Articles calling for any special Report from us.

The Articles above referred to are certainly inconsistent in point of law with existing Regulations, and would require to be legalized by Statute in order to exempt Her Majesty's subjects from penal consequences under the Merchant Shipping Act and Regulations as they now stand.

Whether, as matter of *expediency*, the alteration should be made and allowed, is perhaps hardly a question for us to answer; but we do not see that if the alteration should be made, the other maritime Powers who have acceded to existing Regulations could complain of the alteration as a breach of faith.

It seems extremely important that, in order to give effect to the Convention and to protect drift-net fishing, some distinctive lights should be carried by boats anchoring when drift-net fishing is actually going on by

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* Hertslet, vol. v, p. 86.

† For copy of draft Articles see letter from Board of Trade, February 19, 1867.

‡ 25 & 26 Vict., cap. 63, sec. 25.

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the boats engaged in drift-net fishing. Possibly, the lights provided for by Articles XII and XIII were actually in use under the Convention of 1839 and Regulations of 1843; but on this point we have no information.

If this were the case, there would be the less objection to legalizing the lights for these particular boats on the occasions on which they are to be provided.

If it should be deemed right to legalize these lights, it would, we think, be right to notify the change to the different maritime Powers who have practically acceded to the existing Regulations.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

friendly State shall and may take and hold by purchase, gift, bequest, representation, or otherwise, every species of personal property except chattels real, as fully and effectually to all intents and purposes, and with the same rights, remedies, exemptions, privileges, and capacities as if he were a natural-born subject of the United Kingdom.

"That every alien now residing in, or who shall hereafter come to reside in, any part of the United Kingdom, and being the subject of a friendly State, may by grant, lease, demise, assignment, bequest, representation, or otherwise, take and hold any lands, houses, or other tenements for the purpose of residence, or of occupation by him or her, or his or her servants, or for the purpose of any business, trade, or manufacture, for any term of years not exceeding twenty-one years, as fully and effectually, to all intents and purposes, and with the same rights, remedies, exemptions, and privileges, except the right to vote at elections of Members of Parliament, as if he were a natural-born subject of the United Kingdom."

I have thought it right, having regard to the "bail" of a house in London, mentioned in the will of Robert Beeby, to give M. Duval the *ipsissima verba* of the Statute, though probably it will not affect this case, as it does not appear to me that the alien husband was in 1844 (the date of the Statute) "residing in," or has "since come to reside in, any part of the United Kingdom."

Having premised these observations, I proceed to answer categorically the questions propounded by M. Raoul Duval, as follows:—First. As to the law of England upon the rights of an alien husband relative to the personal property or *bona mobilia* of his wife situate in England, and not including chattels real, such as leaseholds.

(1.) What is the legal position, with regard to her fortune and nationality, of an Englishwoman married to a foreigner?

(1.) *a.* According to the law of England, the law of the matrimonial domicil, in the absence of an express contract to the contrary, will govern the rights of the husband and wife as to their property.

(*b.*) With respect to the national character of the wife, it is, during coverture, the same as that of her husband.

(2.) What execution could be obtained in England of a marriage settlement made in France?

(2.) The Courts of Equity in England would enforce the law of France with respect to all property governed by the marriage contract situate within the jurisdiction of England.

(3.) In the particular case could Madame de Chateauvillard receive alone, and without assistance of her husband, the amount of the sums in question?

(3.) As, according to the French law, during coverture, "the husband alone could dispose of the income arising from his wife's fortune, and could alone receive and employ the capital exclusively according to his own judgment under the obligation of restituting the entire capital to the wife or her heirs at the expiration of the marriage," Madame de Chateauvillard could not receive alone, and without the assistance of her husband, the amount of the sums in question.

(4.) On the contrary, could M. de Chateauvillard obtain the execution of his settlements, and receive himself alone, or with his wife's participation?

(4.) M. de Chateauvillard could obtain in England the execution of his settlements over property within the jurisdiction of the English Court, and without the participation of his wife, because the English law would adopt the French law in the circumstances of the case.

Secondly. It remains to consider the rights of the alien husband with respect to *bona immobilia*, under which category I include what we call, (*a*) real or freehold property, (*b*) chattels real, such as leaseholds of lands or houses situate in England.

Upon this head my answer is that an Englishwoman married to an alien (to use the exact technical term and spelling of our law) is a *feme sole*, though in suing with respect to such chattels she must join her husband, that is, use her husband's name as a formal co-plaintiff with herself.

So far as the "bail" is concerned, it is possible that the wife alone received the rent of the house in London.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 50.

*The Queen's Advocate to Lord Stanley.—(Received June 5.)*

*Temple, June* 4, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 1st instant, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Consul at Havre, inquiring whether he is authorized to solemnize marriages at Vice-Consular stations within his Consular district, or whether his powers in this respect are limited to Havre itself; and Mr. Murray was to request that I would furnish your Lordship with my opinion upon this point, and was also to add that the office of the Consul is in Havre, and and that at Vice-Consular stations the offices belong to and are maintained by the Vice-Consuls themselves.

In obedience to your Lordship's commands I have the honour to report—

That having regard to the provisions of the Statute 12 and 13 Vict., cap. 68, more especially to the Sections 3, 9, and 19 of that statute, I am of opinion that it is incumbent upon the Consul to take care that marriages solemnized by him, or allowed by him to be solemnized by any other persou in his pressence, shall take place at the office of his Consulate only, and not at any Vice-Consular station within his district.

The instructions which I find were given on this subject by a Circular from the Foreign Office dated August 28, 1853, are perfectly correct.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### Annex to No. 50.

*Circular addressed to Her Majesty's Representatives abroad.*

*Foreign Office, August* 20, 1853.

HER Majesty's Government having been informed that, since the passing of the "Marriages in Foreign Countries facilitating Act" (12 & 13 Vict., cap. 68), doubts have in some instances arisen as to the person by whom, and the place where, marriages rendered valid by that Act are to be solemnized, I have to inform you that, in pursuance of the Act in question, British Consuls-General, Consuls,—or any person duly authorized to act in the absence of such Consul,—Vice-Consuls, and Consular Agents may, subject to the rules therein laid down, solemnize such marriages, provided they shall have previously received a warrant from the Secretary of State specially authorizing them to solemnize and register marriages, or to allow marriages to be performed in their presence. No other persons whatsoever are qualified by the Act to solemnize marriages, or to allow them to be solemnized by any other person in their presence.

Any form of ceremony, according to the creed of the contracting parties, may be used, and the religious portion of the ceremony may be performed by a clergyman of any denomination; but the presence of the duly authorized Consular Officer is necessary to render such marriage valid: and if the ceremonial be not that of the Church of England and Ireland, which can only be duly performed by an ordained clergyman of that Church, the contracting parties are to make a declaration before the Consul, in words prescribed by the Act, that they know not of any lawful impediment why they may not be joined in matrimony, and that they call upon the persons present to witness that they take each other respectively to be lawful wedded husband and wife; and such declaration, in the absence of any religious ceremony, is sufficient.

The only place where marriages, under this Act, may be solemnized, is the "British Consulate," that is, the public office of the Consul-General, Consul, Vice-Consul, or Consular Agent, as the case may be; and every such marriage must be solemnized with open doors, between the hours of 8 and 12 in the forenoon, in the presence of two or more witnesses.

Hence, it follows that no marriages performed at other places, or under other circumstances, will be valid under this Act; and accordingly marriages cannot be solemnized under this Act in any churches or chapels, even though attached to British Missions, or connected with British Consulates abroad; nor can they be solemnized under this Act by an Ambassador, Minister, or other Diplomatic Agent of the Crown.

I transmit to you, for your information, a copy of the Act of Parliament in question. You will, however, therein perceive that the Act 4 Geo. IV, cap. 91, also herewith inclosed, remains still in force, and legalizes marriages solemnized by a Minister of the Church of England, in the chapel, or house, of any British Ambassador or Minister residing within the country to the Court of which he is accredited.

I may add, that all marriages duly solemnized according to the local law in force, so as to be valid by that law in the country where they are solemnized, will be valid in England.

I am, &c.

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## No. 51.

*The Attorney- and Solicitor-General to Lord Stanley.—(Received July* 29.)

*Temple, July* 29, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 12th instant, stating that with reference to the Reports of the Attorney-, Solicitor-, and Advocate-General, dated the 13th March and the 5th April of last year, he was directed by your Lordship to transmit to us the accompanying letter from Mr. Mourilyan, dated the 9th instant, representing the difficulty which arises in the transfer of French railway shares, the property of deceased British subjects, owing to the refusal of Her Majesty's Consul at Paris to sign "certificats de coutume" in the form required by French Law. Mr. Murray was also to inclose the correspondence upon which the above-mentioned Reports were founded, together with the instruction which was addressed to Consul Atlee in accordance therewith, and to request that we would take these papers into our consideration and favour your Lordship with our opinion as to whether the Consul may be authorized to issue certificates in the form quoted in Mr. Mourilyan's letter; or, if not, what course he should be instructed to take in this and any similar case, with the view of meeting, if possible, the requirements of the French law.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we think that (following the advice given by our predecessors) the Consul should guard himself against giving certificates in which he vouches directly or impliedly for the accuracy of the law as laid down in the opinions of solicitors or notaries. It seems probable that the Companies, by insisting on the words struck through in red ink, wish to make the certificate of the Consul equivalent to such a voucher, and we think that, in this view, he ought not to sign it.

It would, we think, be right that, where an opinion is given by a competent solicitor, the Consul should certify that such solicitor is, from his position and character, worthy of credit; but that no form of words should be used which should amount to a voucher by the Consul for the correctness of the opinion of the solicitor: and we think it somewhat unreasonable on the part of the French Companies that they should dictate in each case the form of the certificate which they will insist upon from the Consul and without which they will not act.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.

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## No. 52.

*The Queen's Advocate to Lord Stanley.—(Received November* 1.)

*Temple, October* 31, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 13th instant, stating that he was directed by your Lordship to transmit to me therewith a correspondence respecting the affairs of the English Church Establishment at Dieppe, which until lately has been placed under the Act 6 Geo. IV, cap. 87, but from which the Government support has been withdrawn; and Mr. Egerton was pleased to request that I would furnish your Lordship with my opinion whether the powers conferred upon the Secretary of State by that Act will justify Her Majesty's Government in insisting that the books and funds belonging to that Establishment before its withdrawal from the operation of the Act shall be given up to the Superintending Consul, and, if so, what steps it will be advisable to take in the matter.

In obedience to your Lordship's commands, I have the honour to report—

That I do not think that your Lordship has any power under 6 Geo. IV, cap. 87, to insist upon the Treasurer and the Trustees of the English chapel at Dieppe delivering up their books and any funds which may be in their hands to the Superintending Consul.

On referring to the Regulations of 1848, in conformity with which the Treasurer and Trustees have been annually elected by the subscribers, it will be seen that they do not direct any book to be kept except a register book, which must be kept at the British Consulate. The Regulations direct the Committee to collect subscriptions and render an account to the subscribers at a second general meeting to be held shortly before the close of each year, and afterwards to render their account to Her Majesty's Government in a specified form as soon as possible after 31st December, for examination by the Secretary of State, in order to obtain a grant of money from the Treasury; but they are silent as to those accounts being entered in any official book. All, therefore, which your Lordship can call for in regard to the temporalities of the chapel is an annual account after a particular form, as a condition of their receiving any grant; and if the Treasurer or the Trustees should have any book or books in which they have entered the subscriptions received by them, or the expenses incurred by them, I am disposed to think that such books are private books, and are the property cither of the Treasurer and the Trustees, or of the subscribers, according to circumstances. In either case, your Lordship will have no legal power to compel the Committee to hand over those books to the Superintending Consul. On the other hand, any funds which the Committee may have in hand, they hold in trust for defraying the ordinary expenses of the church, or any extraordinary expenditure authorized by the subscribers, and the members of the Committee will continue in office until the end of the current year.

With regard to any further measures which your Lordship may be desirous to adopt, it is not unimportant to bear in mind that, although it has been intimated to the Consul and to the Committee that the Government has determined to withhold all future grants of money, the chaplain, under Article 15 of the Regulations, will remain in office until the pleasure of the Crown to dispense with his services has been signified to him by your Lordship, and as the Committee will continue also legally in existence until the conclusion of the current year, there may be antagonistic claims in regard to the control of the chapel, from which it would perhaps be desirable that your Lordship should relieve the chaplain, as you may be otherwise subject to further applications consequent on further disputes between him and the Committee.

The affairs of the chapel are, in fact, in such a state of confusion that nothing but the good feeling of the parties, if it could be restored, can set them straight. Neither the Statute Law nor the Regulations passed in pursuance of it supply your Lordship with the means of reducing that confusion to order against the will of the Committee, and I think there is ground for apprehending, if recourse were to be had to a law, that it would be found that the Committee are the representatives of a voluntary body over whom your Lordship has no direct coercive authority, and that the Regulations of 1848 have only the force of requirements by authority (Article 2), to which the subscribers and the Committee must conform themselves as a necessary condition for placing themselves within the benefits of 6 Geo. IV, cap. 87, from which they have received notice that they are henceforth excluded.

I have, &c.

(Signed) TRAVERS TWISS.

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## No. 53.

*The Queen's Advocate to Lord Stanley.—(Received November 15.)*

*Temple, November* 14, 1867.

My Lord,

I AM honoured with your Lordship's command's signified in Mr. Murray's letter of the 11th instant, stating he was directed by your Lordship to transmit to me the accompanying correspondence with the French Government and with Her Majesty's Consul at Réunion, regarding a question which has arisen respecting the right of the French Government at Réunion to levy an annual poll tax on all immigrants from India whose contracts of service have expired and who desire to remain in the island upon an independent footing, and as to whether such a measure is, or is not, a violation of the letter or spirit of the Convention between France and England of the 1st of July, 1861, of which a copy is annexed.

And Mr. Murray was pleased to request that I would take these papers into my consideration, and favour your Lordship, at my early convenience, with my opinion upon this question.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the imposition of the proposed charge for a license to reside in the Colony of Réunion, during the first three years of their residence, upon such of the immigrant labourers from India as may desire to reside in the Colony after their engagement has terminated, without contracting a new engagement, as a condition precedent to their gratuitous admission to a definitive residence, as explained in the despatch of the French Chargé d'Affaires at this Court, does not appear to me to be a violation of the *letter* of the Convention of July 1, 1861.

Three conditions of things consequent on the termination of the immigrant's engagement seem to be contemplated in the Treaty.

The first is re-engagement, under Article IX, section 4, in which case the immigrant continues to be under the full protection of the Treaty.

The second is actual renunciation of his right to a free return passage, under the terms of the contract of service under Article VIII, section 1, in which case the immigrant is under the protection of the Treaty as regards the fulfilment of those terms; and accordingly provision is made in Article XIX, section 2, that every fresh engagement or act of renunciation of the right to a free return passage shall be communicated to the Consular Agent.

There is, lastly, a condition of things which may be styled constructive renunciation of his right to a free return passage, upon his being allowed to reside in the Colony without any engagement, under Article IX, section 3, in which case the immigrant will cease to be under the protection of the Treaty, and thenceforth can only claim the assistance of the British Consular Agent in the same manner as other British subjects and conformably to the ordinary rules of international law. But as regards this last case, although the option of a free return passage at the expiration of his engagement is secured to the immigrant by the Treaty, the Treaty does not impose upon the French Government any obligation to allow him to reside *unconditionally* in the Colony if he chooses to renounce his right to a free return passage at the expiration of his engagement. Article IX, section 3, provides as follows:—"If he can show that his conduct has been regular, and that he has the means of subsistence, he *may be allowed to reside* in the Colony without an engagement, but from that time he will lose his right to a free return passage." The French version of the Treaty is: "S'il justifie d'une conduite regulière et de moyens d'existence, *il pourra être admis à résider* dans la Colonie sans engagement; mais il perdra, dès ce moment, tout droit au repatriement gratuit."

I am of opinion that a free discretion is given by this Article of the Treaty to the French Government to allow the immigrant to reside in the Colony without any new engagement, if he can show to its satisfaction that his conduct has been regular, and he has the means of subsistence, and that in the exercise of that discretion the French Government is at liberty to declare in what precise manner and by what tests it will require to be satisfied on these two heads before it admits the immigrant to reside without an engagement.

With regard to the *spirit* of the Treaty, the despatch of the Chargé d'Affaires of the French Embassy at this Court is silent as to the time at which, under the proposed scheme, the immigrant will lose his right to a free return passage. One great object of the Treaty is to impose upon the French Government an obligation towards the British Government to provide the immigrant, at the conclusion of his engagement, with a free return passage, in order to secure that he may not be turned adrift in the Colony without any employment or means of subsistence when his contract of service has expired. It will be perfectly in accordanee with the spirit of the Treaty as regards this object, that the French Government should not allow the immigrant to reside in the Colony without any engagement, in which case he would forfeit his right to a free return passage, without having fully satisfied itself by some practical preliminary test that he will be able to support himself in the Colony. I do not, therefore, think that your Lordship can object to the scheme proposed by the French Government of placing the immigrant, if he is so minded, under a three years' probation, during which

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he will have to pay for a license of residence before he is gratuitously admitted to a definitive residence, on any grounds of its being a violation of the *spirit* of the Treaty, provided that the immigrant is not to forfeit his right to a free return passage until he has completed his probation and has been admitted definitively to residence.

The spirit of the Treaty seems to require that the immigrant's right of *repatriation* should be suspended during his probation, not forfeited; in other words, that he should retain his option to a free return passage as long as the French Government claims the right of exercising an option to allow him to reside or not.

I have, &c.
(Signed) TRAVERS TWISS.

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## General.

### No. 53*.

*The Queen's Advocate to Lord Stanley.*—(*Received September* 19.)

*Temple, September* 18, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to me a letter from the Italian Chargé d'Affaires requesting information as to the state of the law respecting slaves, together with a Memorandum on the subject prepared in the Foreign Office; and Mr. Hammond was pleased to request that I would inform your Lordship whether that Memorandum correctly represents the state of the law.

In obedience to your Lordship's commands I have the honour to report—

That the Memorandum correctly represents that the law on the subject of British subjects possessing slaves in those countries where slavery is still allowed, as, for instance, in Brazil, and, further, as to their transporting slaves in British merchant-ships from one port to another of such countries, is contained in the Acts 5 Geo. IV, cap. 113, and 6 and 7 Vict., cap. 98. That British subjects are forbidden to possess slaves in such countries except under the circumstances of their devolving to them by law in any of the modes specified in those Statutes.

That, with regard to the transport of persons in the condition of slavery from one port to another of such countries, it is contrary to law for such persons to be received on board as slaves, and to be transported in such character in a British merchant-ship.

I have, &c.
(Signed) TRAVERS TWISS.

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## Greece.

### No. 54.

*The Queen's Advocate to Lord Stanley.*—(*Received February* 28.)

*Doctors' Commons, February* 28, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed to transmit to me the accompanying despatch, with its inclosures, which have been received from Her Majesty's Minister at Athens (No. 52), in reply to the inclosed instruction which was

## General.

### No. 53**.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 18.)

*Lincoln's Inn, March* 18, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us a letter which has been received from the Council Office, inquiring whether there is any Treaty under which the Lords of the Council would be prevented from prohibiting the importation of cattle into any particular port of the United Kingdom. That your Lordship is not aware of any Treaty stipulation bearing in express terms upon the importation of cattle, but that in most, if not all, our Treaties of Commerce* there exists a stipulation that no prohibition shall be imposed on the importation of any article the produce or manufacture of one of the Contracting Parties into the dominions and possessions of the other which shall not equally extend to the importation of the like articles the produce or manufacture of any other country. That such Treaties also contain a stipulation that the subjects of each of the Contracting Parties shall have liberty freely and securely to come with their ships and cargoes to all places, ports, and rivers in the dominions of the other to which other foreigners are or may be permitted to come. But that if although these stipulations, if construed to the letter, would be at variance with any partial prohibitions of importation as regards any particular country, or any particular port, yet your Lordship apprehends that such measures when required by considerations of public health are to be justified, like other exceptional and temporary measures in the nature of quarantine, which may be at variance with rights acquired under Treaty by the imperative necessity of the case. That your Lordship would, however, be glad if we would take the matter into consideration, and report our opinion at our earliest convenience.

In obedience to your Lordship's commands we have taken this case into consideration, and have the honour to report—

That we are not aware of any Treaty by the express stipulations of which the Lords of the Council would be prevented from prohibiting the importation of cattle into any particular port in Her Majesty's dominions. The Treaty referred to between Her Majesty and the King of Italy contains the usual reciprocity clauses with respect to the free importation of any article of produce of the country of one of the Contracting Parties into the country of the other. But we are of opinion that no clauses of this description can be rightly considered as restraining the power of the Government to prohibit, when exceptional circumstances, as the present, exist, and for the sake of public health, and well-being of the country, the importation of foreign cattle.

It is a maxim of international law that cases of this kind are always considered as tacit and necessary exceptions from the Treaty.

The law is stated by Vattel, L. 2, c. 12, s. 170, "De la collision de ses Traités avec les devoirs envers soi-même:"—

"Si l'assistance et les offices qui sont dus en vertu d'un pareil Traité se trouvent, dans quelque rencontre, incompatibles avec les devoirs d'une nation envers elle-même, ou avec ce que le Souverain doit à sa propre nation, *le cas est tacitement et nécessairement excepté dans le Traité*. Car ni la nation ni le Souverain n'ont pu s'engager à abandonner le soin de leur propre salut, du salut de l'État, pour contribuer à celui de leur allié."

We have, &c.
(Signed) JOHN ROLT.
J. B. KARSLAKE.
ROBERT PHILLIMORE.

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* See, for example, Treaty with Italy. "Hertslet," vol. ii, p. 1112, Articles 1, 2, and 3.

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addressed to Mr. Erskine, on the 13th of December, founded on my Report of the 12th of that month, respecting the proceedings of the Greek Government in regard to certain pensions and other accounts; and Mr. Hammond was pleased to request that I would take these papers into consideration, together with the former ones, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That I entirely agree with the opinion expressed by Mr. Erskine as to the conduct of the Greek Government. It seems impossible to doubt that their object is to avoid, by evasion and delay, the fulfilment of their solemn engagements towards these pensioners and to this kingdom.

Mr. Erskine is, in my opinion, quite right in maintaining that the Greek Government make no answer to Her Majesty's Government in saying that the claims are not yet inserted in the Budget, and cannot be paid till they are. Her Majesty's Government has nothing to do with the manner in which the Government of Greece chooses to fulfil its obligations. To admit such an excuse is to open a wide door to chicane, of which it is plain the Greek Government will fully avail itself. Great Britain is bound, by regard for her national faith and honour, to insist upon the immediate payment being made to these persons; and this observation extends as much to the new case of the Roman Clergy at Corfu as to the cases which were before me upon a former occasion.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 55.

*The Queen's Advocate to Lord Stanley.—(Received March 26.)*

*Doctors' Commons, March 26, 1867.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Minister at Athens, respecting the proceedings of the Turkish Government in stationing Turkish cruizers off the harbour of the Piræus to watch the Greek vessel "Arkadi," under the circumstances therein set forth; and Mr. Hammond was pleased to request that I would take this question into consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That I am clearly of opinion that it is not competent to a belligerent to make use of neutral waters for the purpose of exercising hostilities therefrom, and more especially for the purpose of exercising hostilities against the vessels of the neutral State when they put to sea from the port in which the belligerent ship is lying.

I am of opinion that the objection of the Greek Government to the anchoring of a Turkish vessel of war off the Piræus, for the purpose of enforcing the blockade of the ports of Crete, is well founded.

It appears also that two Turkish vessels, anchored in Greek ports, have sent boats from thence to row and patrol round Greek shipping, and thus to exercise a sort of police supervision in a neutral port over the vessels of a neutral State.

This is an indignity to which a neutral State is not obliged to submit, and an unlawful use of belligerent force.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 56.

*The Queen's Advocate to Lord Stanley.—(Received May 14.)*

*Temple, May 14, 1867.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to me the accompanying despatches from Mr. Erskine (Nos. 31, 53, and 124), respecting the

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case of Mr. Weale, which had been received at the Foreign Office since he was furnished with instructions with regard thereto, founded on my Report of the 29th of December last. The rest of the correspondence which has taken place, relative to this matter, was likewise inclosed; and Mr. Hammond was to request that I would take Mr. Weale's case into consideration, and report to your Lordship my opinion as to the course which Her Majesty's Government should pursue.

In obedience to your Lordship's commands I have considered this case, and have the honour to report—

That it appears that the criminal charge against Mr. Weale will be tried in July next, and I think that no further steps can be properly taken by Her Majesty's Government until the result of that trial be known. As the Greek authorities seem to be aware that Her Majesty's Government are determined that the perpetrator of this outrage shall be really tried, perhaps justice will eventually be done.

There is more difficulty upon the question of damages.

M. Tricoupi says that Mr. Weale can recover them in a separate civil action; if this be so, I think Mr. Erskine might be instructed that the expenses of this action might be defrayed by the Consul. They ought not to be large, inasmuch as Mr. Weale ought to recover costs of the action, as well as the damages themselves, if his version of what has happened be true.

Mr. Erskine will probably know whether Mr. Weale is likely to be successful in this action.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 57.

*The Attorney-General to Mr. Hammond.*—(*Received June 22.*)

*Lincoln's Inn, June* 22, 1867.

My dear Sir,

I HAVE read the papers relating to the vessel supposed to be destined for Greece, in conjunction with the Solicitor-General, and we are of opinion that the statements therein contained do not warrant the seizure and detention of the vessel.

We have not been able to see the Queen's Advocate, who is probably out of town, and we, therefore, send you this note, and will send you the formal Report on Monday.

I am, &c.
(Signed) JOHN ROLT.

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## No. 58.

*The Queen's Advocate to Lord Stanley.*—(*Received July* 9.)

*Temple, July* 8, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to me the accompanying papers, as marked in the margin, respecting the proceedings of certain Turkish ships of war at Cerigotto, one of the islands of the Hellenic Kingdom, into which a steam-vessel called the "Arkadi," which had for some time been employed in conveying arms and volunteers to take part in the Cretan insurrection, had sought refuge from their pursuit; and Mr. Hammond was pleased to request that I would take these papers into consideration and report to your Lordship my opinion as to the legality of the course adopted by the Turkish vessels under the circumstances set forth in those papers.

In obedience to your Lordship's commands I have the honour to report—

That, according to the Turkish statement, the "Arkadi" having carried soldiers and contraband to Crete, was pursued on her return by the blockading ships (four in number) of the Turkish navy, and she fired cannon shot at these ships on the high seas before she had reached Greek waters. This, if the "Arkadi" refused to stop, when duly summoned to do so, was a lawful act on the part of the belligerent ship.

According to the Greek statement the "Arkadi" had been engaged in carrying soldiers and contraband to Crete, and was chased on her return by the Turkish ships, but did not herself fire until she had been fired at in Greek waters.

These papers do not perhaps furnish certain evidence as to the truth of either story; but having regard to the report of Mr. Consul Lloyd, of the statement made by the "Arakdi's" engineer to him, this vessel began to fire when between Krio and Cerigotto, and before she was in Greek waters; and this seems to me the most probable version of the affair.

It is certainly not lawful for a blockade-runner to fire upon the belligerent ship who pursues her; by such an act alone, and independently of the character of her cargo, she becomes herself belligerent, is liable to be sunk or destroyed as enemy's property, and her crew are liable to be treated as enemy's subjects. On the other hand, it is not lawful for the belligerent to fire, even in pursuit, at a vessel once arrived in neutral waters; but this is an unlawful act, for which she is responsible to the neutral State, and it does not justify the blockade-runner in firing.

If the Greek Government gives shelter in the ports of their country to a ship like the "Arkadi," habitually employed in carrying soldiers to aid the insurrection in Crete, she has very little, if any, right to complain that a few shots were fired by the Turkish ships in pursuit of a vessel so habitually engaged and so sheltered, even after she may have passed the exact line of territorial waters.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 59.

*The Queen's Advocate to Lord Stanley.*—(*Received July* 20.)

*Temple, July* 19, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 16th instant, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Consul-General at Corfu, relative to a new law which has been promulgated in Greece, and by which it is provided that persons summoned to appear as witnesses, and failing to attend, are liable to imprisonment.

That we should observe that Mr. Saunders says that the above law is declared in Greece to be applicable to the Diplomatic and Consular Agents of foreign Powers, as well as to all other persons; and that in a case of a criminal prosecution at Corfu, the British Vice-Consul had been summoned to appear as a witness, and had been served with notice that, if he did not attend, the law would be put in force against him.

That the Consul-General, in consequence, puts the question whether this law can properly be enforced against the British Vice-Consul; and Mr. Murray was pleased to request that I would furnish your Lordship with my opinion thereupon.

He was also pleased to add that your Lordship would be glad to obtain this opinion, notwithstanding a doubt has been raised whether the summons, of which a translation has been sent by Mr. Saunders, applies to the Vice-Consul Cortazzi himself, and whether the "Frederick," last mentioned in the summons, means his father or his son. A Memorandum, drawn up by the Librarian of the Foreign Office, on the question of the liability of Consuls to arrest and imprisonment was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That, by general international law, Consuls have no privilege of exemption from being compelled to appear as witnesses, and give their evidence in any Court of Justice within the territories of the State within which they exercise the functions of their office. It appears that, by Treaty (October 4, 1837, Article 8), British Consuls in Greece are to be placed on the footing of the Consuls of the most favoured nation. If, therefore, the Greek law permits the Consuls of any State to have this privilege, British Consuls would be also entitled to claim it. I do not find, however, that any such exemption is accorded by the Greek law to the Consul of any State, and I am therefore of opinion that the British Consul cannot claim any such exemption.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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# Japan.

## No. 60.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 1.)

*Lincoln's Inn, January* 31, 1867.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd January instant, in which he stated that he was directed by your Lordship to inform us, that it had been decided to send to Japan a force consisting of an inspector, a serjeant, and twelve men, chosen from the metropolitan police, to act as the escort for Her Majesty's Legation; and that, among other arrangements connected with the dispatch of these men, it is considered desirable that each of them should sign a formal agreement binding himself under certain penalties to fulfil the conditions of the service upon which he is about to enter, and the accompanying draft agreements had accordingly been prepared for the purpose.

Mr. Hammond was pleased further to state, that, before approving the drafts, your Lordship was desirous of ascertaining whether they meet with our concurrence, and that he was accordingly to request that we would take them into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to these agreements.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 61.

*The Law Officers of the Crown to Lord Stanley.*—(*Received October* 15.)

*Temple, October* 11, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of 31st August last, stating that he was directed by your Lordship to transmit to us two letters from Mr. Hoey, dated the 16th and 20th April last, with their inclosures, relative to a claim arising out of the occupation of premises belonging to him at Yokohama by Her Majesty's Legation, together with a despatch and its inclosures from Sir Harry Parkes reporting on the subject (No. 111); and Mr. Hammond was pleased to request that we would take these papers into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That the questions in dispute arise upon the proper construction to be put on an informal lease couched in every unintelligible terms.

The first question is, whether the lessee was bound to give three months' notice before quitting at the expiration of three years from the commencement of the first term, viz., 1st April, 1864. We think that the lessee must, in the events which have occurred, be considered as having exercised his option of continuing the term under the lease after the expiration of the first year, and that he continued it to its utmost limits stipulated for, viz., to the end of the three years mentioned in the lease, and we think that then the lease expired by efflux of time without the necessity for any notice.

The other question is as to the repairs, and we think that the reasonable interpretation of the clause as to delivering up the premises in good condition and complete repair is, that this stipulation was to be fulfilled whenever the term came to an end, under the provisions of the lease—whether it terminated by efflux of time or by a notice before the three years expired, although the wards of the lease hardly support this liberal construction in favour of the lessor. As to the nature of the repairs. We think that though their character and extent would depend in some measure on the description of house demised, the stipulation made must be fulfilled, even if the original structure had been weak and ill-constructed and had fallen into decay from warping of timber, shrinking of unseasoned wood, or other like causes, affecting its original state and completeness.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 62.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 24.)

*Temple, December* 24, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in Japan, relative to the position in the Consular Service of Mr. Dohmen, a Dutch Interpreter and Assistant, and to request that we would take the papers into consideration and favour your Lordship with our opinion as to whether, in case Mr. Dohmen could obtain a certificate of naturalization as a British subject, such certificate would enable him to hold the office of Consul in Japan, and discharge the judicial duties attached to it under the Order in Council.

In obedience to your Lordship's commands we have taken the papers submitted to us into our consideration, and have the honour to report—

That it appears to us that there is nothing to prevent a naturalized subject of the Queen from holding the office of Consul in Japan. We think it right, however, to point out that there would probably be considerable difficulty in Mr. Dohmen's way in obtaining a certificate of naturalization under 7 and 8 Vict., cap. 66, which statute contemplates residence in Great Britain or Ireland with intent to settle there, as a condition to the granting the certificate.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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# Madagascar.

## No. 63.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 28.)

*Lincoln's Inn, March* 28, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul in Madagascar, reporting the steps he had taken with regard to a charge of murder preferred against two British subjects residing at Tamatavé, and requesting instructions for the guidance of his future conduct in the matter, and Mr. Murray was pleased to request that we would take this despatch into consideration, and furnish your Lordship with our opinion as to the instructions which should be addressed to Mr. Consul Pakenham.

A copy of the Treaty referred to was also inclosed, and Mr. Murray was pleased to add that an Order in Council is in course of preparation for the purpose of enabling Her Majesty's Consul in Madagascar to exercise the power of jurisprudence conceded by this Treaty.

In obedience to your Lordship's commands we have the honour to report—

That this case falls under the provisions of the XIth Article of the Treaty, but the Treaty does not confer jurisdiction on the Consul to try cases, and we assume that an Order in Council (which can give jurisdiction) will be sent out at once before the trial takes place. If the prisoner or prisoners be found guilty, the sentence must, in the present state of the law, be executed in Madagascar with the aid of the proper officers of the place.

The trial will of course take place according to the rules of English law, and the punishment will be awarded according to the same law. Great care will be taken to ascertain by the evidence that the crime really amounts to murder, and does not fall within the category of manslaughter.

It is doubtful whether the law of forfeiture as it exists in England is in force in Madagascar; but we think that if no objection is raised to such a course by the native authorities, the Consul might allow the property of the convicts to be expended in the payment of their respective debts, and that the relatives, if any, should be allowed to take the surplus of the property.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 64.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 27.)

*Lincoln's Inn, April* 26, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us a Draft Order in Council to enable Her Majesty's Consul in Madagascar to exercise civil and criminal jurisdiction over British subjects in that Island; and Mr. Hammond was to request that we would furnish your Lordship with our opinion whether the proposed Order is right and proper, and may be submitted for Her Majesty's approval.

A copy of the Treaty with Madagascar, copies of the Foreign Jurisdiction Acts, a despatch from Her Majesty's Consul, and a correspondence with the Colonial Office upon the subject, were also inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Consul Pakenham, in his letter to your Lordship of the 12th December, asks for instructions as to the means to be employed in carrying into effect sentences of imprisonment, there being no native prisons of any description in Madagascar; and the proposed Order in Council, while it contemplates sentences of imprisonment, does not point out the prison or place of confinement where, or the means by which, the sentence is to be carried into execution. But we assume that such directions have been, or will be, given by your Lordship as will supersede the necessity for any provisions on the subject being inserted in the Order in Council. Subject to the above observations, and with the slight alteration made at page 11, sec. 19, of the proposed Order in Council, we think the same is right and proper, and may be submitted for Her Majesty's approval.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## Mexico.

### No. 65.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 8.)

*Temple, April* 6, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Chargé d'Affaires in Mexico (No. 22, February 25), relative to a claim which Mrs. Macartney, the widow of a British subject, has against the Spanish Government, and in the prosecution of which she requests the support of Her Majesty's Government; and Mr. Hammond was pleased to request that I would take this paper into consideration, and report to your Lordship my opinion as to the nature of the reply which Mr. Middleton should be instructed to return to Mrs. Macartney's application.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That I am of opinion that instructions should be sent to Mr. Middleton to the effect that, after a careful consideration of all the circumstances stated in the letter of Mrs. Macartney, your Lordship has come to the conclusion that Her Majesty's Minister at Madrid cannot, with propriety, be instructed to intervene in the manner requested by this lady on her behalf with the Spanish Government or with the Commission which appears to be sitting for adjudicating on claims of this description.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## Morocco.

### No. 66.

*The Queen's Advocate to Lord Stanley.*—(*Received August* 7.)

*Temple, August* 7, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 6th instant, stating that he was directed by your Lordship to transmit to me therewith a despatch from Her Majesty's Consul at Tangier, No. 4, inclosing a correspondence which has passed between him and the United States' Consul-General at that port, respecting a difference which has arisen under the circumstances therein stated on a point of legal proceedure between Mr. Carstensen, the British Vice-Consul at Mogador; and the United States' Vice-Consul at the same place; and Mr. Murray was likewise to transmit to me a Memorandum on the subject, drawn up by Sir J. D. Hay, Her Majesty's Minister in Morocco, now on leave of absence in this country; and was to request that I would take these papers into my consideration and furnish your Lordship with my opinion thereon.

In obedience to your Lordship's commands I have considered these papers and have the honour to report—

That I agree with the opinion expressed by Mr. Consul White, and by Sir J. D. Hay, as to the conduct of Mr. Vice-Consul Carstensen, and the conduct of Mr. Corcos, the Vice-Consul of the United States at Mogador.

It appears to me that Mr. Vice-Consul Carstensen was justified in declining to hear the case of Corcos *v.* Mesod, until the case of Mesod *v.* Ubarká had been heard by the Kadi, because the latter cause had, as I understand, been instituted before the former;

and, in the interest of justice, ought, regard being had to the manner in which the two cases appear to have been connected with each other, to have been heard first; and, moreover, such a course would, I learn from Sir J. D. Hay's letter, have been in accordance with the general usage in the Consular Courts at Morocco, and because the United States' Vice-Consul prevented, as it seems to me, upon no lawful or reasonable ground, the appearance of Ubarká before the Kadi.

I can hardly conceive that there can be two opinions as to the impropriety of the language adopted by the United States' Consul, Mr. McMath, in his letters to Mr. Consul White; and the attempt to distinguish between the individual Mr. Carstensen, and the Vice-Consul Mr. Carstensen, does not seem to me to offer any valid excuse for such impropriety.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## Muscat.

### No. 67.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 22.)

*Lincoln's Inn, February* 21, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us a letter from Colonel Playfair, submitting a draft of certain rules and regulations which he has prepared for the use of the Consular Court at Zanzibar, and which, as we should see by the accompanying letter, have been approved by the Secretary of State for India.

Mr. Murray was also pleased to request that we would take these rules into our consideration, and favour your Lordship with our opinion whether they are right and proper, or with any observations we might have to offer thereupon.

The documents as marked in the margin were annexed for reference.*

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report:—

That we are of opinion that these rules, with the slight alterations made by us, are right and proper.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 68.

*The Queen's Advocate to Lord Stanley.*—(*Received October* 1.)

*Temple, September* 30, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that with reference to the letter from Her Majesty's Law Officers, of the 9th January last, respecting the establishment of a Vice-Admiralty Court at Zanzibar, he was directed by your Lordship to transmit to me a despatch received from Mr. Acting Consul Seward upon the subject (No. 257/15, May 30, 1867), together with a private letter from Colonel Playfair, dated the 1st instant, commenting

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* Act 6 & 7 Vict., c. 94; Act 28 & 29 Vict, c. 116; Act 29 & 30 Vict., c. 87; Order in Council, August 9, 1866; Circular from Judge of Supreme Court at Constantinople; Rules of Supreme Court at Constantinople.

upon this despatch, and former correspondence, as noted in the margin;* and Mr. Hammond was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion upon the points raised by Mr. Seward.

In obedience to your Lordship's commands I have the honour to report—

That the doubts suggested by Mr. Acting Consul Seward in his despatch of May 30, 1867, as to the competency of a British Vice-Admiralty Court to adjudicate under present Treaty arrangements, within the Zanzibar territories, in a matter of confiscating vessels, the property of subjects of the Sultan of Zanzibar, which have been seized by ships of Her Majesty's Navy, on suspicion of being engaged in the Slave Trade within the Sultan's dominions, are not well-founded.

The Convention of October 2, 1845 (Hertslet, vii, p. 819), grants to the ships of Her Majesty's Navy permission to seize and confiscate any vessels the property of His Highness the Sultan, or of his subjects, engaged in the Slave Trade. But it is of the essence of good faith on the part of Her Majesty's Government, in availing itself of this Treaty right of confiscating the property of the subjects of the Sultan, to provide that due inquiry should precede confiscation; and with this object Her Majesty, by her Order in Council of August 10, 1866, has empowered every person duly authorized to act in the capacity of British Consul within the dominions of the Sultan of Zanzibar, to exercise in regard to vessels captured on suspicion of being engaged in the Slave Trade within those dominions, all such jurisdiction as for the time being ordinarily belong to Courts of Vice-Admiralty in Her Majesty's possessions abroad. Mr. Seward, therefore, as Acting Consul, has full power under this Order, to exercise in regard to all such captures, the jurisdiction which the Judge of a Vice-Admiralty Court may exercise in Her Majesty's possessions abroad.

I am of opinion that the Convention of Commerce of May 31, 1839 (Hertslet, v, p. 611), under which it is provided by Article V, that "when differences arise between a subject of the dominions of His Highness the Sultan, and a British subject, if the former is the complainant, the cause shall be heard by the British Consul or Resident Agent, who shall administer justice thereupon." "But if the British subject is the complainant against any of the subjects of His Highness the Sultan, or the subjects of any other Mahometan Power, then the cause shall be decided by the highest authority of His Highness the Sultan, or by any person nominated by him," has not any application to cases where vessels carrying on the Slave Trade within the Sultan's dominions, the property of the subjects of the Sultan, have been seized by ships of Her Majesty's Navy. That provision simply adopts in the case of civil suits between the subjects of the Sultan or any other Mahometan Power, and the subjects of Her Majesty, the well-known principle of the civil law, *actor sequitur forum rei*, whereas the subsequent Convention of October 2, 1845, which authorizes the capture by ships of Her Majesty's Navy of all vessels, the property of subjects of the Sultan, engaged in the Slave Trade within his dominions, has authorized the captors to confiscate such vessels, in other words, has authorized the captors to proceed to confiscation before their own authorities, in the manner in which they may be directed by their own Government. Whilst, therefore, on the other hand, disputes as to such seizures could not have been in the contemplation of the parties to the Convention of 1839, as such seizures had not been authorized at that time by any Convention between the Sultan and Her Majesty; on the other hand, the Convention of 1845 being subsequent in time, will have superseded the provisions of the earlier Convention in regard to all such disputes, if that Convention might otherwise have become applicable to them.

On these grounds I consider that the further suggestion of Mr. Acting Consul Seward as to the proper mode of proceeding in cases of contraband Slave Traffic, as being cases of breach of Treaty falling by right wholly under the cognizance of the Zanzibar Tribunals, are not well-founded.

With regard to Mr. Acting Consul Seward having declined to dispose of several cases of Zanzibar dhows, brought before him for adjudication by the Senior Naval Officer of Her Majesty, under Admiralty instructions, on the ground that no special and personal authority had been vested in him for that purpose; and that in the absence of this warranty his decisions would be probably invalid. I am of opinion that Her Majesty's Order in Council would have given full validity to his decisions; but inasmuch as it appears from his despatch that Colonel Playfair has been appointed Judge of Her Majesty's Vice-Admiralty Court within the Zanzibar territories, it would be proper, with a view to secure regularity of proceeding, and to prevent any conflict of jurisdiction between the Judge of the Vice-Admiralty Court, and an Acting Consul,

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* To Admiralty, December 24, 1866, and January 19, 1867; Admiralty, December 27, 1866; Law Officers, January 9, 1867; to Law Officers, December 29, 1866.

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that instructions should be given to Mr. Acting Consul Seward, and to all persons duly authorized to act in the capacity of Consul within the dominions of the Sultan of Zanzibar, as to the circumstances under which they may be properly called upon to exercise under Her Majesty's Order in Council, the jurisdiction of a Vice-Admiralty Court.

I have, &c.
(Signed) TRAVERS TWISS.

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## New Granada.

### No. 68 A.

*The Queen's Advocate to Lord Stanley.*—(*Received February* 8.)

*Doctors' Commons, February* 7, 1866.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that with reference to my Report of the 22nd of July last, on the subject of a law passed by the Columbian Government affecting the rights and privileges of foreigners residing in Columbia, he was directed by your Lordship to transmit to me two further despatches, with their inclosures, from Her Majesty's Acting Chargé d'Affaires at Bogotá on the subject;* and Mr. Hammond was to request that I would take these papers into consideration, together with the previous papers relating thereto, and furnish your Lordship with my opinion as to whether any instructions should be sent to Mr. O'Leary in this matter; my Report of the 22nd July was also inclosed, for convenience of reference.

In obedience to your Lordship's commands I have take these papers into consideration, and have the honour to report,—

That it is satisfactory to find that the Government of the United States of North America take the same view of this law which the Governments of Her Majesty and of France have taken.

It would seem to me expedient that the same publicity should be given to the refusal of Great Britain to recognize the competency of the Columbian Government to pass this law as has been given to the like refusal on the part of the United States; that it should be published in the "Diario Official," or whatever be the official newspaper. It would be expedient that the French protest should also be published. The same course should be pursued in the other South American Republics which have adopted this law.

But I do not think that at present any other steps are necessary.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 68 B.

*The Queen's Advocate to Lord Stanley.*—(*Received February* 8.)

*Doctors' Commons, February* 7, 1866.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that with reference to my report of the 13th July last, he was directed by your Lordship to transmit to me a further despatch, together with its inclosures (No. 77, December 5, 1865), from Her Majesty's Acting Chargé d'Affaires at Bogotá, relative to the claim advanced by British merchants at Carthagena to exemption from the tax imposed by the Assembly of the State of Bolivar on all persons engaged in industrial pursuits within the limits of that State; and Mr. Hammond was to request that I would take these papers into consideration, together with the previous papers which were also inclosed, and furnish your Lordship with my opinion as to any further instructions which should be sent to Mr. O'Leary on this subject. My Report of the 13th of July last was also inclosed for convenience of reference.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report,—

That a perusal of all the papers leads me to the same conclusion as that at which Her Majesty's Chargé d'Affaires has arrived.

The only ground upon which Her Majesty's Government should, in my opinion, direct any remonstrance to be made to the Columbian Government, is the unfair assessment of the tax, and not as to the illegality of its imposition.

I see no reason to complain of the sentence of the Supreme Court in this matter.

It appears that there is no ground for saying that Her Majesty's subjects are placed in a worse position than the foreigners, so far as this tax is concerned (Consul Fonblanque's letter, October 26, 1865). I think, therefore, that Article 7 of the Treaty of 1825 has not been violated.

It would be very desirable that there should be a joint remonstrance of the Representatives of foreign States to the Columbian Government; but, in any event, I think that Her Majesty's Chargé d'Affaires should be instructed to make to that Government a proper representation on the subject of the unfair assessment of the tax, supporting such representation by an allegation of particular instances, according to his discretion. But I do not advise any other steps to be taken.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 68 C.

*The Queen's Advocate to Lord Stanley.*—(*Received February* 13.)

*Doctors' Commons, February* 13, 1866.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed by your Lordship to transmit to me two despatches from Her Majesty's Acting Chargé d'Affaires at Bogotá (Nos. 67 and 76), together with a correspondence which has passed between him and the Columbian Government relative to the privileges accorded to the United States' troops on their passage across the Isthmus of Panamá; and Mr. Hammond was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion whether the United States are entitled, under the Treaty referred to, to the privilege of sending troops armed across the Isthmus, and, if so, whether, Her Majesty's Government can properly claim the same privilege.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report,—

That it appears to me to be correctly stated by Mr. O'Leary that the true question is whether the 35th Article of the Treaty of December 12th, 1846, between the United States of America and the Republic of New Granada does grant to the United States of North America a privilege, denied to all other States, of sending soldiers equipped for war across the Isthmus.

The words in the 35th Article which more especially raise this point are these:—"The Government of New Granada guarantees to the Government of the United States that the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist, or that may be hereafter constructed, shall be open and free *to the Government and citizens of the United States*, and for the transportation of any articles of produce, &c."

It is maintained—apparently for the first time—that these words convey to the United States what jurists term a *jus transitûs* of a very peculiar kind, namely, an unlimited right of sending armies across the Peninsula. I think that these words ought not to be so construed, for the following, among other, reasons:—

1. Such a construction is not to be presumed in any case, for it confers an unusual and invidious privilege; and though it is a possible, it is by no means a necessary, construction. "The Government" and the "citizens of the United States" are indeed mentioned in the disjunctive; a right of transit is given to both: but a meaning may be well assigned to these terms without extending it so as to include, by implication, the passage of armies belonging to the Government. So very important and unusual a

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* Mr. O'Leary, No. 69, November 6; No. 78, December 7, 1865.

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concession would naturally be conveyed in explicit terms, and not be left to rely upon an ingenious inference.

2. Usage is a great interpreter of Treaties. For seventeen years the Government of New Granada has put no such construction on the Treaty, but, on the contrary, has, both generally during this period, and specifically during the course of last year (in answer to a remonstrance from the French authorities), expressly denied that any such construction flowed from the present Treaty; though, having regard to the peculiar interests of the United States in the matter, it thought that such a privilege might be properly conferred upon them by a future Convention.

3. I lay aside, in arriving at this conclusion, all consideration of the very curious and interesting communication which Mr. O'Leary has discovered to have passed between the United States and the New Granada Governments, because it ought not to affect the construction of that Treaty so far as it concerns the interests of other States.

It is true, indeed, that in ordinary circumstances a third State would have no right to interfere in the question of the construction of a Treaty between two other States; but this important subject of transit over the Isthmus of Panamá, and generally of the communication between the Atlantic and Pacific Oceans, has of late years been recognized as affecting the interests of all civilized States, and has been the subject of various negotiations and treaties.

It is not too much to say that New Granada could not now grant an exclusive privilege of transit to one State without giving other States a right to remonstrate, on the ground that thereby an injury had been indirectly inflicted upon them.

On the whole, I am of opinion that the construction now sought for the first time to be put upon this Article of the Treaty, ought not to be admitted by Her Majesty's Government.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## Persia.

### No. 69.

*The Queen's Advocate to Lord Stanley.*—(*Received November* 8.)

*Temple, November* 8, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to me the accompanying despatch and its inclosures from Her Majesty's Minister in Persia (No. 90), respecting a question which has been raised by the British Resident at Bushire as to the nationality of the grandson of a British Indian subject born in Persia, under the circumstances therein set forth; and to request I would take these papers into my consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That a reasonable distinction may be made by your Lordship between persons resident in Persia and claiming British protection who are, *in fact*, natural born subjects of Persia, but are at the same time, *by construction of British law*, natural born subjects of Great Britain, according as their domicile of *origin* is British or Persian; and that where the domicile of origin of any such person is Persian, and it is coupled with the fact of permanent residence in Persia, under which circumstances the national character of such person under the Law of Nations would be exclusively Persian, such person, although he may be entitled to the *good offices* of the British Government, by reason of the relation in which he stands under British law towards the British Crown, ought not to have British *protection* extended to him in the sense in which that protection would withdraw either his person or his property from the ordinary jurisdiction of the Persian tribunals.

Thus the son of a natural-born British subject, although he may have been in fact born within the allegiance of the Crown of Persia, may still have, under the Law of Nations, a British national character by reason of his father's domicil being British. But, if after the death of his father, he should continue to reside in Persia, and have a son born to him there, and should be domiciled *de facto* in Persia, the grandson born in Persia will have a Persian domicile of origin. Under such circumstances, as the grandson would be in fact a native of Persia, and would have at the same time a Persian domicile, which would be conclusive criteria of a Persian national character under the Law of Nations, it would be an unreasonable construction of Treaty right for Great Britain to insist upon the Persian Government exempting from the operation of its laws a person resident within its territory who, under no principle of international law, would be entitled in Persia to the British national character, upon the sole ground that the municipal law of Great Britain had extended to him all the privileges of a natural-born British subject; for the British statute (13 Geo. III, c. 21), which has enacted that every person shall be taken and deemed to be a natural-born British subject for all purposes whatever, although his father may been born abroad, if his grandfather, by the father's side, was *in fact* a natural-born British subject, belongs to that class of laws which can only give rise to personal relations between a Sovereign and subjects to be enforced within his own dominions, but which do not rightfully extend to other nations (Story's "Conflict of Laws," sec. 22).

I have, &c.
(Signed) TRAVERS TWISS.

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## Peru.

### No. 70.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 28.)

*Lincoln's Inn, February* 28, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that, with reference to our Report of the 7th November last, on the subject of an annual payment imposed upon foreigners resident in Peru, as well as on Peruvian subjects, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires at Lima replying to the instruction which was addressed to him upon our letter above-mentioned; and Mr. Hammond was pleased to request that we would take the same into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we think the Decree of the 20th January, 1866, ought not to be construed, all the circumstances of the case duly considered, as an infraction of the Treaty of April 10, 1850, between Peru and England; and that an answer to this effect should be returned to Her Majesty's Chargé d'Affaires at Lima. We have not the Decree of the 10th September, 1866, before us, but if it substantially follows that of the 10th January our conclusions on it would be the same.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 71.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 23.)

*Doctors' Commons, March* 23, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Chargé d'Affaires at Lima (No. 3, February 9, 1867), reporting certain proceedings which had taken place between the Peruvian Government and the Diplomatic Body with the object of establishing an understanding on the question of diplomatic protection; and Mr. Hammond was pleased to request that I would take this paper into consideration, and acquaint your Lordship with my opinion as to the nature of the reply which should be returned to Mr. Barton.

In obedience to your Lordship's commands I have the honour to report—

That an answer should be returned to Mr. Barton to the following effect:—That Her Majesty's Government are of opinion that the Peruvian State is entitled to the same international rights, and bound by the same international duties as every other Christian State.

That Her Majesty's Government see no reason for any formal enunciation by the Diplomatic Body at Lima of the principles of that portion of international law which relates to the privileges incident to the dwelling of the accredited Representative of a foreign State.

These principles are well recognized, and rest upon the same foundation as other portions of international law. An attempt to make a precise statement in detail of the number and nature of the rights of the diplomatic residence might lead to future misapprehension, and are not, in the judgment of Her Majesty's Government, required at the present moment.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 72.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 10.)

*Doctors' Commons, April* 7, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that, with reference to his letter of the 19th ultimo, transmitting a despatch from the Acting British Chargé d'Affaires at Lima (No. 3, February 26), reporting certain proceedings which had taken place between the Peruvian Government and the Diplomatic Body, with the object of establishing an understanding on the question of diplomatic protection, he was directed by your Lordship to transmit to me the accompanying further despatch from Mr. Barton on the same subject. The previous papers were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That neither these further papers nor the printed pamphlet "Mensage que el Jefe Supremo Provisorio de la República presenta al Congreso Constituyente de 1867," appear to me call for any observations in addition to those which I had the honour to make on this subject in my Report of the 23rd March last.

I am still of opinion that the course which I ventured to indicate as proper to be pursued by Her Majesty's Representative at Lima should be pursued by him in dealing with this subject of diplomatic privilege.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 73.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 21.)

*Temple, August* 17, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter, dated the 12th instant, from Messrs. Ashurst, Morris, and Co., who are acting for a client, a large bondholder of the Peruvian Government Loan of 1862, and requesting, for the reason therein stated, the permission to apply to Her Majesty's Consul at Lima or Callao to serve a copy of a bill filed in the Court of Chancery on the Peruvian Government; and Mr. Egerton was to request that we would furnish your Lordship with our opinion as to the answer to be returned to those gentlemen.

In obedience to the directions of your Lordship we have perused and considered this case, and have the honour to report—

That we do not think it expedient that Her Majesty's Consul should, under the circumstances stated, be employed to serve notice of legal proceedings taken in England upon the Peruvian Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
ROBERT PHILLIMORE.

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# Portugal.

## No. 74.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 28.)

*Lincoln's Inn, January* 28, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 4th instant, stating that, with reference to our letter of the 22nd November, in which we requested to be furnished with a copy of the contract made between Messrs. Leatham and Bailey and the Portuguese Government, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Lisbon, inclosing a translation of the above-mentioned contract, together with the papers noted in the margin,* which were transmitted to us in Mr. Hammond's letter of the 27th of October.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That it appears from the contract that these steamers of Messrs. Leatham and Bailey are not chartered to a Portuguese Company, or indeed to any Company. Their vessels are managed and worked under the contract by themselves. Messrs. Leatham and Bailey are described as a firm established in Hull, and they engage to carry on temporarily a regular line of steam navigation "between Lisbon and the port of London, &c."

Though this Company is to be considered by the charter as domiciled at Lisbon, and subject to Portuguese law, we do not think that these conditions will protect the vessels from seizure and condemnation, if slaves, under the name of libertos, are conveyed in them in violation of the Treaties and Acts of Parliament for the suppression of the Slave Trade, nor shield Messrs. Leatham and Bailey personally if they are designedly parties to any such transaction.

We think, however, that the contract between Messrs. Leatham and Bailey and the Portuguese Government was entered into *bonâ fide* by Messrs. Leatham and Bailey, and was not in any way in contemplation of infringement or evasion of law or Treaties. By the contract Messrs. Leatham and Bailey engage with the Portuguese Government for carriage of mails in consideration of a subsidy, having the right to carry passengers in the steamers, and the mere fact that they convey passengers, presenting themselves as libertos, furnished with passports by the Portuguese Government, will not, we think, subject Messrs. Leatham and Bailey, personally, to the consequences of infringing the Slave Trade Acts, whatever may be the real *status* of these individuals. It is to be observed that under the Treaties with Portugal, it is not necessarily unlawful to carry slaves from one place to another, but if the libertos spoken of are slaves, and ought not to be carried according to the Treaty, strong remonstrance should be made to the Portuguese authorities; but we think that though the vessels may be liable to condemnation if the provisions of the Acts are thereby violated, yet that, if Messrs. Leatham and Bailey, resident in England, are indicted for feloniously infringing the Slave Trade Acts, on the facts we have referred to, they would be acquitted.

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* Sir A. Paget, No. 4, December 1866; Mr. Lytton, Nos. 4, 8, 9, and 12.

We have, &c.
(Signed) ROBERT PHILLIMORE.
(And for Attorney- and Solicitor-General.)

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## No. 75.

*The Queen's Advocate to Lord Stanley.*—(*Received June* 18.)

*Temple, June* 18, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed by your Lordship to transmit to me the accompanying letter from Mr. Mangles, relative to a claim on the part of himself, his brother, and other British subjects, against the late South-Eastern Railway Company of Portugal, for the sum of 430,000*l.*; and Mr. Hammond was pleased to request that I would take these papers into consideration, and report to your Lordship my opinion whether the matter is one in which Her Majesty's Government can properly interfere, and if so, on what grounds they should base a representation to the Portuguese Government.

In obedience to your Lordship's commands I have the honour to report—

That the circular letter addressed by Lord Palmerston when Secretary of State for Foreign Affairs in 1848, to the Representatives of Her Majesty in Foreign States, appears to me to contain a true exposition of the principles of international law applicable to cases like the present, and a just distinction between the question of the right of interference incident to the Government of the subject aggrieved by the conduct of a foreign Government, and the question of public policy as to the exercise of that right. (2 Phillimore, " International Law," page 9.).

It is (in my opinion) a sound position of international law that the Government of a State which enters into a contract with the subject of a foreign State, on the faith of which money is obtained from him by that Government, cannot lawfully deny the right of interference incident to the Government of that subject to protect and enforce his claim to the fulfilment of the contract.

It seems, from the averments in the Memorials, that the Portuguese Government guaranteed to the Memorialists a priority of lien upon the property and profits of these railways; that this priority was part of a contract between this Government and (the Memorialists) certain of Her Majesty's subjects. What counter-statement may be made by the Portuguese Government remains to be seen. But I think a *primâ facie* case is made out which would warrant Her Majesty's Government in supporting by diplomatic assistance, to a certain extent at least, the claim of these Memorialists, and that Her Majesty's Representative at Lisbon might be properly instructed to represent to the Portuguese Government that the grievance complained of by the Memorialists, namely, the practical setting aside of the guarantee given by the act of the State, whereby a priority of lien was secured to the Memorialists for the money advanced by them, appears to Her Majesty's Government to require serious reconsideration by the Government of Portugal.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 76.

*The Queen's Advocate to Lord Stanley.*—(*Received July* 30.)

*Temple, July* 30, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 27th instant, stating that, with reference to the Law Officers Report of the 28th January last, relative to the position in which Messrs. Leatham and Bailey (British subjects) were placed as regards the laws of this country for the suppression of the Slave Trade, in consequence of their having entered into a contract with the

Portuguese Government for the conveyance of mails between Portugal and the Portuguese possessions in Africa, and being called upon, under the terms of their contract, to carry slaves under the name of libertos on board their vessels, he was directed to transmit to me two despatches from Her Majesty's Chargé d'Affaires at Lisbon, from which it would appear that the Portuguese Government are anxious that Her Majesty's Government should cause the letter which was addressed, on the 21st of February last, to the agents of Messrs. Leatham and Bailey, warning them of the responsibility they incurred by carrying libertos on board the Company's vessels to be withdrawn, or to be so explained that the Company should not feel itself called upon to refuse to convey in its vessels, passengers provided with legal passports by the Portuguese authorities, and by so doing thus commit a breach of its contract with the Portuguese Government; and Mr. Egerton was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion as to the instructions which it may be proper to give to Mr. Harris in the matter.

The previous papers in this case were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That the view taken of this matter by Mr. Harris in his letter of July 15th, 1867, (Inclosure 3 in No. 1 of July 16th) to M. Cazal Ribeiro is correct, and that instructions to this effect should be sent to Mr. Harris. I do not think that Her Majesty's Government ought to address any letter of explanation to the agent of Messrs. Leatham and Bailey.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 77.

*The Queen's Advocate to Lord Stanley.*—(*Received August* 13.)

*Temple, August* 13, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 8th instant, stating that, with reference to my Report of the 30th ultimo, relative to the position in which the British firm of Leatham and Bailey are placed in regard to the laws of the country for the suppression of the Slave Trade, in consequence of their having entered into a contract with the Portuguese Government for the conveyance of mails between Portugal and the Portuguese possessions in Africa, and being called upon, under the terms of their contract, to carry slaves under the name of libertos on board their vessels, he was directed to transmit to me two further despatches, relating to this case, from Mr. Harris, Her Majesty's Chargé d'Affaires at Lisbon (Nos. 3 and 4, August 6, 1867). That, by the provisions of the Vth Article of the Treaty of 1842, between this country and Portugal, for the suppression of the Slave Trade, a Portuguese subject in voyages to and from the Portuguese possessions off the African coast may legally be accompanied by *two* slaves, *bonâ fide* household slaves, and if removing definitively with his family, he may take with him *ten* slaves, being *bonâ fide* household servants. That it would appear that doubts have arisen as to whether British ships can, under any circumstances, be employed in conveying slaves between the Portuguese possessions and the African coast, without violating the provisions of British law; and Mr. Egerton was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion upon this point, with special reference to the provisions of the Vth Article of the Treaty of 1842.

The previous papers were inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That, having regard to the 5 Geo. IV, cap. 113, and 6 and 7 Vict., cap. 98, sec. 1, I am of opinion that it is not lawful for any British subject to receive on board his ship, slaves or other persons for the purpose of their being carried away or removed as, or in order to their being dealt with as slaves.

I understand that these Portuguese subjects are to be dealt with as slaves—although *bonâ fide* household servants—when they are disembarked at St. Thomas; and I think that, notwithstanding the provisions of the Vth Article of the Treaty of 1842, a British master knowingly carrying such slaves would violate the provisions of the English statute law; but I agree with the opinion expressed in the Memorandum of Mr. Murray, that it is not advisable for Her Majesty's Government to interfere in

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any way between Messrs. Leatham and Bailey and the Portuguese Government in any differences that may arise between them in regard to the terms of their contract.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 78.

*The Law Officers of the Crown to Lord Stanley.—(Received August 24.)*

*Temple, August* 22, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 6th instant, stating that, with reference to the Report of the late Queen's Advocate of the 18th June last, relative to a claim on the part of Mr. Mangles, his brother, and other British subjects, against the late South-Eastern Railway of Portugal, he was directed by your Lordship to transmit to us an instruction to Her Majesty's Minister at Lisbon founded on that Report, and two despatches from Sir A. Paget bearing on the case; also a further letter from Mr. Mangles, and a despatch from Her Majesty's Chargé d'Affaires at Lisbon, forwarding a Memorandum which he has received from the Portuguese Government, in which they deny that the bondholders have any legal claim against them; and Mr. Egerton was pleased to request that we would take these papers into consideration and report to your Lordship our opinion as to the instructions which should be sent to Her Majesty's Chargé d'Affaires in this case.

We are also honoured with Mr. Egerton's letters of the 8th, 9th, 10th, 15th, and 19th instant, transmitting further papers with reference to this case.

In obedience to your Lordship's commands we have the honour to report—

That from the whole of the papers now before us it appears that the opinion of the late Queen's Advocate of the 18th June last was given by him upon an assumed state of facts which turns out to be unfounded.

The case of Mr. Mangles and the other bondholders does not in any way rest upon the foundation of the Portuguese Government having entered into a contract with the bondholders which that Government now repudiates; but it is alleged that the bondholders have entered into a contract with the Company by virtue of which they were to have a first lien upon the whole undertaking; and that the Government knowing this, and having acknowledged and sanctioned the lien, have entered into an arrangement with the Company whereby, in certain events, they may sell the undertaking of the Company without recognizing or providing for the priority of the charges of the bond or debenture holders.

It would certainly appear that, if this were done, it would be a very inequitable proceeding, and it is one which the Courts of Justice of Portugal would, we should think, refuse to sanction, and would by their interference prevent.

But we think that, if the law of Portugal should recognize the priority of the right of the Government over, and to the detriment of, the bond and debenture holders, this would not necessarily be a ground for official interference; and we further think that if, by invoking the aid of the law, the bond and debenture holders can prevent the Government from attempting to insist on a right claimed by them against law, the bond and debenture holders should resort to the Courts of Law for protection and relief before they seek the official interference of Her Majesty's Government. Possibly the Portuguese Government will assent to the proposal of Mr. Harriss, which would, we understand, be satisfactory to Mr. Mangles and those whom he represents; but if not, we think that if the Portuguese Government contend that by their law they have a right to the priority they claim, the question at issue must be determined by the tribunals of the country, and not through diplomatic agency.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 79.

*The Queen's Advocate to Lord Stanley.—(Received September 3.)*

*Temple, September* 2, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to me a note received from the Portuguese Minister at this Court, claiming compensation for the losses sustained by Portuguese merchants whose factories were destroyed either during or in consequence of an attack by the boats of Her Majesty's ship "Antelope" upon Mangue Grande, a place on the West Coast of Africa, which he asserts to be in Portuguese territory.

Mr. Hammond was also pleased to inclose other correspondence upon this subject, including detailed accounts of the affair at Mangue Grande by the Commander of the "Antelope," which differ in many material points from the accounts given by the Portuguese, together with a printed memorandum and correspondence showing the line which has hitherto been taken by Her Majesty's Government respecting the claims put forward by Portugal to sovereignty over that part of the West Coast of Africa lying between 5° 8′ and 8′ south latitude; and also to request that I would take these papers into my consideration, and inform your Lordship what answer should be returned to the Portuguese Minister.

In obedience to your Lordship's commands I have the honour to report—

That an answer should be returned to the Portuguese Minister to the following effect:—

That Her Majesty's Government does not admit that the village of Mangue Grande is situated in territory belonging to the Crown of Portugal, and on this subject beg to refer the Portuguese Minister to the note of the Earl of Clarendon addressed to the Portuguese Minister on November 26th, 1853.

That with regard to the events which occurred at Mangue Grande on 23rd and 24th February last, in which the Commander and crew of Her Majesty's ship "Antelope" took part, Her Majesty's Government, from information on which it relies, attaches to them a character which varies most materially in all important points from the view which the Portuguese Minister has formed from the accounts placed before him.

That Her Majesty's Government declines to discuss with the Portuguese Minister the events of 23rd February, for the reasons above stated—that it does not admit those events to have occurred in territory belonging to the Crown of Portugal. Further, the Portuguese Minister does not represent that any damage occurred on that day to the persons or property of any Portuguese merchants residing at Mangue Grande.

That Her Majesty's Government learns with regret from the Portuguese Minister, that in the course of the operations of the 24th February, which were provoked and rendered immediately necessary by the hostile aggressions of the native inhabitants of the village of Mangue Grande and the neighbourhood, who opened fire upon the boats of Her Majesty's ship "Antelope" as they approached the shore, property belonging to Portuguese merchants should have been damaged and destroyed; but Her Majesty's Government has information upon which it relies, that no building or house at Mangue Grande, if any such was a Portuguese factory, or was the property of a Portuguese merchant, was damaged and destroyed on the said 24th February, unless fire had been first opened from it upon Her Majesty's officers and men, and it had become necessary for them in self-defence to silence such fire. Her Majesty's Government has also information upon which it relies, that the only two buildings or houses which had the appearance of being Portuguese factories, the Portuguese national flag being displayed upon them, were scrupulously respected during the events of the 24th February, and remained uninjured at the time when Her Majesty's officers and men returned to Her Majesty's steamer "Antelope" on the evening of that day.

That after the fire of the natives had been silenced on that day, the Portuguese occupants of those two houses, upon which the national flag of Portugal was displayed, communicated freely with Her Majesty's officers before they returned to Her Majesty's ship "Antelope," and did not ask for protection, nor intimate any apprehension of the violence to which his Excellency represents them to have been afterwards exposed. Her Majesty's Government in referring to that part of the note of the Portuguese Minister in which he admits that it is not known how these two houses came to destruction, cannot but express its regret that his Excellency should have placed any

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faith in a statement made by some one whom his Excellency does not name, that the English, before destroying the factories, carried off the merchandize that was in them, to take it on board the "Antelope."

That his Excellency may not be under any misapprehension of the views of Her Majesty's Government on this part of his Excellency's note, Her Majesty's Government beg in all frankness to repeat to his Excellency that it has information, upon which it fully relies, that the two houses or factories above-mentioned, upon which alone the national flag of Portugal was exhibited, were perfectly uninjured, and had not been plundered when Her Majesty's officers and men re-embarked in their boats on the evening of the 24th February; and that on the morning of the 25th February the Commander of Her Majesty's ship "Antelope," on landing at Mangue Grande for the purpose of offering protection or assistance to the occupants of the two houses or factories above-mentioned, if any should be needed, found that the two houses or factories above-mentioned had been destroyed from the rear during the night and were empty, and that the Portuguese occupants had abandoned them, but under what circumstances the said commanding officer was unable to ascertain.

With regard to the representation of the Portuguese Minister that the Commander of Her Majesty's ship "Antelope" proceeded to destroy Mangue Grande without previous notice to the Portuguese factories of his determination to do so, Her Majesty's Government begs leave to repeat that the native inhabitants commenced firing upon Her Majesty's boats before they reached the shore on the 24th February, and that after the fire of the natives had been silenced by the return fire of the boats, so as to enable Her Majesty's officers and crews to land, the natives recommenced firing upon Her Majesty's officers and men on shore, who were obliged in self-defence to return the fire, and to dislodge the natives from the shelter in the villages, which result could not be effected without the destruction of many huts, and of the buildings or houses from which fire had been previously opened upon Her Majesty's officers and men as above-mentioned.

Her Majesty's Government beg to observe, in conclusion, that it has been always its wish and its instructions that Her Majesty's officers and men should give efficient protection to any Portuguese merchants residing on the West Coast of Africa, beyond the territories possessed by the Crown of Portugal on that coast to the south of the Equator, if they should at any time need protection.

That the Commander of Her Majesty's ship "Antelope," in pursuance of such instructions, took occasion on sailing northward from Mangue Grande to send his boat's crew on shore wherever any houses were visible on the 26th and also on the 27th of February, with a view to offer such protection; and that his services were accepted and gratefully acknowledged on the 27th of February by the occupants of the Portuguese factories at Cabeca de Cobra, on the occasion of their being attacked by the natives, when the Commander of Her Majesty's ship "Antelope" effectively protected them.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 80.

*The Law Officers of the Crown to Lord Stanley.*—(*Received October* 8.)

*Temple, October* 7, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th ultimo, stating that, with reference to our Report of the 22nd of August, on the claim of Mr. Mangles, his brother, and other British subjects, against the late South-Eastern Railway of Portugal, he was directed by your Lordship to transmit to us therewith a further despatch from Her Majesty's Chargé d'Affaires at Lisbon, together with the other papers on the subject;* and to request that we would take these papers into our consideration and favour your Lordship with our opinion thereupon.

The previous papers were sent for convenience of reference.

We are also honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th ultimo, stating that, with reference to his letter of the 13th of that month, he was directed by your Lordship to transmit to us therewith a further despatch (No. 29) from Her Majesty's Chargé d'Affaires relative to the case of the bondholders of the South-Eastern Railway of Portugal; and to request that we would take this paper into our consideration, in connection with the papers on the subject already before us.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That it does not occur to us that more can be done at this moment through the intervention of Her Majesty's Government than has already been done to secure a fair adjustment of these claims.

We think it extremely important that Messrs. Mangles and those whom they represent should be promptly and fully advised by Portuguese lawyers as to their position. It may be that, in the event of a sale of the railway undertakings by the Government, some formal notices should, according to the law of Portugal, be given to the purchaser of the claims of the bond or debenture holders, or some other steps taken to secure, as far as possible, the rights, lien, or preference which they claim.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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* Mr. Harriss, Nos. 28 and 18; to Mr. Mangles, September 3; Queen's Advocate, June 18; to Sir A. Paget, No. 33, June 21; Sir A. Paget, No. 66, July 4, No. 72, July 10; Mr. Mangles, August 1; Mr. Harriss, No. 13, July 30; No. 15, August 1; No. 16, August 3; to Mr. Mangles, August 6; Mr. Mangles, August 9; Mr. Harriss, No. 17, August 7, 1867.

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# Prussia.

## No. 81.

*The Queen's Advocate to Mr. Hammond.*—(*Received October* 15.)

*Temple, October* 12, 1867.

Dear Sir,

BEFORE answering your letter on the subject of United States naturalization, I should be glad to see a correspondence which took place between Lord Palmerston and Mr. Bancroft in 1849. Some extracts from the correspondence are to be found in the Appendix to the Lawrence's second annotated edition of "Wheaton's Elements (1863)," page 925, as taken from the Congressional Documents: but I do not think that the correspondence, which appears to have an important bearing on the question submitted by the Prussian Legation, has been published in the collection of State Papers.

Faithfully yours,
(Signed) TRAVERS TWISS.

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## No. 82.

*The Queen's Advocate to Lord Stanley.*—(*Received November* 14.)

*Temple, November* 13, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 10th ultimo, stating that he was directed by your Lordship to transmit to me the accompanying note (with translation) from the Prussian Chargé d'Affaires at this Court, expressing the desire of his Government to be furnished with information regarding the liability to serve in Her Majesty's army and navy of British subjects, who having emigrated to the United States, and there become naturalized citizens of the Republic, subsequently return to their native country.

Mr. Egerton was pleased to request that I would take this document into my consideration, and favour your Lordship with my opinion as to the reply which should be given to the inquiry of the Prussian Government.

In obedience to your Lordship's commands I have taken this document into consideration, and have the honour to report—

That no practice has prevailed in England since the Peace of 1815, which has any bearing on the question of the treatment in Prussia of those subjects of the King of Prussia liable to military service, who, after they have emigrated to the United States and been naturalized therein, come back again to Prussia, inasmuch as the practice in England has always been both before and since the Peace of 1815, to recruit the Royal army by voluntary enlistment.

On the other hand, the militia of the counties which used to be called out by ballot, has ceased to be so called out since 1829; and on the last occasion when the militia was embodied during the Russian war in 1854, the quota of each regiment was furnished by volunteers. There has thus been no opportunity for a tacit practice to grow up either in regard to the army or the militia, under which any privilege of exemption from the liability to military service has become established in Great Britain in favour of those subjects of the Queen, who, after they have emigrated to the United States, and been naturalized therein, have returned to Great Britain.

With regard to the Royal Navy the same observations apply, as the practice of impressment has been allowed to fall into desuetude, and the Royal Navy has been for some time recruited by voluntary enrolment.

It would also be an error to suppose that the question at issue between the United States and Great Britain, which was the occasion of the declaration of war on the part of the United States in 1812, was founded on any distinction between natural-born British subjects who had been naturalized in the United States, and subsequently returned to England, and others who had so returned without any such claim to American citizenship.

The question really at issue was the inviolability of the national flag of the United States on the high seas, to the exclusion of a municipal prerogative, which Great Britain claimed to exercise over all her natural-born subjects, although they were under the safeguard of the American flag. It may be perfectly true that Great Britain claimed at that time to exercise such a prerogative over her natural-born subjects who had been naturalized in the United States, and that President Madison, in his message of June 1, 1862, to Congress ("Annual Register, 1812"), dwelt upon the hardship of so many American citizens having been torn away by British cruisers from under their national flag, under the pretext of searching for British subjects; but no contention had been raised by the United States at that time as to the exclusiveness of the national character, which American naturalization was entitled to confer upon the natural-born subjects of Great Britain, although they might return to the country of their birth; nor can it be said that the principle of such exclusive nationality has ever been conceded by Great Britain, either under express Treaty engagement, or in her diplomatic correspondence. On the contrary, the reciprocal liberty of commerce within the territories of Her Britannic Majesty in Europe, and the territories of the United States, which was secured after the peace of Ghent by Article I of the Treaty of Commerce of the 3rd of July, 1815, in favour of the inhabitants of the two countries respectively, is coupled with the condition that they shall enjoy that liberty in the parts of the two countries, subject to the laws and statutes of the two countries respectively; whilst in the correspondence which took place between the British Foreign Secretary and the United States' Minister in 1849, when the question was for the first time explicitly raised, it was distinctly maintained by Lord Palmerston, on the part of Great Britain, in his note of August 16, 1849, published in the documents submitted to the American Congress (Document 36, Congress, 1st September), "that natural-born subjects of Great Britain who may have become naturalized in a foreign country, but who return to the United Kingdom, are as amenable as any other of Her Majesty's subjects to any law which may be in force either of a permanent or temporary character."

I have, &c.  
(Signed) TRAVERS TWISS.

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### No. 83.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 19.)

My Lord, *Temple, December* 18, 1867.

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 17th instant, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Minister at Berne, inclosing a letter addressed to him by a Mr. James Warburton, under the impression that he was Her Majesty's Representative at Dresden, calling his attention to the imprisonment of his brother in that city; and Mr. Egerton was pleased to request that I would favour your Lordship with my opinion whether the circumstances of Mr. Warburton's incarceration, as they are to be gathered from the Memorandum forwarded by his brother, are such as to warrant the interference of Her Majesty's Government on his behalf.

In obedience to your Lordship's commands, I have taken this case into consideration, and have the honour to report—

That it will be proper for your Lordship to obtain some further information from Mr. James Warburton, who appears to reside at Hythe, as to the grounds upon which his brother has been arrested, and is incarcerated at Dresden, before Her Majesty's Government interferes on his behalf.

I have, &c.  
(Signed) TRAVERS TWISS.

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## River Plate.

### No. 84.

*The Queen's Advocate to Lord Stanley.*—(*Received July* 9.)

My Lord, *Temple, July* 9, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that he was directed by your Lordship to transmit to me two despatches from Her Majesty's Chargé d'Affaires at Monte Video, relative to the alleged grievances of Messrs. R. and D. Williams, arising out of a decision of the Uruguayan Courts of Law, by which they are deprived of a certain portion of land to which they lay claim; and Mr. Hammond was pleased to request that I would take the correspondence contained in these despatches into consideration, and inform your Lordship of my opinion as to the nature of the instructions which should be sent to Mr. Lettsom with regard to his conduct in the matter.

In obedience to your Lordship's commands I have the honour to report—

That the cases are extremely rare in which a foreign Government is justified in officially interfering on behalf of its subject who complains that the local tribunals of another country have given a wrong decision, either upon the law or the facts relative to his title to landed property, which property is properly subject to the law of those tribunals.

The evidence, which is not before me, as to the ownership of the land in this case, is probably of a very complicated character, and the appreciation of it much dependent on local knowledge.

It seems to be admitted, however, that the Government of Monte Video have sold the land in question to two separate purchasers, and that on this account the Messrs. Williams (Her Majesty's subjects) are, according to the municipal law of the land, entitled to compensation from the seller; but it also appears that the Government may be sued on this account like a private person. I see no reason why Messrs. Williams should not take this course; but I think that Mr. Lettsom may be instructed to endeavour, by the use of his good offices, to effect an equitable arrangement between Messrs. Williams and the Government, though he ought not to be instructed formally and diplomatically to make any remonstrance to the Government of Monte Video.

I have, &c.  
(Signed) ROBERT PHILLIMORE.

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## Russia.

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### No. 85.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 23.)

*Doctors' Commons, March* 23, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Ambassador at St. Petersburgh, requesting to be informed whether, under the circumstances therein stated, he would be justified in granting Mr. George Wolff a passport as a British subject; and Mr. Hammond was pleased to request that I would report to your Lordship my opinion as to the answer which should be returned to Sir A. Buchanan.

In obedience to your Lordship's commands, I have the honour to report—

That Mr. G. Wolff is a British subject, according to our law, by reason of his birth. The circumstances too of his having an English mother, having resided in England till he was 11 years of age, and of being a member of the English Church, are to be considered in this matter. He appears to have claimed no privilege belonging to the son of a Hanoverian father.

I think that if due notice be given to the proper authorities at St. Petersburgh, that he is no longer to be considered as included in the family passport, Sir A. Buchanan would be justified in giving him a passport as a British subject.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 86.

*The Law Officers of the Crown to Lord Stanley.*—(*Received June* 1.)

*Temple, May* 31, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 29th ultimo, stating that, with reference to our Report of the 27th of December last, respecting the seizure at Odessa of certain bonds belonging to Messrs. Nell and Co., he was directed by your Lordship to transmit to us, together with the previous papers, a further despatch from Sir A. Buchanan, inclosing the answer of the Russian Government to the representation respecting this case, which, in accordance with instructions founded on our above-mentioned Report, he addressed to Prince Gortchakoff; and Mr. Egerton was pleased to request that we would take the same into consideration, and furnish your Lordship with any observations we may have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the explanation now furnished by Prince Gortchakoff in answer to the despatch of Sir A. Buchanan is such as to satisfy us that further appeal or interference by Her Majesty's Government on behalf of Messrs. Nell and Nicholl should cease. It appears from the Prince's despatch that the stolen bonds purchased by the claimants in England were, by law, in April 1864 declared to be annulled before the date of the purchase, and that any recourse to the Polish Tribunals is useless.

The character and capabilities of the expert who gave evidence in the Chancery suit, are seriously attacked by the Prince, who also denies that the Russian Consul-General was a party to, or interested in, the suit instituted before the Vice-Chancellor. The bonds were seized in Russia by the authority of law; and, finally, the Prince states that a statute exists which enjoins the delivery to the holder of annulled bonds of a certificate of seizure, for the purpose of affording to him the means of prosecuting the persons who have fraudulently passed the bonds to him; which certificate the claimants may, if they desire it, obtain, and which will in a Court of Justice have all the force of the original bonds.

We think that the substance of this despatch should be communicated to Messrs. Nell and Nicholl, and that if the arguments and assertions of the Prince are not successfully controverted in substantial particulars, it will be useless—to use the Prince's words—"any longer to continue a barren discussion" on this subject.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## San Domingo.

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### No. 87.

*The Queen's Advocate to Lord Stanley.*—(*Received January* 28.)

*Doctors' Commons, January* 26, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed to transmit to me a despatch from Her Majesty's Acting Chargé d'Affaires at San Domingo, stating the circumstances under which a person who had been expelled from the country for political offences, had taken refuge in the house of the French Consul, who refused to give him up to the authorities; and to request that I would take this case into consideration, and furnish your Lordship with my opinion as to the reply which should be returned to Mr. Leon's application for instructions as to the course which he should pursue under similar circumstances.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That I beg leave to refer your Lordship to my two former Reports of the 22nd of December, 1865, and 12th March, 1866. That in these Reports I had the honour to state a proposition of law and a proposition of fact with respect to the privileges of the British Consulate at San Domingo. The proposition of law was in substance that, by general international law, the Consul had not the privilege of sheltering refugees in his Consular dwelling, inasmuch as his house was not exempt, as that of the Ambassador is, from the operation of the municipal law of the country in which he resides; that it was, however, possible that in certain countries, by express permission, or usage implying such permission, the Consul might have obtained in this matter a privilege incident by the general law to the diplomatic Minister only. The proposition of fact was to the effect that as far as I was able to judge upon the rather imperfect information laid before me, usage had conferred this privilege on the Consul at San Domingo. I stated also that it appeared to me that the privilege was one which it would be desirable to abandon as soon as possible, and that proper measures should be taken for this purpose. I do not know what has been done since in the matter.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 88.

*The Queen's Advocate to Lord Stanley*—(*Received May* 8.)

*Temple, May* 7, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that with reference to my report of the 26th January last relative to the right of Her Majesty's Consul at San Domingo to afford an asylum to political refugees, he was directed by your Lordship to transmit to me a further despatch on the subject from the Acting Chargé d'Affaires at that place, pointing out that it had previously been the custom to grant such an asylum at Her Majesty's Consulate, and that the practice is now followed by the Consulates of other nations at San Domingo; and Mr. Hammond was pleased to request that I would take

Mr. McLeon's observations on this subject into consideration, and inform your Lordship what reply should in my opinion be returned thereto.

In obedience to your Lordship's commands I have the honour to report—

That I have nothing material to add to the opinion which I expressed in my three former Reports on this subject (22nd December, 1865, 12th March, 1866, 26th January, 1867).

It is of course competent to the Government of San Domingo to concede to the house of the Consul of a foreign State the right of asylum usually incident to the house of the diplomatic Minister. This Government must concede the same privilege to all foreign States. Whether the Government has so conceded this privilege must depend in this case upon usage, as I understand Her Majesty's Chargé d'Affaires such usage does exist and is recognized by the Government.

It appears to me, therefore, that it is a matter entirely for the consideration of your Lordship; whether, regard being had to the peculiar state of that country, it be expedient or not that Her Majesty's Consul should afford an asylum to political refugees.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## Siam.

### No. 89.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 26.)

My Lord, *Lincoln's Inn, April* 26, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at Bangkok (No. 9), asking for instructions as to the course which he should pursue in dealing with the estate of a British merchant, named R. S. Scott, who has been convicted of felony; and Mr. Hammond was to request that we would take this despatch into our consideration, and furnish your Lordship with our opinion as to the answer which should be sent to Mr. Knox.

A copy of Her Majesty's Order in Council for Siam was also sent to us.

In obedience to your Lordship's commands we have considered these papers, and have the honour to report—

That we think that the Consul acted rightly in declining to exercise jurisdiction in bankruptcy under the Order of Council of 28th July, 1856;

We think that the power of attorney did not authorize Mr. Littlejohn to declare Salt bankrupt;

We think that the Consul may properly treat the convict's personal property as forfeited to the Crown, and may seize it for the benefit of the Crown.

As regards the houses built on land leased from the Siamese, we think the Consul should obtain the consent of the authorities to his dealing with these in the same manner as with the personal property; for it is doubtful whether in foreign territory the Crown can have any right to seize and hold landed property, except with the consent of the ruling Power of the country.

We think that the Crown may properly be advised that the expenses of the prosecution should be defrayed out of the convict's property, and may direct that the surplus may be distributed *pro ratâ*, among the creditors, after deduction of the Consul's expenses, and all costs of realization.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## Spain.

### No. 90.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 10.)

My Lord, *Lincoln's Inn, January* 9, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st day of December, 1866, stating that he was directed by your Lordship to transmit to us therewith a further letter from Messrs. S. Isaac, Campbell and Co., requesting that Her Majesty's Consul at Cadiz should be instructed to register the "Tornado" as having arrived at that port as a British vessel; and to request that we would report to your Lordship whether the statements contained in Messrs. Isaac, Campbell and Co.'s letter are such as to induce us to alter the opinion on this point which was expressed in our letter of the 9th of November, 1866.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That no circumstances are stated in the letter of Messrs. Isaac, Campbell and Co. of the 28th of December, 1866, which induce us to come to any conclusion other than that which was arrived at by the Law Officers in their former Reports on this subject.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 91.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 10.)

My Lord, *Lincoln's Inn, January* 10, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th of January, 1867, stating that he was directed by your Lordship to transmit to us therewith a translation of a letter from the Spanish Minister at this Court, calling attention to the proceedings in connection with the barque "Martlet" about to sail from the port of London, ostensibly for Punta Arenas, but in reality it is alleged for Valparaiso, laden with munitions of war; and Mr. Hammond was also to transmit to us the accompanying letter which had been received from the Treasury, with the report from the Commissioners of Customs, stating the result of the inquiries which have been made with respect to the "Martlet;" and to request that we would take these papers into our consideration, and report to your Lordship our opinion whether the circumstances of the case call for the interference of Her Majesty's Government.

We are also honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that, with reference to his letter of the 4th of this month, he was directed by your Lordship to transmit to us the accompanying further letter which had been received from the Spanish Minister at this Court, giving evidence as to the destination of the "Martlet," and requesting that immediate steps might be taken to prevent her departure; and to request that we would take the same into our consideration with the former papers already before us.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That upon the facts stated by the Spanish Minister, and those which have been ascertained by the Commissioners of Customs, and mentioned in their Report, there is no evidence at present upon which the Government can act.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 92.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 12.)

*Lincoln's Inn, January* 12, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that, with reference to the case of the "Tornado," he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires in Chile (No. 34), inclosing extracts from a Report of the Minister of Marine of that Republic, relative to the purchase of ships of war for their use; and requesting that we would take the same into consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the papers render the Chilean destination of the "Tornado" probable; but their bearing on that question is not immediate, and certainly not by any means conclusive.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 93.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 12.)

*Lincoln's Inn, January* 12, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th day of January instant, stating that, with reference to his letter of the 31st ultimo, on the subject of the detention of the "Tornado" and of her crew at Cadiz, he was directed by your Lordship to transmit to us two despatches relating to this matter, from Her Majesty's Consul at that port; and to request that we would take the papers into consideration, together with those then before us.

In obedience to your Lordship's commands we have the honour to report—

That in Mr. Dunlop's despatch of the 31st December, he speaks of a tribunal which has pronounced the "Tornado" a prize, and ordered the prize-money to be distributed. This is the first that we have heard of such a decision. We should be glad to know whether any copy has been sent home of such a decision, or whether any thing more is known of it, and to be furnished with as complete a record of the proceedings that have hitherto taken place as can be obtained.

The proceedings, according to Mr. Dunlop's despatch, have arrived at a stage when all British subjects who have been hitherto detained as witnesses only, should be set quite at large, and when the owners, if we understand the Spanish procedure, should insist on appearing and supporting their claim.

As to McPherson, it is necessary to know whether his detention is placed on the ground of his being a prisoner of war; and we cannot report as to what should be done in his case till we know more of the proceedings. The statements made by McPherson may become important if a claim should hereafter be made by Her Majesty's Government on the Spanish Government by reason of the vessel being improperly condemned.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

P.S.—Our Report on the papers sent in Mr. Hammond's letter of the 31st December had been prepared before the further papers inclosed in his letter of the 7th of January reached us.

J. R.
J. B. K.
R. P.

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## No. 94.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 18.)

My Lord, *Lincoln's Inn, January* 18, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that, with reference to our Report of the 12th instant, on the subject of the case of the "Tornado," he was directed by your Lordship to state to us that Her Majesty's Consul at Cadiz has been called upon to explain whether, in speaking of the Decree of the Prize Court condemning the vessel he alluded to, any other proceeding than that recorded in the case of the "Sumario," of the case which was received from Sir John Crampton on the 11th instant, and the translation of which has only been now completed. A copy of this translation was also transmitted, together with a despatch since received from Consul Dunlop, reporting that the lawyers who have been consulted on behalf of the parties, are of opinion that the whole of the proceedings taken in the case are informal, and therefore invalid. That we should see by the further correspondence with Sir John Crampton, also inclosed, that the promise of the Spanish Minister for Foreign Affairs, in regard to the release of the crew not having been fulfilled, Sir J. Crampton was desired to ask an explanation, and press for their immediate release. That Sir J. Crampton reports that he has executed his instructions, and the answer of the Spanish Government on this point is now awaited. That Sir J. Crampton has been instructed to report specifically as to the grounds on which McPherson is detained.

Mr. Hammond was also pleased to inclose the previous papers which have been confidentially printed, and to state that your Lordship would be glad if we would take into our early consideration the new facts submitted to us, and report to your Lordship our opinion as to the course which, as matters stand, it would be proper for Her Majesty's Government to pursue.

In obedience to your Lordship's commands we have the honour to report—

That before we express our opinion upon the questions raised by the papers now before us, it seems expedient to state briefly the usual course of procedure in Courts which administer the law of prize. The proceedings in the Prize Courts of Great Britain and the United States of North America (agreeing substantially with those in France, and we believe also in Holland and Spain), are conducted in the following manner:—

The vessel is brought into port; all her papers are brought into the Prize Court, a certain number of her crew in England, usually three, are examined upon settled interrogatories by an officer of the Judge; when their depositions are completed the cause comes on for trial in open Court, the claimant and the captor being at liberty to apply to the Court for permission to introduce further proof.

But as the crew are of course, the claimant's witnesses, and the Court is reluctant to allow, for various reasons, captors an opportunity of introducing new matter into the case, in most cases the cause is decided after full argument by the Admiralty Court from whose decision there is an appeal to a higher Tribunal. The Spanish Prize Court in this case has not only examined the crew by a public functionary, or rather by a Court composed of public functionaries, but has also imported a great variety of *extrinsic evidence* (if it is to be so called) from newspapers, from diplomatic correspondence, public acts of the State, the conduct of other vessels, and various other sources; all this evidence has been produced behind the back of the claimants, and it is to be observed that it is wholly different in kind from the evidence afforded by the ship's papers, and the depositions of the crew. Moreover, on this kind of evidence so received the Court has proceeded to pass a sentence of condemnation without notice to the claimants and without hearing them.

These proceedings, followed by the sentence of condemnation, certainly afford good ground for serious complaint on the part of Her Majesty's Government, and moreover they appear to us to be inconsistent with the promises given from time to time, as we understood by the Spanish authorities, that no sentence should be pronounced without a full opportunity being afforded to the claimants for making their defence. A sentence pronounced without allowing the party affected by it to be heard, is necessarily null and void, being inconsistent both with natural justice and with the usage and practice of the Prize Courts of all civilized States. Nor does the offer of an appeal remove the original injustice.

If, indeed, the proceedings had been of a different character such as justice, international law, and the usage of States would have warranted, we are not prepared to say that there are not material facts stated in the Auditor's Report which might have supported the sentence.

Discarding from our notice all the evidence extrinsic to that which may be assumed to have been furnished by the ship's papers and crew, we are bound to say that from them arises a strong presumption that the "Tornado" was destined for the military service of the Chilean State with whom Spain is at war; and of course, if this should prove to be the case, both her seizure by the captor, and her due condemnation in a regular proceedure in a Prize Court, would be within the legitimate exercise of the rights of the Spanish belligerent.

As we have not before us at present the documents referred to in the Report of the Auditor, as having been found on board the vessel which constitute most material and legitimate evidence in the case, we are unable to pronounce a positive opinion; but the following facts and circumstances are, to say the least, extremely adverse to the contention of the claimants:

1. The ship's papers leaving in doubt the true ownership of the vessel; according to the register she belongs to persons of the name of Galbraith and Denny (page 83 *in fine*); according to the roll to a Mr. Isaac; according to the claim to Messrs. Isaac Campbell and Co.; and it appears that the captain deposed that she possibly still belongs to Galbraith and Denny.

2. The vessel appears, both by the evidence of the captain, and of competent skilled witnesses to be unquestionably and exclusively built for warlike purposes (page 90).

3. Her crew actually amounted to fifty-five persons, and sixty-six are enumerated on the roll (page 84).

4. The "Tornado" had on board for the use of the crew 200 hammocks and 150 mattresses (page 91).

5. She had no cargo but coal, an article *ancipitis usûs* which may or may not be contraband of war, according to the true destination of the vessel.

6. The circumstance of her departure from Madeira, and her attempt to escape from the Spanish vessel, her deviation from her proper course to the alleged port of her destination, Rio Janeiro, are also circumstances of suspicion of which it appears probable that proof has been furnished.

7. It appears also probable that after the capture, papers were surreptitiously destroyed by the captain of the "Tornado," a circumstance which our own Prize Courts has always treated as a very strong presumption of guilt.

But, lastly, there is a circumstance which at present appears to us to go very far towards warranting the condemnation of this vessel by a proper Court in which the proceedings are regularly conducted. She had on board her ostensibly as third mate, a person of the name of John McPherson who admits himself to have been the chief engineer of the Chilean Government and whom the documentary evidence shows to have been actively employed in obtaining the crew of this ship as well as in superintending the construction in England of privateers for the service of Chile. It appears that the name of this person was not noted in the log-book, in the book of accounts, or in the bill of health. It appears that in the roll the Commissary or Accountant of the "Tornado" was entered without his surname, but that he has owned himself to be William McPherson, the son of the aforesaid John, and also in the employ of the Chilean Government (page 84). The Auditor reports that it was deposed by the captain than John McPherson was specially recommended to him by the owners of the vessel in order that he might be provided with a place on board (page 94).

We do not now enter into further details, but looking to the precedents of the English Prize Courts and the principles which animated them, it must be admitted that, assuming these facts to be capable of due proof, there are strong presumptions of belligerent interest in this vessel and cargo. With respect to the crew, even if the ship should be proved to belong to the Chilean Government, we are unable at present to express a positive opinion whether the facts, if proved, are or are not sufficient to establish the right of Spain to consider them as persons engaged in the military service of the enemy, and to treat them as prisoners of war.

We are not aware whether it is the intention of the claimants to appeal, under protest or otherwise, but in order to prevent any proceedings whatever being taken under the alleged judgment, we think it would be expedient that Her Majesty's Representative at Madrid should be apprised, with the utmost promptitude, that Her Majesty's Government protest against the sentence by which the "Tornado" is decreed to be prize, and her officers and crew placed as prisoners of war at the disposal of the Captain-General of the Department as a nullity.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 95.

*The Law Officers of the Crown to Lord Stanley.—(Received January* 19.)

*Lincoln's Inn, January* 19, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that, with reference to our Report of the 10th instant, with reference to the case of the "Martlet" denounced by the Spanish Minister as destined to carry military stores to Chile, he was directed by your Lordship to transmit to us, together with the papers which we have already had before us, a further letter from the Spanish Minister, inclosing a copy of the articles of that ship, and a statement of a portion of her cargo consisting of military stores, and requesting that she may be prevented from putting to sea which it is expected she intends to do to-morrow.

Mr. Hammond was pleased to inclose a copy of Her Majesty's proclamation of neutrality in the war between Spain and Chile, and to request that we would take this matter into immediate consideration, and report to your Lordship whether sufficient grounds exist for interfering with the departure of the vessel.

In obedience to your Lordship's commands we have taken the matter into consideration, and have the honour to report—

That it appears from the Report of the Custom-house officers (Treasury, January 4, 1867), that the "Martlet" is a small vessel, barque-rigged; the information of the Spanish Minister renders it probable that she is carrying contraband of war to Chile. Her Majesty has warned by her Proclamation all her subjects that they will not be protected by her if they carry "articles considered or deemed to be contraband of war according to the law or modern usage of nations," for the use of either belligerent, and if the "Martlet" be engaged in this occupation she is liable to capture by the Spanish belligerent, and the contraband which she carries, and possibly also (but this depends upon circumstances) the ship herself, are liable to condemnation after a full and proper trial before a duly constituted prize tribunal of the belligerent.

But the "Martlet" not being equipped or fitted out, partially or entirely, as a vessel of war herself, is not liable to detention by Her Majesty's Government under the provisions of the Foreign Enlistment Act.

It is not alleged that any of her crew are engaged or enlisted in the service of Chile.

Her Majesty's Government, in these circumstances, cannot prevent the sailing of the "Martlet" on the ground that she probably has contraband merchandize on board of her.

We have, &c.
(Signed) ROBERT PHILLIMORE.
(And for Attorney- and Solicitor-General.)

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## No. 96.

*The Law Officers of the Crown to Lord Stanley.—(Received January* 21.)

*Lincoln's Inn, January* 21, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that, with reference to our Report of the 19th instant, on the subject of the "Martlet," he was directed by your Lordship to transmit to us a letter and its inclosures from the Treasury respecting that vessel; and to request that we would take these papers into consideration, and furnish your Lordship with our opinion on the suggestion put forward by the Solicitor to the Board of Customs, whether the vessel might not, on the grounds stated by him, be liable to detention under the 7th section of the Foreign Enlistment Act.

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In obedience to your Lordship's commands we have the honour to report—

That we have taken into consideration the letter from the Treasury and its inclosures, and are of opinion that the "Martlet" cannot, on the suggestion put forward by the Solicitor to the Board of Customs, upon the evidence already furnished or on any other ground, be liable to detention under the 7th section of the Foreign Enlistment Act.

The facts, as now disclosed, appear to be that the seamen (number not stated) have signed articles for Valparaiso; that Valparaiso probably is not, and that some other port on the west coast of South America (probably Panamá) is, her true destination; and that her cargo has been all shipped by one person, and consists of shot, shell, and guns, with a few packages usually shipped as stores.

Though these facts make it probable either that the shot, shell, and guns have been purchased by and belong to the Chilean Government, and have been shipped by the vendors or the Chilean Government for the purpose of being conveyed to the Chilean authorities, or that the British owners have shipped and consigned them to the west coast for the purpose of selling them, if possible, to the Chilean Government, yet they do not, in our opinion, afford sufficient legal ground for either of such conclusions.

If the munitions of war shipped belong to British owners, and are being shipped for the purpose of sale, we think it clear that it would not be held that the vessel had been equipped, furnished, or fitted out with intent or in order that she should be equipped in the service of Chile as a transport or store-ship within the meaning of the 7th section of the Foreign Enlistment Act. If, on the other hand, these munitions of war belong to Chile, and are being shipped for the use of the Government of Chile, and the ship in which they are laden is equipped, furnished, or fitted out with intent that she shall be employed in the service of that Government as a transport or store-ship, in connection with the war which is carried on with Spain, we think the vessel may be deemed to fall within the 7th section of the Foreign Enlistment Act, and be liable to condemnation, and if, as suggested by Mr. Dickins in his letter to Mr. Hamilton, legal proof can be obtained that the vessel is so employed, her detention may be justified. The detention having been commenced should, we think, be continued for the present, in order that it may be ascertained what further proof is forthcoming as to the character, destination, and employment of the vessel.

We have, &c.  
(Signed) ROBERT PHILLIMORE.  
(And for Attorney- and Solicitor-General.)

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## No. 97.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 23.)

*Lincoln's Inn, January* 22, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that, with reference to his letter of the 16th instant, in which the papers relating to the case of the "Tornado" were again referred to us, he was directed by your Lordship to transmit to us a further letter on the subject from Messrs. Isaac, Campbell, and Co., commenting on the sentence which has been pronounced by the Secret Naval Court before which this vessel was sent for adjudication, and to request that we would take this paper into consideration in connection with those already before us. Mr. Hammond was also pleased to add that since this letter was written our Report on the "Sumario" had been received, and he was pleased to inclose a copy of the instruction which your Lordship, in consequence, addressed to Sir J. Crampton.

We are also honoured with Mr. Hammond's letter of the 19th instant, transmitting further papers respecting this case.

In obedience to your Lordship's commands we have the honour to report—

That we think an answer should be sent to Messrs. Campbell to the following effect:—

That Her Majesty's Government have directed Her Majesty's Representative at Madrid to protest against the lawfulness of the sentence by which the "Tornado" has been condemned and her crew pronounced to be prisoners of war. Her Majesty's Government have taken this step both because they had been previously assured by the Spanish authorities that the proceedings which were being taken were a preliminary character only, and that the trial would follow upon them, when the claimant would be duly heard, and also because the sentence being pronounced behind the backs of the claimants, and without hearing them, must be considered as a nullity. At the same time, Her Majesty's Government are advised that the circumstances disclosed during the investigation are, after making every reasonable deduction, at present, and until explained, such as to render it highly probable that this vessel was destined for the military service of Chile, and was conveying officers in the Chilean naval service to Chile, and if this should turn out to be so, her condemnation by the proper Spanish Prize Court on due proof, would be a perfectly legitimate exercise of the rights of the belligerent.

If, in fact, the "Tornado" was a Chilean vessel of war, there would be strong ground for believing that Messrs. Campbell and Son have been guilty of an infringement of the Foreign Enlistment Act, and have neglected the warnings contained in Her Majesty's Proclamation of Neutrality.

That Her Majesty's Government have received intelligence, on which they believe they may rely, that the "Cyclone," a vessel of war (built apparently at the same time, by the same builders) which has escaped the Spanish cruizers, is now in the Chilean service, and that her captain received his secret instructions from Messrs. Campbell and Son.

If this be so, Messrs. Campbell and Co. appear to have infringed, in this case also, the Foreign Enlistment Act, and to have neglected the warning of the Proclamation.

Your Lordship will remark that Messrs. Campbell and Co. state their intention of taking no further step for the purpose of contesting the validity of the proceedings in the Spanish Courts, but that they look to your Lordship's Department for redress.

We think that, having regard to this statement, it should be pointed out to Messrs. Isaac, Campbell, and Co., that they must take such course as they may be advised in reference to their contesting or not contesting the condemnation in the Spanish Courts, but if it should turn out that they have infringed the Foreign Enlistment Act, and have disregarded the warnings of Her Majesty's Proclamation, they have forfeited their right or claim to insist on Her Majesty's protection or interference for redress.

We forbear from making any further observations upon this case until the result of the Protest be known.

We have, &c.  
(Signed) JOHN ROLT.  
JOHN B. KARSLAKE.  
ROBERT PHILLIMORE.

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## No. 98.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 27.)

*Lincoln's Inn, January* 25, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that, with reference to his letter of the 19th instant, he was directed by your Lordship to transmit to us a further despatch from Sir J. Crampton, inclosing a copy of the answer which he had received from General Calonge in reply to his application for the immediate release of the crew of the "Tornado," and to request that we would take this despatch into consideration, and report to your Lordship our opinion as to any instructions which should be sent to Sir J. Crampton on the General's answer.

We are also honoured with Mr. Hammond's letters of the 24th instant, transmitting a despatch from Mr. Consul Dunlop, inclosing a reply to, and protest against, the proceedings prepared by the Spanish lawyer and signed by the Captain of the "Tornado," and a letter from the Rev. J. Davidson, requesting the interference of Her Majesty's Government on behalf his brother Andrew Davidson, one of the crew of the "Tornado."

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That it does not appear to us that the letter of General Calonge requires any observations upon the law applicable to this case in addition to those which we had the honour to submit to your Lordship in our last Report; but we think it right to advert to the tone of General Calonge's letter. It will be seen that he asserts that the "Tornado" has been submitted to the judgment of a Tribunal, the competence and legality of which the British Cabinet cannot but recognise, and that he elsewhere speaks of the crew as now justly prisoners.

Her Majesty's Government will not, of course, recognise the competence or legality of the Tribunal which are seriously impugned in the protest presented on behalf of the ship and owner; and as to that part of the letter which refers to the Judgment pronounced by the Tribunal, and speaks of the crew as prisoners, we would refer your Lordship to our last Report, in which we contested the validity of the Judgment as affecting either the ship or crew, and expressed our opinion that such Judgment should be treated as a nullity. The assertion by General Calonge that there is no failure by the Spanish Government in the fulfilment of its promises would not we think be warranted by a reference to his former despatches.

In answer to Mr. Hammond's letter covering the protest presented to the Spanish Tribunal on behalf of the ship and crew, we beg to report that the protest is an able exposure of the irregularities and injustices which vitiate and avoid the alleged sentence of the Spanish Prize Court, and with which, for the most part, we agree; and having been presented, as we understand it has been, on behalf of the owners and captain of the "Tornado," we think it has been judiciously presented, and that in any subsequent communication from Her Majesty's Government to the owners, or from Her Majesty's Minister at Madrid, or Consul at Cadiz, it will be right to express satisfaction at the course the owners and Captain have in this respect taken. But we think it will not be expedient at present for Her Majesty's Government to make any reference to the protest in any communication with the Spanish Government, or to any of the points therein argued, or any other points than those referred to in our Report of the 18th instant, namely, the sentence against a British vessel and British subjects without a hearing, especially after an assurance to the contrary by the Spanish Minister.

What further course it may be right to take should the sentence be annulled is a question of much difficulty, and we prefer postponing our opinion on it until it is known what answer is given by the Spanish Government to the representations now made by Her Majesty's Government.

In answer to Mr. Hammond's letter of the 24th instant, inclosing a letter from the Rev. J. Davidson, we beg to report that we think Mr. Davidson should be informed that your Lordship is taking prompt measures for the release of all the prisoners. We may add that it will not in our opinion be advisable to make a special formal application under existing circumstances for the release of any one of the prisoners in particular.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.

I agree generally to this Report. But I think that in lieu of the words, "Your Lordship is taking prompt measures for the release of all the prisoners," the following sentence should be substituted: "Your Lordship has insisted on the release of all the prisoners who shall not have been duly proved to have been engaged in the military service of Chile."

(Signed) ROBERT PHILLIMORE.

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## No. 99.

*The Law Officers of the Crown to Lord Stanley.—(Received February* 6.)

*Lincoln's Inn, February* 6, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating that, with reference to our letter of the 18th ultimo, he was directed by your Lordship to transmit to us the accompanying further despatches from Her Majesty's Minister at Madrid, relative to the case of the "Tornado;" and to request that we would furnish your Lordship with our opinion thereupon.

We are also honoured with Mr. Egerton's letter of the 1st instant, transmitting the accompanying despatches from Her Majesty's Minister at Madrid, and from Her Majesty's Consul at Cadiz, which have been received at the Foreign Office respecting the case of the "Tornado."

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That this letter of General Calonge of the 21st of January does not meet the complaint made by Her Majesty's Government, which is that not merely an examination of witnesses, but a sentence, has taken place behind the backs of the parties accused, and against which they have had no opportunity of being heard.

In the second letter of General Calonge (22nd January), he states that "the case of the 'Tornado' is an affair between two parties, which is being followed up before a tribunal the competency of which the British Government has recognized, as it could do no less than recognize it, and as a sentence has been issued which is not definitive, and against which the condemned party may have recourse to the proper legal proceedings, it is the province of the condemned party to make use of those proceedings, if he shall think fit, within the term and in the manner prescribed by the Spanish law, to which law he is submitted."

These proceedings are here for the first time (as far as we are aware) described by the Spanish Government as proceedings which had been carried on against the "Tornado" by a private suitor, and not by the Spanish Government.

If by this it is intended to represent that the proceedings of the captors are to be treated as identical in character with the proceedings of mere private parties in a litigation, and that the Spanish Government have no other control over them than they would have over any private litigation, we dissent altogether from this representation.

The expression "the sentence is not definitive" appears to us to admit that a sentence has been pronounced, but that it is still subject to appeal. We have already pointed out in a former Report that the offer of an appeal against a sentence pronounced without affording a party interested the opportunity of being heard, does not, in our opinion, remove the injustice or nullity of the sentence.

It does not, however, appear necessary to us that your Lordship should make any reply to these letters until an answer has been received from the Spanish Government to the last despatch of your Lordship upon this subject.

In reference to Mr. Egerton's letter of the 1st February, it is right to observe that the explanation given by General Calonge in his letter of the 24th January of the reasons for refusing Mr. Dunlop access to the crew is not satisfactory, but on this point also it does not appear necessary to address the Spanish Government till the reply above referred to has been received.

Mr. Consul Dunlop's despatch to Her Majesty's Minister at Madrid of the 27th of January appears, however, to call for a prompt communication to Her Majesty's Minister. He states that there is reason to suppose that all the British subjects taken on board the "Tornado" will shortly be delivered over to Consul Dunlop, with a statement that they are released from their imprisonment, and pardoned by the Queen of Spain. If this should take place, we apprehend that the proper course of action will be for Consul Dunlop to receive them, but to do so without waiving the protest already made by Her Majesty's Government against the irregularity of the proceedings.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 100.

*The Law Officers of the Crown to Lord Stanley.—(Received February* 6.)

*Lincoln's Inn, February* 6, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th of February instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir John Crampton, inclosing the translation of the answer of the Spanish Government to the protest which he was directed to present against the proceedings in the case of the "Tornado;" and to request that we would take the same into our immediate consideration, and report to your Lordship at our earliest convenience our opinion as to the course now to be observed by Her Majesty's Government.

For convenience of reference Mr. Hammond was pleased to inclose the printed collection of previous papers.

We are also honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to

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us therewith a despatch from Sir John Crampton, requesting instructions as to the course which should be pursued by Her Majesty's Consul at Cadiz in the event of the crew of the "Tornado" being consigned to him; and to request that we would take the same into our immediate consideration, and report to your Lordship at our earliest convenience our opinion as to what those instructions should be.

In obedience to your Lordship's commands we have taken these matters into our consideration, and have the honour to report—

That the gravamen of the complaint contained in the letter of Sir J. Crampton to General Calonge of the 21st January last, viz., that the sentence of the Spanish Tribunal of the 15th December last was pronounced without allowing those affected by it to be heard, and that the offer of an appeal did not remove the original injustice, remains without any satisfactory explanation.

Our opinion that such a sentence is null and void is unaltered. The only attempt at explanation is that the sentence is not "definitive." It is clear that this only means that it is open to appeal. Unless appealed from, it is final and conclusive. By virtue of it the "Tornado" or its proceeds will be distributed amongst the Commander, officers, and crew of the capturing vessel, and the crew of the "Tornado" are already by the same sentence prisoners, and as General Calonge states (19th January, 1867), "now justly prisoners."

The injustice of such a sentence is aggravated if the fact be as stated in the protest of the Captain (page 121 of printed papers) that the tribunal which has passed sentence in the first instance is to constitute the Court of Appeal.

Nor does General Calonge in the despatch now before us give any answer to the complaint that the sentence of condemnation was inconsistent with the promises given from time to time by Her Catholic Majesty's Government otherwise than by saying that the sentence is not a sentence.

The observations of General Calonge as to the independence with which every State acts in establishing the forms of proceeding in Prize cases, and as to the Assessor not being a Judge, and his Report only a proceeding which may serve as a foundation for his opinion, and for the information of the Court, may all be conceded for argument's sake, and yet the sentence of condemnation would remain open to all the objections already urged against it.

But we remain of opinion that the mode of proceeding adopted by the Assessor, and the evidence received and acted on by him, and the detention of the crew for five months during the preliminary proceedings, are also open to the objections already urged, though they are not of the same flagrant character as that of pronouncing the sentence of condemnation without allowing the parties interested to be heard.

In answer to the concluding passage in General Calonge's letter, that the Spanish Government cannot recognize in any foreign Government the right to substitute itself for one of the parties in a legal suit during the course of the proceedings, we would observe that the proceedings are concluded by a sentence subject only to an appeal, and that that sentence condemns several of Her Majesty's subjects to the condition of prisoners of war, and that Her Majesty's right to interfere on their behalf if that sentence is not within the limits established by civilized people (to use General Calonge's own words) is undoubted.

It is probably not necessary for us to enlarge on the other statements and arguments in General Calonge's letter. If our views as to the irregularity of the procedure and the nullity of the sentence are right, those statements and arguments are immaterial, and the answer to them obvious.

But we desire to make an observation on that part of General Calonge's letter which relates to the mode of procedure in the Spanish Court. It is contended by General Calonge—

1. That this is analogous to that of France.

2. That it is a matter solely within the cognizance of the Spanish law, and that the State whose ship has been seized without the territory of Spain has no right of interference or remonstrance in the matter.

We demur to both these statements.

First. The process of English and French Prize Courts is not substantially or materially different. Neither the French nor any other Prize Court of a civilized State pronounces *sentence* (and this is the very gist of our complaint) without judicial investigation, and without giving the owners of the captured vessel an opportunity of being heard; nor, indeed, does General Calonge when his statement is examined prove this point, for an "instruction" and a "judgment" are quite distinct things; and the statement of General Calonge that the Queen of England disposes of prizes made by Her Majesty's ships, omits the material fact that this disposition takes place *after* the regular sentence of a properly-constituted Court.

Secondly. The Prize Court of the belligerent, though constituted by municipal law, is bound to adopt a course of procedure which is not inconsistent with international law. The neutral State consents that the ship of his subject may be seized upon the high seas upon the faith and understanding that international and not municipal law shall be administered in the Prize Court—above all, upon the faith that the requirements of natural justice (which is the foundation of international law) shall be observed, and that neither a delay which is tantamount to wrong, nor a sentence pronounced in the compulsory absence of the parties interested, shall defeat the ends of that justice.

It remains for your Lordship's consideration what course should now be taken. If the Spanish Government had offered to annul the sentence, and to start either with or without the Report of the Assessor upon a new or open trial, regularly conducted before a competent tribunal, a question of some difficulty would have arisen. But it appears to us in existing circumstances, that if the Spanish Government adhere to the conclusion announced in the letter of General Calonge, nothing remains to be done but to insist on the nullity of this sentence which has been passed, the delivery up of the ship, and the release of the prisoners, as a necessary consequence of that nullity.

Whether in the particular circumstances compensation shall be hereafter demanded will be a matter for future consideration.

In answer to Mr. Hammond's second covering letter of the 4th, we have to report that the despatch of Consul Dunlop of the 27th January to Sir J. Crampton had already been forwarded to us with Mr. Hammond's letter of the 1st February, and that we had observed thereon in our Report of this day's date.

In addition we have only to say that the instruction to Mr. Dunlop contained in Sir J. Crampton's letter of the 30th of January to that gentleman appears to us to have been right; and we would further observe, that we think that whatever course the Spanish Government may take in delivering up the crew of the "Tornado," the Consul should only receive them as British subjects, and disclaim any power to waive the protest already delivered against the legality of the proceedings, whereby the vessel was declared void, and the crew prisoners of war.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 101.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 8.)

*Lincoln's Inn, February* 8, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us a draft of the answer which your Lordship proposes to return to Sir J. Crampton's despatch No. 37, inclosing the reply of the Spanish Government to the protest made by Her Majesty's Government as to the proceedings in the case of the "Tornado," which despatch was referred to us on the 4th instant, and Mr. Hammond was pleased to request that we would furnish your Lordship with our opinion whether the proposed instruction is right and proper.

In obedience to your Lordship's commands we have taken this case into consideration, and have the honour to report—

That we are of opinion that the proposed despatch is right and proper to be sent. We have suggested a few alterations which we have written in the margin of the despatch, and which we submit to your Lordship's consideration.

We have, &c.
(Signed) JOHN ROLT.
ROBERT PHILLIMORE.

P.S.—The Attorney-General and Queen's Advocate during the necessary absence of the Solicitor-General from London, have thought it expedient, as the matter was urgent, to send in the Report signed by themselves only.

## No. 102.

*The Queen's Advocate to Lord Stanley.—(Received February* 12.)

*Doctors' Commons, February* 11, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that with reference to my Report of the 4th of May last, relative to the refusal of the authorities at Bilbao to allow the burial in the British cemetery of a child of British parents of the Protestant religion, but which has been baptized by a Spanish priest, he was directed by your Lordship to transmit to me a despatch from Her Majesty's Minister at Madrid, inclosing a copy of the reply which he has received to the representation which he has been directed to address on the subject to the Spanish Government; and Mr. Hammond was to request that I would take this case into consideration, and report to your Lordship my opinion as to any further instructions which should be addressed to Sir J. Crampton thereon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That as far as I am able to understand the answer of General Calonge, it is to this effect: not that the plain language of the Treaty is not violated in the present instance, but that England persecuted Roman Catholics at the time when the Treaty was made, and therefore Protestants only could have been interested in the stipulation, and that Roman Catholic British subjects had a right to be buried in Spanish burial-grounds; and that Her Majesty's Government are now seeking to deprive them of that right; and, moreover, that the Treaty, thus interpreted according to its plain meaning, would be contrary to the ecclesiastical law of Spain.

It is obvious that here is no answer to the demand of Her Majesty's Minister. The Treaty refers to all Her Majesty's subjects, and has no reference whatever to their religious faith; it cannot be justly violated by alleging that it is contrary to the ecclesiastical laws of Spain; those laws may perhaps forbid the exercise of any religious rite whatever by the Minister of any Church but Rome, but such exercise is accorded by all Roman Catholic States, under limitations, to the subjects of other States. The further answer that the Spanish Government is maintaining the right of the British subject against the British Government, is simply to assert that the Roman Catholic priest, and not the parents of the child, have a right to dispose of the body of the child—perhaps as strong an instance of religious persecution as any exercise by Great Britain in 1667. The objection urged from the legitimate consequences of the claim of the Spanish priest is not touched, namely, that, according to this claim, a child baptised without the consent of the parent, or after its legitimate baptism by an English priest, would become (so to speak) equally the property of the Roman Church.

It is of course for your Lordship to decide whether the matter should be pressed further, but I venture to suggest that Sir J. Crampton should be instructed to reply that Her Majesty's Government find no answer whatever to their remonstrances in the letter of the Spanish Minister. That neither the plain language of the Treaty, nor the usage of international comity, nor the natural rights of parents over the bodies of their children ought to be set aside, in order to satisfy the unjust demands of the Spanish Church over foreign subjects. And perhaps it would be well to add, that the Spanish Minister's argument would deprive him of any ground of complaint if, either in England or in any of Her Majesty's Colonies, the English priest should insist that all Spanish Roman Catholic subjects dying in his parish, be buried in his churchyard according to the rights of his church.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 103.

*The Law Officers of the Crown to Lord Stanley.—(Received February* 28.)

*Lincoln's Inn, February* 28, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us the inclosed despatches from Sir John Crampton respecting the case of the

"Tornado," of which that marked No. 48 contains the answer of the Spanish Government to the demand which he was instructed to make for the release of the crew, and Nos. 49 and 50, with Consul Dunlop's telegram Report of the release of the greater portion of the crew.

Mr. Hammond also inclosed a translation of the papers referred to in Sir J. Crampton's despatch No. 27 of the 25th ultimo, which we had not before had before us, among which he stated we should find the opinion of the Spanish lawyers on the proceedings; and in the same collection we should find, at page 19, the reply of the Court of Cadiz to the protest made by the captain of that vessel on the 14th January.

And, lastly, Mr. Hammond also inclosed a letter from Messrs. Isaac, Campbell, and Co., controverting the conclusions drawn from the "Sumario," as set forth in your Lordship's despatch No. 10, Confidential, of the 19th ultimo, and requesting that their letter may be presented to Parliament.

And Mr. Hammond was to request that we would take these several papers into our consideration, and furnish your Lordship with our opinion, as well in regard to the further instructions to be addressed in the present state of the case to Sir J. Crampton, as in regard to any reply which should be made to Messrs. Isaac, Campbell, and Co.'s letter previously to its being presented to Parliament, which the parties had been informed would be done in due course.

Mr. Hammond was also pleased to inclose a copy of the papers on the case of the "Tornado," which have already been presented to Parliament.

We are also honoured with Mr. Hammond's letter of the 22nd instant, transmitting to us the accompanying despatch from Her Majesty's Minister at Madrid (No. 52, February 17), inclosing the reply of the Spanish Government to the note which he was instructed to address to them, maintaining the protest of Her Majesty's Government against the proceedings of the Prize Court at Cadiz in the case of the "Tornado," and requesting our consideration thereof.

In obedience to your Lordship's commands we have considered these papers, and have the honour to report—

That in reference to the several subjects mentioned in Mr. Hammond's letter of the 19th instant, we think further instructions should be addressed to Sir J. Crampton to the following effect:—

That while Her Majesty's Government are glad to learn that the greater part of the crew of the "Tornado" have been at length set at liberty, they must require the Spanish Government, without delay, to liberate the seven officers and one seaman who appear to be still, for some reason unknown to Her Majesty's Government, improperly detained as prisoners;

That Her Majesty's Government have to observe that, inasmuch as the so-called sentence decreed that the crew of the "Tornado" were to be delivered over as prisoners of war to the Spanish authorities, and as they have since been set at liberty, it is impossible any longer to maintain that the "Sumario" was not the formal sentence of a Court, but a mere preliminary investigation;

That Her Majesty's Government must again urgently press upon the Spanish Government that, as all the proceedings before the Court were null and void, for the reasons which Sir J. Crampton has been before instructed to state, the release of the ship and cargo unlawfully detained by the Spanish authorities in consequence of the so-called sentence of that Court, ought to be no longer delayed.

We have not thought it necessary to discuss the other subjects—some of importance—referred to in the opinions of the Spanish lawyers, and in the other papers which accompanied the first letter from Mr. Hammond.

That with respect to Messrs. Isaac, Campbell, and Co., we think it would be expedient that an answer should be sent them, calling their attention to the fact that on the 23rd January a letter was addressed to them by Mr. Hammond, stating "that Her Majesty's Government were advised that the circumstances disclosed during the investigation were, after making every reasonable deduction, ~~at~~ present, and until explained, such as to render it highly probable that the vessel was destined for the military service of Chile, and was conveying officers in the Chilean naval service to Chile; and if this should turn out to be so, her condemnation by the Spanish Prize Court, on due proof, would be legitimate exercise of the rights of the belligerent;" and that no explanation of these circumstances was offered by Messrs. Campbell and Co. (though there was a general denial in their letter of the 24th January, 1867),* till their letter of the 15th February, now under discussion.

We have also to observe that we understand your Lordship in the despatch No. 91

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* Printed Correspondence, page 126, No. 106.

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addressed to Sir J. Crampton, pointed out for his guidance that some of the conclusions arrived at in the "Sumario," if established, might most properly be taken into consideration in determining the question whether the "Tornado" might or might not be liable to be condemned as lawful prize by a properly-constituted Court; and without discussing whether the statements of Messrs. Isaac, Campbell, and Co., in their letter of the 15th February, 1867, if duly established, furnish an answer or contradiction to the conclusions arrived at in the "Sumario," to which the despatch No. 91 specially refers, we remain of opinion that if those conclusions were legally established, they would be extremely important and cogent in determining the true character of the vessel seized.

And we are of opinion that it should be stated that the intervention of your Lordship on behalf of the owner of the "Tornado" with the Spanish Government, had been, and must, in the circumstances, continue to be exclusively founded upon the injustice and illegality of the proceedings which, whatever may be the real merits of the case, have been adopted by the Spanish authorities in the prosecution of their claim against the "Tornado."

The claim for indemnity made by Sir J. Crampton in his letter of the 11th of February, pursuant to your Lordship's instruction in your Lordship's despatch of the 8th February, ought not, we think, to be abandoned, but should not at present be further pressed.

We have also taken into consideration the letter of the 16th February of General Calonge to Sir J. Crampton, which has reached us while the papers accompanying Mr. Hammond's letter of the 19th instant were under our notice. It is of much importance, and assists to reduce the issues between the two Governments to definite points.

We agree that publicists have not laid down any positive forms of procedure for prize cases, but it is inaccurate to say, as General Calonge does, that when Treaties are found wanting, as most frequently happens in prize cases, the national law of the captor is applied.

The law then to be applied must, as General Calonge immediately afterwards admits, be based on principles universally admitted; and the law then assumes the character of public law, not the less because these principles may also happen to be in harmony with the national law of the captor.

The vital objections hitherto urged against the sentence have been founded on the procedure, more especially the delay in bringing the preliminary examination to a close, and the pronouncing a sentence of condemnation without hearing the parties.

To these main issues the answer of General Calonge as to the delay is, that it is immaterial, because, as his Government recognize their liability to indemnify the captured parties for losses which may have been unjustly caused, the investigation cannot be considered prejudicial because (as we understand his argument) if guilt is proved, no injustice will be done, and if innocence, there will be indemnification.

This argument cannot for one moment be accepted as an excuse for unjust delay. It might serve, if once admitted, as a foundation for the grossest injustice, and condemns itself.

With regard to the sentence of condemnation, without hearing the parties, the struggle now is evidently to prove that the sentence is not a definitive sentence, and works no prejudice, and is, in fact, the commencement of the *litis contestatio*.

The arguments are—

1. The sentence is only the expression of the result of the "Sumario," which is founded on the ship's papers, and in the examination of the captured parties themselves.
2. This examination is equivalent to a hearing.
3. That there is no *litis contestatio* till the sentence.

And lastly, that there is no prejudice from the *lis* beginning in the form of an appeal.

The second and third of these points are inconsistent with each other, but the objections to the whole of them have been so repeatedly urged by us that we think it unnecessary to repeat them. Though the form of procedure in prize cases justifies a preliminary examination, it does not sanction such a proceeding as that of the Spanish Government in the present case, or except it from the character already given it in your Lordship's previous despatches, as being in violation of natural justice.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 104.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March 2.*)

*Lincoln's Inn, March* 2, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th ultimo, stating that, with reference to previous correspondence on the case of the "Tornado," he was directed by your Lordship to transmit to us therewith a despatch from Sir John Crampton (No. 58), inclosing a copy of a letter which had been addressed to him by the master of the vessel, complaining of the conduct of the Spanish authorities at Cadiz in preventing the publication in a local paper of an article which he had written for the purpose of setting right certain statements publicly made respecting the trial of the "Tornado;" and to request that we would take this paper into our consideration, and favour your Lordship with our opinion as to the nature of any instructions to be given to Sir John Crampton thereupon.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That if, as we assume, the laws regulating the press in Spain allow the Government or any of its officials to control the press, and to direct the exclusion of particular articles or communications, and if, as we also assume, such a direction has been given in reference to the communication of Captain Collier to the "Peninsular" newspaper, we think that Sir John Crampton might be properly instructed to state to Captain Collier that, while Her Majesty's Government regrets that incorrect and prejudicial statements should be allowed to be circulated in the public prints with reference to the "Tornado" and her master, and that any explanation or refutation of such statements should be excluded from the journals, as Captain Collier states, by order of the authorities, Captain Collier has no ground for appealing to Her Majesty's Government for assistance in the matter, and we think that Sir John Crampton should be directed not to interfere.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 105.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March 2.*)

*Lincoln's Inn, March* 2, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that, with reference to the case of the "Tornado," he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul at Cadiz (No. 15), inclosing a letter addressed to him by the liberated forty-nine men of the "Tornado," and also communications he has received from the eight men still in custody, the object of the former being to obtain compensation, that of the latter to obtain their release.

That Sir J. Crampton has been instructed to report the grounds on which the seven officers and one seaman are still detained as prisoners; and Mr. Hammond was to request that we would report to your Lordship our opinion as to any steps which should be now taken with reference to them.

We are also honoured with Mr. Hrmmond's letter of the 28th ultimo, transmitting a copy of a telegram received from Sir J. Crampton :—"Madrid, February 27th. The Spanish Minister for Foreign Affairs informs me that seven officers and one seaman of the 'Tornado' are detained by the Prize Court as witnesses for the accusation; the remainder of the crew were liberated because the defendants abandoned their right of retaining any of them as witnesses on their side."

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion, as stated in our Report of the 28th ultimo, that the immediate liberation of the seven officers and one seaman should be required. The reasons assigned in the telegram for their detention makes this requisition, in our opinion, not less imperative than before.

The idea of detaining them as prisoners under the sentence appears from the telegram to be now abandoned, and the proposition that they should, after six

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months' detention, the lengthened examinations they appear to have been subjected to, and the decree that the crew were prisoners be further detained as witnesses, made, as it appears to us, for a particular purpose, ought not to be entertained by Her Majesty's Government.

The statement made by General Calonge that part of the crew still detained are kept as witnesses, and that the remainder of the crew are liberated because the defendants abandoned their right of retaining them as witnesses on their side, cannot, we think, be accepted as truly representing the state of the case. This appears to be a statement made to justify if possible the contention of the General, that the "Sumario" was not a sentence, but a mere preliminary act or proceeding. There has been nothing before us to show that the release of the crew was conceded on the grounds stated by General Calonge.

The application for indemnity for the seamen is one of serious importance, but we think the question cannot be satisfactorily disposed of till the course to be finally taken by the Spanish Government in reference both to the remaining prisoners, and the ship is known, and we think that an intimation to this effect ought to be sent to the applicants.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 106.

*The Law Officers of the Crown to Lord Stanley.—(Received March 8.)*

*Lincoln's Inn, March* 8, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th of February last, stating that he was directed by your Lordship to acquaint us that, before sending instructions to Sir John Crampton on the case of the "Tornado," founded on our Report of the 28th ultimo, your Lordship would be glad to receive from us some further explanations as to the course which we recommend, and the grounds of our recommendation.

Mr. Hammond was also pleased to state that, as regards the communication to be addressed to the Spanish Government demanding the immediate liberation of the seven officers and one seaman still detained as prisoners, we shall have seen by his letter of that morning that the grounds on which those persons are still detained are, that they are required as witnesses for the prosecution in the further proceedings in the case.

That, as regards the ship, your Lordship is not sure whether you rightly understand us to report that Sir John Crampton should be instructed to demand its immediate release, not on the merits of the case, but merely on the ground that the sentence appended to the "Sumario" was defective, and therefore null and void, and that, consequently, the parties are not called upon to appeal against it, and to endeavour to quash it in due course of law, nor the Spanish Government at liberty to continue to proceed against the vessel, either as supporting the original sentence or by adopting a new course altogether. That, in point of fact, the original proceedings were so defective in form, and so inconsistent with justice and international right, that Her Majesty's Government are entitled to claim that the ship shall be immediately set free, and, if their claim is not admitted, take measures to enforce it.

That the consequences possibly involved in making such a demand as we suggest, are so serious, that your Lordship would wish to be assured that you clearly understand our opinion.

That your Lordship finds it more necessary to do so, because we say further in our Report that we remain of opinion that if the conclusions arrived at in the "Sumario"—and as yet they have not been set aside—were legally established, they would be extremely important and cogent in determining the true character of the vessel seized; and your Lordship wished to understand distinctly whether the illegality and injustice of the proceedings hitherto taken in the case would justify Her Majesty's Government in enforcing a demand for the liberation of the vessel, wholly irrespective of the merits of the case.

That if so, your Lordship would be glad also to be informed on what ground we recommend that the demand made by Sir John Crampton, not indeed by instruction

from the Foreign Office, but under a misconception of the terms of the instruction of the 8th of February, should not at present be further pressed.

That if the release of the vessel is now to be demanded at all hazards, irrespective of the merits of the case, it may be doubted whether it would be necessary to notice, as we propose, the arguments in General Calonge's letter of the 16th of February, at all events in support of that demand, though they might properly be contested hereafter, if on the release of the vessel, if conceded, Her Majesty's Government should be advised by us to claim compensation for the owners.

Mr. Hammond was also pleased to state that your Lordship was also in some doubt as to the answer which should be returned to the owners. That if Her Majesty's Government demand the release of the vessel, it would seem useless to prosecute a controversy with the owners as to whether there were any grounds for proceeding against her; and it would seem unadvisable to state to them that Her Majesty's Government were continuing to argue the case on the ground of the injustice and illegality of the proceedings, when Sir John Crampton was instructed to cease from argument, but to insist on his demand for the absolute, immediate, and unconditional release of the ship.

We are also honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd of March instant, stating that, with reference to the case of the "Tornado" now before us, he was directed by your Lordship to call our attention to the passages marked in the inclosed "Official Gazette" of Chile," which, though published on the 4th of October, was only received at the Foreign Office by the last mail.

That the translation of the first passage is as follows: "Three more vessels are to arrive in order to take our flag. Two of them superior to those which have been hitherto acquired."

That the translation of the second passage is as follows: "Vessels acquired by Chile. Telegraphic despatches. Valparaiso, September 27, 1866. Among the passengers brought by the steamer 'Santiago,' together with Don Ambrosio Rodriguez, came the officers Simpson, Fuentes, Castillo, and Guerrero. It appears that the 'Cyclone' will arrive in due course, and it is supposed beyond doubt that the 'Pampero' will arrive in like manner, seeing that she had no orders to approach ('pasar a') the Spanish coast, and consequently will have incurred no risk of being captured."

Mr. Hammond was at the same time to inclose to us a copy of a telegram sent yesterday to Sir John Crampton, desiring him to report on the present state of the proceedings in the case of the "Tornado," and he was also to inclose translated extracts of other Chilean newspapers relating to these two vessels.

Mr. Hammond was further pleased to state that to these papers he was to add a despatch received this morning from Sir John Crampton, reporting his conversation with General Calonge and Señor Retortillo on the subject of the continued detention of the officers and one seaman of the "Tornado."

We are also honoured with Mr. Hammond's letter of the 4th of March, stating that he was directed by your Lordship to transmit to us therewith, with reference to his letter of yesterday, a copy of a telegram received that morning from Sir John Crampton, giving an account of the present state of proceedings in the case of the "Tornado."

In obedience to your Lordship's commands we have taken this case into our consideration, and have the honour to report—

That in reference to that part of Mr. Hammond's letter of the 28th February, in which we are desired to give further explanations as to the course which we recommended and the grounds of our recommendation, we beg leave to state:—

That in advising on this case we have always assumed that the sentence pronounced against the ship upon the "Sumario" operated as a sentence of condemnation of the vessel, and that, as regarded the crew, the sentence declared them to be prisoners of war, and that such sentence was final if not appealed against.

Such seems to us to be the obvious effect of the sentence (see the sentence itself, p. 92, of Blue Book), and such, so far as we can construe it by its language, appears to be its meaning, notwithstanding the constant endeavours of General Calonge to interpret it as a mere preliminary proceeding, and one of no effect, unless a definitive sentence is pronounced hereafter.

This being our view, we had to consider whether such a sentence was or was not valid, and, if invalid, what course should be adopted.

We judged it to be invalid, mainly, because the vessel was condemned, and the crew declared prisoners of war, without any hearing having taken place on behalf of

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owners or crew. In our opinion a sentence so pronounced was null and void, as being contrary to natural justice and international law. It followed, in our opinion, that British subjects and others on board what was *primâ facie* a British ship were illegally detained as prisoners under a void sentence, and on this ground we advised a protest against the judgment, and a demand for delivery up of the crew.

We also advised that the restoration of the vessel should be demanded. When captured she was, apparently at least, a British vessel, owned by British subjects, and sailing under a British flag. She remained the property of those British subjects, unless the property was changed by a legal sentence.

The only sentence was, in our opinion, an illegal one, and void; and it followed, in our judgment, that it should be treated as no sentence, and that the vessel should be demanded. In this view of the case we did not deem it necessary to consider, nor had we the means of forming any safe opinion, whether, if valid proceedings had been adopted, and the vessel duly declared prize, there was evidence sufficient to warrant her condemnation.

If the sentence be, as we think it was, void, we do not think it can be made valid by subsequent confirmation. Indeed, as we understood, no confirmation would be needed, unless the owners chose to appeal.

On these premises our advice has been given, and we still think that our conclusions were correct, and that, as matter of right, Her Majesty's Government might interfere to demand restoration of the ship, as well as of the crew, detained under a void sentence.

Whether it would be proper to insist upon this right, and whether it should be insisted upon at this moment, are questions of discretion for Her Majesty's Government. On these questions we beg leave to offer the following remarks:—

The recent telegrams as to the state of proceedings contain new and important information.

If the proceedings already taken in the Spanish Law Courts had been taken under a mistake which might be rectified, and which it was intended to rectify in proceedings taken *de novo*, it would, in our judgment, be too much to say that Her Majesty's Government should altogether deny the competence of the proper Spanish Tribunal to investigate, with due observance of law and practice, the character of the vessel, even though the delay has been excessive.

Hitherto, and until the last papers sent to us, we were not aware that *two appeals* were actually pending against the legality and competency of the Court by which the existing sentence has been pronounced, and that the Spanish authorities (if the Court be held incompetent and without jurisdiction) intend to commence new proceedings or treat the affair administratively.

The detention of the remainder of the crew is now justified (telegram March 3, 1867), and the right to detain them re-asserted.

It is stated in the telegram that "the detention of part of the crew is grounded on the requirements of the captors of their evidence as witnesses, either in case the Prize Court is declared competent and the proceedings already had by it carried on to their term, or else in case the Prize Court is declared incompetent, and the affair is entered upon *de novo*, and treated administratively, or tried by other proceedings."

We think that, after the long detention of the crew that has already taken place, the right to keep any members of it should not be conceded. Even if the Spanish Government, as they now allege, are detaining certain of the crew, because their evidence may be wanted, we think that their release should still be insisted upon. The claim so to detain them might lead to their detention for an indefinite period. Our opinion has, however, already been expressed that the crew are really detained as prisoners of war under the sentence, which in the same telegram it is said, "the Spanish Government do not consider definitive," but it appears to us to be conclusive unless appealed against.

Following up the view already expressed as to the nullity of the sentence, we still think that the restoration of the vessel *might* be insisted upon. But, having regard to the statement that two appeals are pending, and to what is also stated as to the intention of taking proceedings *de novo* in the event of the incompetence of the Court being declared, it may deemed right, as matter of policy and discretion (while still insisting on the protest), to delay at present the claim for the return of the ship. The difficulty, however, of insisting on this will certainly be materially increased if the tribunal of appeal should hold that the First Court was competent, and has acted within the scope of its jurisdiction. The grave doubt that exists as to the true character and destination of the vessel (increased by some of the additional papers now sent us), will, however, probably determine your Lordship's course, and induce your Lordship not to insist on the restoration of the ship at this stage.

With respect to the answer which we advised your Lordship to send to the letter of Messrs. Isaac, Campbell, and Co., we have to state that your Lordship was pleased to ask what reply should be sent to their letter of the 15th of February, in which they complained of the despatch No. 91 (page 104, Blue Book) addressed by your Lordship to Sir John Crampton on the 19th January, 1867, and attempted to explain some of the matters adverted to by your Lordship in that despatch, which, as stated by your Lordship, might be extremely adverse to the claimants.

We thought that, in replying to that letter, your Lordship might properly advert to the previous correspondence with the owners to which we referred, and add that, without discussing the question whether the statements of Messrs. Isaac, Campbell, and Co., if established, answered or contradicted the conclusions arrived at in the "Sumario" to which special reference was made, those conclusions, if well founded, would be extremely important and cogent in determining the true character of the vessel; but that the intervention of Her Majesty's Government was exclusively founded upon the injustice and illegality of the proceedings which, whatever might be the real merits of the case, had been adopted by the Spanish authorities in the prosecution of their claim against the "Tornado."

We still think that this would be a proper reply to the letter of the 15th of February.

The writers appear to complain of your Lordship having taken a view hostile to them, on the merits of the case, and to urge that they were entitled to be treated as perfectly innocent owners of the vessel. The answer which we suggested was in conformity with Mr. Hammond's letter of the 23rd January, 1867 (No. 99), and was intended to apprise Messrs. Isaac, Campbell, and Co. that your Lordship was not discussing the merits of the case, and that the protest made by your Lordship was against the lawfulness of the sentence which had been pronounced without hearing the parties interested.

It seems to us that the true ground on which the protest was made should, under the circumstances, be again brought prominently to the notice of Messrs. Isaac, Campbell, and Co.

We do not think that it will be found, as suggested by Mr. Hammond in his letter of the 28th February, that we proposed that the arguments of General Calonge's letter of the 16th February should be noticed or replied to by a despatch embodying the comments made by us on those arguments. General Calonge's letter, however, having been sent to us, and views upon it requested, we thought it right to point out what we conceived to be the fallacies of the General's arguments contained in that despatch.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 107.

*The Solicitor-General to Mr. Hammond.—(Received March 12.)*

*House of Commons, March* 11, 1867.

Dear Sir,

THESE letters have been perused by the Law Officers, and subject to certain alterations shown by marginal notes and brackets, and which we suggest for consideration, have been approved of by them.

As time presses I have sent the letters in this evening, and a formal report shall be presented to-morrow.

Very faithfully yours,
(Signed) JOHN B. KARSLAKE.

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## No. 108.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 14.)

*Lincoln's Inn, March* 13, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us, for any observations we may have to offer thereupon, the accompanying despatch from Her Majesty's Consul at Cadiz, inclosing a letter addressed to your Lordship by Mr. Mc Pherson, third mate of the "Tornado," disclaiming that he is a man of consequence in the Chilean service, and stating his reasons for having embarked on board that vessel.

In obedience to your Lordship's commands we have the honour to report—

That the letter of Mr. Mc Pherson scarcely calls for any reply beyond an acknowledgment of its receipt, but there can be no objection to informing him that Her Majesty's Government cannot express any opinion upon, or discuss the several statements contained in, his letter; but Her Majesty's Government have insisted on his liberation and that of the rest of the crew.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 109.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 18.)

*Lincoln's Inn, March* 18, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit to us the following telegram received this morning from Her Majesty's Minister at Madrid:—"As stated in my telegram of yesterday, six of the crew of the 'Tornado' have been released, consequently everybody belonging to that vessel are now free except Captain Collier and McPherson, who are detained prisoners on parole, I presume as being liable to be proved Chilean officers, and consequently prisoners of war." And Mr. Hammond was to request that we would report our opinion, at our earliest convenience, on the facts disclosed in the telegram.

In obedience to your Lordship's commands, we have the honour to report—

That we are of opinion that the further detention of Captain Collier and of McPherson is unwarranted, and that their immediate liberation should be insisted on.

This opinion is founded, as we have frequently stated, on the nullity of the sentence pronounced against them. Nothing, therefore, turns on the merits of the case as against any of the prisoners, and we think the liberation of all should be equally insisted on. The telegram presents no new fact, and our opinion as stated in former Reports remains unaltered.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 110.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 21.)

*Lincoln's Inn, March* 21, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed to transmit to us the accompanying further letter, dated the 14th instant, from Messrs. Saul Isaac, Campbell and Co., on the case of the "Tornado," in reply to a letter which was addressed to them, founded on our Report of the 12th instant, and Mr. Hammond was pleased to request that we would report to your Lordship our opinion as to the answer which should be returned to this letter. A copy of a letter, which by your Lordship's direction, has been addressed in the meanwhile to them, and Part No. 2 of the Printed Papers in the case of the "Tornado," which have been laid before Parliament was also inclosed.

In obedience to your Lordship's commands, we have the honour to report—

That having perused the letter already sent by Mr. Hammond to Messrs. Isaac, Campbell and Co., we think that an answer should be sent to those gentlemen to the following effect:—That the passage in the letter of these gentlemen with reference to the supposed opinion of the Law Officers, namely, that the refutation by Messrs. Isaac, Campbell and Co., of what they term "the unwarranted and *ex parte* allegations contained in the Cadiz Sumario, must have been found complete and conclusive," is wholly inaccurate and unfounded.

That your Lordship is advised, and concurs in the advice, that a satisfactory conclusion cannot be arrived at as to the merits of this case upon any statements or documents which are now before your Lordship, and that it was upon this ground that these gentlemen were informed in the letter of the 12th March, that while the protest for the reasons pointed out had been, and still is, maintained, Her Majesty's Government had entirely refrained from discussing the merits of the case with the Spanish Government. That for the same reasons your Lordship must continue to decline to express any opinion whether this vessel was, or was not, liable to be captured on the high seas by a Spanish man-of-war, and condemned by a Prize Court, in a regular course of procedure. Your Lordship might add, that in the present state of things it would be premature for your Lordship to come to any decision, whether, regard being had to all the circumstances of this case, any demand for compensation or redress, should, or should not, be made to the Spanish Government.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 111.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 28.)

*Lincoln's Inn, March* 28, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th March instant, stating that he was directed by your Lordship to acquaint us that Mr. Gregory, the member for the county of Galway, had given notice of his intention to ask your Lordship this day, "if it is the intention of Her Majesty's Government to bring to justice the owners of the 'Cyclone' for their violation of the Foreign Enlistment Act;" and to request that we would report immediately to your Lordship our opinion as to the answer which you should make.

Mr. Hammond was pleased to add, that with reference to this question it might be convenient, to us, to be referred to the passages marked at pages 103 and 121 of the Ist Part of the "Tornado" papers.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that your Lordship's answer should be to the effect that Her Majesty's Government has not at the present time evidence which will justify them to take proceedings against the owners of the "Cyclone" for a violation of the Foreign Enlistment Act. The information which Her Majesty's Government have received is derived chiefly from statements made by Commodore Powels to the Secretary of the Admiralty, dated 3rd December, 1866, and from paragraphs contained in certain Chilean newspapers; and though these statements, if capable of due corroboration by evidence, would appear to implicate Messrs. Isaac, Campbell and Co. in the commission of an offence against the Foreign Enlistment Act, they do not constitute proof which would warrant Her Majesty's Government in instituting any proceedings at present against these gentlemen under the statute.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

## No. 112.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 10 )

*Lincoln's Inn, April* 10, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us with reference to his letter of the 8th instant, copies of correspondence which passed last year between the Foreign Office and the Spanish Legation in London, by which we should perceive that the "Victoria" and "Arapiles" have been acknowledged as being building for the Spanish Government. That your Lordship apprehends that this acknowledgment, coupled with the continued existence of a state of war between Spain on the one part, and Chile and Peru on the other, in which her Majesty is neutral, is of itself sufficient to justify Her Majesty's Government in preventing the vessels from leaving this country, an instruction to which effect has been given to the Commissioners of Customs. That if we should be of opinion that some further and more specific information is required, Mr. Hammond was to request that we would acquaint your Lordship without delay what that information should go to establish.

In obedience to your Lordship's commands, we have the honour to report—

That we infer from the letters of the Spanish Minister to Lord Clarendon of January 23rd and February 3rd, 1866 (though we have not Lord Clarendon's letter referred to in the latter), that these ships have in fact been built with the knowledge, and with the acquiescence of Her Majesty's Government, during the time that a state of war existed between Spain and Chile. We think, however, that this acquiescence did not amount to a leave and license within the Foreign Enlistment Act, and that consequently the equipment of these vessels is an infringement of that Act; but it will be for your Lordship to consider whether, under the circumstances, it will be proper to put in force its provisions.

But apart from the provisions of the Foreign Enlistment Act we would call your Lordship's attention to the general law, by which, when war is imminent though not declared, it is competent to Her Majesty's Government to lay an embargo on vessels in Her Majesty's ports belonging to the State, or the subjects of the State, with which war is so imminent.

This course has been pursued repeatedly on former occasions. (The authorities are collected in 3 Phillimore's "International Law" c. 3, p.36.)

We have, &c.  
(Signed) JOHN ROLT.  
JOHN B. KARSLAKE.  
ROBERT PHILLIMORE.

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## No. 113.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 10 )

*Lincoln's Inn, April* 10, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's of the 8th April instant, stating that he was directed by your Lordship to acquaint us that he had received information from the Board of Admiralty that there are at present two Spanish iron-clads fitting out in the river and nearly ready for sea; and that he was to request, with reference to Her Majesty's Proclamation of neutrality in the war between Spain and Chile and Peru, and with reference also to the circumstances that two Chilean iron-clads are now under detention in the river, that we would report to your Lordship our opinion whether it would not be right and proper to detain under the Foreign Enlistment Act these two Spanish vessels, and if so, what steps it will be competent to Her Majesty's Government to take for doing so.

In obedience to your Lordship's commands we have the honour to report—

That we think it will be right and proper to detain under the Foreign Enlistment Act the two Spanish vessels in question. We assume that there is no doubt they are being equipped, furnished, and fitted out as vessels of war, and for the service of Spain, and as Spain is at war with Chile and Peru, with neither of which countries is England at war; we think that there is just ground for concluding that the ships are being so equipped, furnished, and fitted out with intent to commit hostilities against one or both of those Powers.

We should add, however, that if these vessels are seized and proceedings taken under the Foreign Enlistment Act for their condemnation, the questions will again be raised which were discussed in the case of the "Alexandra," Regina *v.* Sillem and others, and which cannot be considered as settled. But we think that as it is probable that one vessel at least may depart at once with the view in all probability of fitting out and completing her armament beyond the limits of this kingdom, that the Government may reasonably incur the risk of a decision against the validity of the seizure when the case comes to be tried.

The course of proceedings will be for some officer of Her Majesty's Customs or Excise, or of Her Majesty's Navy, empowered to make seizures under the Laws of Customs and Excise or under the Laws of Trade and Navigation to seize the ships, and then for proceedings to be prosecuted against them in like manner as if they had committed a breach of the Revenue Laws or of the Trade and Navigation Laws.

The whole of this is regulated by the 7th section of the Foreign Enlistment Act 59 Geo. III, c. 69.

We have, &c.  
(Signed) JOHN ROLT.  
JOHN B. KARSLAKE.  
ROBERT PHILLIMORE.

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## No 114.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 10.)

*Lincoln's Inn, April* 10, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us the correspondence which has passed respecting the case of the "Tornado" since the date of our Report of the 8th ultimo, concurring in the instructions proposed to be sent to Sir J. Crampton, and which were sent to him on the 12th of March.

That in this correspondence, which is included in Parts III, IV, and V of the Papers, and in a further collection not yet published, we should find various letters which have passed between the Foreign Office and the owners, the letter to them of the 21st of March being founded on our Report of the 21st of that month; a reference to the appearance in the Chilean Navy List of the name of John McPherson (Part III, page 6); the depositions sworn by the crew on the 23rd of February (Part IV, page 1); translations of the Papers given by the Spanish Government to Sir J. Crampton in February last (Part IV, page 4); a statement given to Sir John Crampton by the Advocate of the owners, Señor Retortillo, explaining the different appeals now in progress (Part V, page 31); translation of the further sentence of the Court of Cadiz confirming the previous sentence of the 15th of December (page 1 of the further Papers); a despatch from Consul Dunlop containing a Report of the further examination of a portion of the crew at Cadiz (page 40 of the further Papers).

That these several papers will show the present state of the case as regards the vessel; and that as regards the crew, we should find that all have been set free, and they are stated by the owners to be on their way home, with the exception of McPherson and Captain Collier, who are stated by Sir John Crampton to be still detained.

That we should see that the second decision of the Prize Court says of the crew: "although they ought to be considered as prisoners of war, let it be according to the decision of Her Catholic Majesty's Government" (Part V, page 31).

And Mr. Hammond was pleased to request that we would take the case, as now set forth in the Papers now transmitted to us, into consideration, and report to your Lordship our opinion as to what steps should now be taken by Her Majesty's Government. The answer of the Spanish Government to the despatch of March 12, Mr. Hammond was pleased to add, has not yet been received.

We are also honoured with Mr. Hammond's letter of the 4th instant, transmitting further papers in this case.

We are also honoured with Mr. Hammond's letter of the 5th instant, transmitting a further despatch from Sir J. Crampton, inclosing a translation of the second sentence of the Prize Court in the case of the "Tornado," and commenting on the detention of Captain Collier and McPherson.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

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That until the arrival of the answer of the Spanish Government to your Lordship's despatch of the 12th of March, we shall not be in a condition to tender our full advice upon the whole case.

That it appears that all the crew, with the exception of J. McPherson, have been set free.

We remain, notwithstanding these further papers, of opinion that the release of this person should be still insisted upon. It does not appear upon what ground Captain Collier has been released.

With respect to the intimation contained in the letter of Daniel McPherson (March 30) to your Lordship, namely, that there is a probability that the Spanish authorities *may* "decide to propose a new trial of the case against the "Tornado," we can only at present observe that, in the event of any such proposal being made, it will be matter for very serious consideration whether it should or should not be acceded to. All the subjects referred to in Mr. D. McPherson's letter, together with all the circumstances of the case, will then of course, be before us.

It appears to us that at present the letter of Mr. D. McPherson requires only a simple acknowledgment from your Lordship.

With respect to the alleged taking away from Robert Kinlop, the carpenter, of his tools, &c.,—property said to be worth 50*l*.—this appears to us to be a part of the greater question, whether any indemnity should be demanded on behalf of the crew: first, on the ground of detention or ill-usage; secondly, on the ground of deprivation of property; and we think that this question is not at present ripe for decision.

We should not omit to notice the fact of the second sentence. It implies that the former proceedings on the 15th of December, following the Auditor's Report, were, and operated as, a sentence or decree affecting vessel and crew, and confirms our former opinion.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 115.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 12.)

*Lincoln's Inn, April* 12, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that with reference to his letter of the 8th instant, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul at Cadiz, inclosing a copy of a despatch which he has addressed to Her Majesty's Minister at Madrid, stating that McPherson has been ordered into the interior as a Chilean prisoner of war; and Mr. Hammond was pleased to request that we would take these papers into consideration and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the despatch from Her Majesty's Consul at Cadiz does not, nor does the copy of the despatch therein inclosed from the Consul to Her Majesty's Minister at Madrid, alter, in our opinion, the course to be taken in reference to McPherson as advised in our former Reports.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 116.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 17.)

*Lincoln's Inn, April* 17, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th April instant, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Dunlop (No. 25, April 1) inclosing affidavits made by Portuguese subjects that the "Tornado" was seized in neutral waters, and also a letter from Captain Collier, inclosing a chart marking out where the "Tornado was captured; and Mr. Hammond was pleased to request that we would take the papers into consideration together with the papers already before us.

We were also honoured with a further letter from Mr. Hammond dated the 8th April instant, in which he stated that he was directed by your Lordship to transmit the accompanying despatches relative to the case of the "Tornado" which had just been received from Sir John Crampton: and to request that we would take them into our immediate consideration.

In obedience to your Lordship's commands we have taken the papers submitted to us into consideration and have the honour to report—

That with respect to the first letter from Sir John Crampton (March 25, 1867, No. 82) we have the honour to report that we entirely agree with the opinion expressed by his Excellency in the matter of this Portuguese subject forcibly taken and detained on board the "Tornado."

We think the letter of the Portuguese Consul perfectly proper, and we must add that Mr. Dunlop has been betrayed by his apparent excess of zeal into the adoption of a tone in his letter to the Portuguese Consul which cannot be justified. The alleged misconduct of Captain Collier with respect to this Portuguese subject has no connection whatever with the subsequent conduct of the Spanish authorities in reference to the "Tornado."

If, as appears most probable, this Portuguese was so taken by the Captain, he is undoubtedly entitled to recover damages against the Captain, and the letter of the Portuguese Consul states fairly and temperately the case.

2. With respect to the second letter from Sir J. Crampton (March 26, 1867, No. 84) and the letter of Captain Collier, March 30, 1867 (both with inclosures), on the subject of the capture (as now insisted upon) having been made within the neutral waters of Funchal, we have to offer the following observations:—

(*a*.) That this claim for exemption from the exercise of the belligerent rights on the ground of the neutrality of the place of capture ought properly to be made by the neutral State, and not by the State to which the captured vessel is alleged to belong.

This is the clear rule of international law between *belligerents*; and though it be competent to a *neutral* State to allege that the vessel said to be the property of her subject, was not captured in a place where the right of the belligerent could be lawfully exercised, nevertheless the captor may reply that he has evidence to prove that the vessel was not the property of the subject of the neutral State but of his enemy, and that if any reclamation is to be made on this ground it can only be made by the other neutral, whose territorial rights have been *infringed*.

(*b*.) That the fact itself if not urged by the neutral is one to be urged by the claimant before the Prize Court.

(*c*.) That the fact itself as to the place of seizure is a matter of dispute, and the statements of the claimants cannot be accepted as disproving the counter-statements made by the captors.

3. That with respect to the third letter of Sir J. Crampton (30th March, 1867, No. 90) and the inclosures in it, as to Captain Collier not being permitted to publish his account of the capture of the "Tornado" in a Spanish newspaper, we have already had the honour to report to your Lordship our opinion that this is a matter altogether within the discretion of the Spanish authorities, and that it is not expedient that your Lordship should address any remonstrance on the subject to them.

4. That with respect to the fourth letter of Sir J. Crampton and the inclosures in it (April 1, 1867, No. 92), as to the re-examination of the crew, and to the letter of Consul Dunlop on the some subject, dated March 26, 1867, we think it unnecessary to offer any observations.

5. With respect to the fifth letter from Sir John Crampton and the inclosures in it (April 5, 1867, No. 96), the reply of General Calonge may be considered under two heads:—

(1.) The retention of McPherson, notwithstanding the liberation of the Captain and crew, a matter upon which Mr. Hammond's letter of the 12th April, contains further important information, and on which, therefore, we propose to report in answer to that letter.

(2.) The alleged inconsistency of your Lordship in claiming restitution of the vessel on the ground of the nullity of the pretended judicial proceedings, and yet waiting for the sentence upon them.

The answer on this latter point appears to us simple and obvious.

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As your Lordship was apprized that a proceeding was pending which might declare the sentence null and void, Her Majesty's Government, without waiving any right, thought it prudent not to have recourse to extreme measures until the result of this proceeding was ascertained, which might render recourse to such measures unnecessary. The exact grounds of this forbearance are stated in your Lordship's despatch to Sir J. Crampton of the 12th March.

6. That with respect to the sixth letter from Sir J. Crampton, and the inclosures in it (1st April, 1867, No. 97), we propose to report in answer to Mr. Hammond's letter of the 12th April.

7. That with respect to the last letter from Sir J. Crampton, and the inclosures in it (5th April, 1867, No. 98), we think that the course pursued by his Excellency has been right and proper.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 117.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 18.)

*Lincoln's Inn, April* 18, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that, with reference to the papers in the case of the "Tornado" now before us, and to our Reports of the 10th instant and 12th instant, he was directed by your Lordship to transmit to us some further papers which have been received, among which we should find the letter from Captain McKillop of the Royal Navy to the First Lord of the Admiralty, setting forth certain facts which would seem to place beyond doubt that the "Tornado" equally with the "Cyclone" was the property of the Chilean Government, and intended for purposes of war.

That your Lordship would be glad to receive our opinion on this last named paper, and, with reference to it, and to the opinions which we maintain in our recent Reports as well as former ones that Her Majesty's Government should persist in demanding the release of McPherson, Mr. Hammond was to request that we would inform your Lordship whether, assuming that Captain McKillop's statement in his letter as to the ownership of the "Tornado" is correct, and assuming that the condemnation of the vessel as Prize is a point which Her Majesty's Government are not prepared to say they will not allow, and which if they did allow would seem to carry with it the right of the Spanish Government to deal with all persons found on board her as prisoners of war, Her Majesty's Government ought now to press for the immediate release of McPherson, and if so, on what ground, with the knowledge which they possess and which must presently be imparted to Parliament, the question of McPherson's release can be peremptorily pressed on the Spanish Government.

Mr. Hammond was also pleased to add that since the above was written, your Lordship received the further letter inclosed forwarding a statement made by a person named Trotter, of a conversation with John McPherson respecting the "Tornado."

We are also honoured with Mr. Hammond's letter of the 13th instant, stating that he was directed to transmit a despatch from Sir J. Crampton inclosing a copy of the reply which General Calonge made to a question made to him in the Spanish Congress, on the case of the "Tornado;" and also a despatch from Consul Dunlop inclosing a further letter from the Agent of the owners on the present state of the proceedings of the case.

In obedience to your Lordship's commands we have the honour to report—

That we have taken into our consideration the severals sets of papers transmifted to us by Mr. Hammond; and, in reference to Sir J. Crampton's despatch of the 18th March (No. 77), we remain of opinion that it will not be expedient at this moment to press more distinctly than has already been done, the question of indemnity to the officers and crew of the "Tornado" and in connection with the same subject, we would observe that the claim of Gilbert Porteous on Isaac, Campbell and Co., for wages, is not one that can be enforced or insisted on by Her Majesty's Government against Isaac, Campbell and Co, but must be left, if the parties differ, to the decision of a Court of Law, and that Porteous's claim for indemnity against the Spanish Government must be disposed of in common with the claims of the other officers and crew of the "Tornado," and is, for the present, covered by the demand for indemnity already made on their behalf.

In reference to Sir John Crampton's despatch of the 8th April (No. 79), we think as expressed in previous Reports that the Spanish Government is free to regulate the press of their own country, and that the refusal to publish Captain Collier's pamphlet is not a ground on which Her Majesty's Government can properly offer any remonstrance to the Spanish Government.

The observations made in the Congress of Deputies on the subject of the "Tornado" do not appear to call for any particular observation from us; and the fact that McPherson has been ordered into the interior as a prisoner of war, does not alter the character of the controversy in any respect. The lawfulness of this order depends on the right of the Spanish Government originally to treat him as a prisoner of war.

The subject of the despatch of Mr. Consul Dunlop of the 7th April (No. 27), namely, the alleged fact that the capture of the "Tornado" by the "Gerona" took place in Portuguese waters, has been considered and reported on by us in our Report of yesterday's date.

There remains only for consideration, the important additional evidence now transmitted to us on the question whether the "Tornado" is really a Chilean, and not a British vessel, and whether McPherson is an officer in the Chilean Naval Service. As to the statement of Francis Trotter forwarded to your Lordship by Mr. Brearey, we think it cannot be absolutely relied on, though it may be substantially accurate. Trotter speaks of having known one *Daniel* McPherson several years ago in Spain, and then, assuming that this was the same person as *William* McPherson now detained as a Chilean prisoner of war, he narrates a supposed admission made by *William* McPherson to Jenkins, Chief Engineer of the Spanish Government, and communicated by Jenkins to Trotter. Without in the least doubting Trotter's accuracy, we think such a hearsay statement, coming through the medium of an Engineer in the Spanish Service, cannot at present be accepted as conclusive. Further information might perhaps be obtained from Trotter.

But the letter of Captain McKillop, R.N., of the 12th instant, to the First Lord of the Admiralty, appears to us to go far to establish the warlike character and destination of the "Tornado." It is possible, however, that the property in the ship had not been actually transferred from Messrs. Isaac, Campbell and Co., to the Chilean Government, and that the contract was not completed by payment and delivery of possession; and so long as any reasonable doubt remains whether this vessel, sailing from a British port, with British papers and crew, and under the British flag, and ostensibly bound to a neutral port, is really what she, *primâ facie*, appears to be, and so long as this vessel remains uncondemned by the sentence of a proper Prize Court, passed with due observance of law, Her Majesty's Government are, we think, entitled to insist that the ship should be treated as British, and, consequently, that every person on board her, including, if such there be, Chilean subjects or others engaged in the military or naval service of Chile, shall be set free. If the letter of Captain McKillop contains correct information it leads strongly to the conclusion that the vessel was being sent out to be used as a ship-of-war by the Chilean Government, and that the information furnished from time to time by Isaac, Campbell and Co., to Her Majesty's Government has neither been candid nor accurate.

We have always advised that the real error of the Spanish authorities was, thus after undue delay in conducting the proceedings in the Prize Court, even if properly constituted, a Judgment was pronounced without the claimants being heard in the defence.

In Consul Dunlop's letter of the 8th April a letter from the agent of Isaac, Campbell and Co. (Mr. Daniel McPherson), is sent to be forwarded to your Lordship immediately.

Mr. Daniel McPherson adverts to the possibility of the former proceedings being no longer insisted on by the Spanish Government, and of the matter being submitted to new trial; and his legal adviser, whose opinion he cites, earnestly protests against any such course being taken.

This brings us to the consideration of a very delicate and important question.

As we have already said, the statement of Captain McKillop, confirmed to some extent by that of Trotter, tends to show that the "Tornado" is really a Chilean vessel.

Will it be right then for Her Majesty's Government, with the knowledge now possessed by them, to refuse—should such a proposal be made by the Spanish Government—to allow the proceedings already taken to be waived and a new and proper trial to be had?

We think that in this case it cannot be said that the original *seizure* was unlawful, or that the proceedings taken, although, in our judgment, informal and unjust, were illusory or intentionally irregular; and in these respects we may observe the case differs entirely from that of the "Queen Victoria" on which we have recently advised. If, therefore, a fair proposal should be made on behalf of the Spanish Government for a new judicial investigation of the case we think that the good-faith which regulates the intercourse between Government and Government would (to say the least) justify Her Majesty's Government in assenting to such a proposal: the more so, because, with all the knowledge now possessed by the Government with respect to the vessel, it seems more than probable that if proper proceedings after the original seizure had been taken she would have been justly condemned as good prize.

We would suggest, therefore, to your Lordship the expediency, before taking any further step, of ascertaining from Sir John Crampton whether he is aware of any intention on the part of the Spanish Government to take this course.

We think, however, that in the present juncture, notwithstanding the further information with reference to the character and position of the vessel and the engineer McPherson, still detained as a prisoner of war, that the demand for his liberation should not be waived, although it should not at this moment be further insisted on.

If the Spanish Government still insist on the so-called sentence as the ground for detaining McPherson a prisoner of war, we think that such position, having regard to our view that such sentence is illegal and void, cannot be maintained. McPherson, the engineer, was taken from a ship under British flag, upon the high seas, against which ship no legal sentence of condemnation has been pronounced.

Until the presumption arising from this state of things is displaced, we think that McPherson cannot, in strict law, be treated as a prisoner of war; and if he is not legally a prisoner of war, the right of Her Majesty's Government, arising from the fact of his being taken from a British ship, to demand his restoration, appears to us to remain in strictness unimpaired.

If, indeed, the Government acting administratively, think fit to admit that the "Tornado" was a Chilean vessel of war, and that McPherson was a Chilean engineer, a question of much gravity will arise.

On the one hand, if the Spanish Government are allowed to disregard the obligation to give a fair hearing to claimants in their Prize Courts on the present occasion, they may claim a similar license on other occasions when the neutral character of the captured ship is not doubtful. On the other hand, there is the difficulty of peremptorily insisting on the restoration of a ship which Her Majesty's Government would then know to have been lawfully captured, though informally condemned, and of insisting on indemnity to persons whose illegal conduct would then appear to have originated the whole of the "Tornado" difficulty between the two countries. The question will be one of great difficulty. The solution of it may perhaps be assisted by the course taken by Spain in relation to the "Victoria." It would, however, be a question of policy, and is perhaps not strictly within our province, though having regard to its great importance and natural connection with the legal circumstances of the case we have ventured to draw the attention of your Lordship to it.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 118.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 20.)

*Lincoln's Inn, April* 20, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Isaac, Campbell and Co., dated the 15th instant, requesting that Her Majesty's Government would insist upon the immediate release of the "Tornado," and the payment of 25,000*l*. as compensation, as well as

reimbursement of the amount of wages paid by them to the crew; and he was to request that we would take this letter into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to Messrs. Isaac, Campbell and Co.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we are of opinion that Messrs. Isaac, Campbell and Co. should be informed, in reply to their letter to your Lordship of the 15th April, that the requisition thereby made by them on Her Majesty's Government to insist without further delay, on the Spanish Government compensating them for their personal losses and outlays in connection with the "Tornado," is one which Her Majesty's Government in present circumstances declines to entertain.

We think also, that a copy of the letter of Captain McKillop and the communication of Mr. Trotter should be sent to Messrs. Isaac, Campbell and Co., and that they should be apprized that Her Majesty's Government are of opinion that these communications have an important bearing on the questions both of the character of the vessel, and of the true position and status of McPherson; that your Lordship will duly consider any explanation which Messrs. Isaac, Campbell and Co. may think fit to offer thereon; but that if Her Majesty's Government should be eventually convinced that the ship was at the time of its original seizure either a Chilean ship, or had been expressly built for the purpose of being employed as a ship of war in the Chilean service, and was really on her way to her Chilean destination at the time of her capture, and that therefore not only was the original seizure lawful, but that if the procedure of the Spanish Prize Court had been consistent with international law, the condemnation would have been just; then, although Her Majesty's Government reserve to themselves the right to take such proceedings as they may consider proper to vindicate the interests of public justice, they will not be disposed to press upon the Spanish Government the personal claims to compensation of the owners of any such vessel, inasmuch as it would then appear that Messrs. Isaac, Campbell and Co. had placed themselves in a position which would preclude them from claiming the intervention or assistance of Her Majesty's Government.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 119.

*The Queen's Advocate to Lord Stanley.*—(*Received May* 11.)

*Temple, May* 11, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 9th instant, stating that, with reference to my Report of the 1st December, 1865, and to previous correspondence on the case of the Spanish vessel "America," condemned by the Mixed Commission Court at Sierra Leone, he was directed by your Lordship to transmit to me a letter and its inclosures which your Lordship has received from Messrs. Hampton and Burgin, on behalf of the owners of that vessel, together with a draft of the answer which your Lordship proposes to return to their application; and Mr. Egerton was to request that I would take these papers into consideration, and report to your Lordship whether I concur in the intended reply.

In obedience to your Lordship's commands I have the honour to report—

That I do concur in the proposed reply, to which I have attached my initials.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 120.

*The Law Officers of the Crown to Lord Stanley.*—(*Received May* 23.)

*Lincoln's Inn, May* 22, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th of May instant, stating that he was directed by your Lordship to

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transmit to us two further letters, dated the 6th instant, from Messsrs. Isaac, Campbell and Co., inclosing certain affidavits which had been made in the case of the "Tornado;" and to request that we would favour your Lordship with our opinion upon those papers, and at the same time that we would inform your Lordship whether it will not be proper at all events, to say that those points must be urged before the Tribunal in Spain by the parties interested.

In obedience to your Lordship's commands we have the honour to report—

That we think your Lordship's answer should be confined to informing Messrs. Isaac, Campbell and Co., that your Lordship has received and read the affidavits inclosed, which relate to only one of the many incidents of the case; but that your Lordship has no power to decide upon the accuracy of the facts which they state, or the value of the evidence which they adduce, respecting the hole cut in one of the berths of the "Tornado."

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 121.

*The Law Officers of the Crown to Lord Stanley.*—(*Received May* 23.)

*Lincoln's Inn, May* 22, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that with reference to his letter of the previous day's date, he was directed by your Lordship to transmit to us the accompanying letter dated the 7th instant, which your Lordship had received from the Lords of the Committee of Privy Council for Trade, containing information respecting John McPherson, one of the crew of the "Tornado."

In obedience to your Lordship's commands we have the honour to report—

That with regard to this paper from the Board of Trade we wish to observe that all the circumstances of the case being considered, it does not appear to us desirable that the Board of Trade should be instructed to prosecute Captain Collier for a breach of the 150th and 158th sections of the Merchant Shipping Act.

We agree with the inference drawn by the Board of Trade from the printed papers as to McPherson being engaged in the Chilean service. We think that further inquiry by the Board of Trade is not at present expedient, and it appears to us also that no advantage can result from publishing Mr. Farrer's letter, or the substance of it.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 122.

*The Law Officers of the Crown to Lord Stanley.*—(*Received May* 23.)

*Lincoln's Inn, May* 22, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us the inclosed despatch from Her Majesty's Minister at Madrid (No. 125), containing the answer of the Spanish Government to the inquiry which he was instructed to make on the 23rd ultimo, as to their intentions with regard to a fresh trial in the case of the "Tornado;" and Mr. Hammond was pleased to request that we would take the same into consideration, and furnish your Lordship with our opinion as to whether this declaration is satisfactory.

In obedience to your Lordship's commands we have the honour to report—

That the answer of General Calonge to Sir J. Crampton on the question of a new trial is not without weight, and is sufficient to justify Her Majesty's Government, under the circumstances of the case, not to do more, pending the appeal by the claimants, than to instruct Sir J. Crampton to apprise General Calonge that while Her Majesty's Government will leave to the Spanish Government, or to their legal authorities, to

determine what is the proper tribunal for hearing and deciding the case of the "Tornado," yet that the nullity of the sentence already pronounced must be insisted upon by Her Majesty's Government as a matter of public policy irrespective of the merits of the case; and probably Sir J. Crampton might be able to convey to General Calonge the views of Her Majesty's Government that a new trial and judgment, after hearing the claimants, would put the Spanish Government right not only in the eyes of England but of all civilized States, without any derogation from the rights which a State claiming to be captors of an enemy's ship is entitled to.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 123.

*The Law Officers of the Crown to Lord Stanley.*—(*Received May* 23.)

*Lincoln's Inn, May* 23, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th April last, stating that, with reference to our report of the 18th ultimo respecting the case of the "Tornado," he inclosed for our information a despatch founded on that report which your Lordship addressed to Sir John Crampton on the 20th ultimo (No. 73), and a letter of the same date to Messrs. Isaac, Campbell and Co., with their respective answers.

Mr. Hammond was also pleased to inclose a despatch from Consul Dunlop, dated the 15th ultimo, forwarding a document received from the agent of the parties respecting the bearing which the case of the "Alice Ward" has upon the proceedings at Cadiz in the case of the "Tornado."

Mr. Hammond also inclosed a despatch from Her Majesty's Chargé d'Affaires in Chile, dated the 9th March, giving some particulars that he has succeeded in obtaining there respecting the "Tornado;" and stated that the foregoing papers are embodied in the Part VII of the "Tornado" papers, presented on the 30th of April to the House of Commons, therewith inclosed (see pages 47 to 57).

Mr. Hammond was also pleased to inclose a confidential Memorandum of information, obtained through the Treasury, respecting the character and object of the "Tornado," which, however, will not be published, at all events at present; and to request that we would take these papers into consideration, and report to your Lordship such observations as may occur to us on the statements contained in them.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report.

That a perusal of these papers tends to confirm the opinion which we have had the honour to express in our previous reports on the subject of the "Tornado;" and they do not appear to call for further observation from us beyond saying that the case of the "Alice Ward," referred to in the document received by Consul Dunlop from the agent of the parties, and forwarded by him to your Lordship, does not change our views as to the proceedings at Cadiz in the case of the "Tornado."

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 124.

*The Law Officers of the Crown to Lord Stanley.*—(*Received May* 23.)

*Lincoln's Inn, May* 23, 1867.

My Lord,

WE are honoured with your Lordship's commands, signified in Mr. Hammond's letter of the 24th of April last, stating that he was directed by your Lordship to transmit to us therewith, for any observations which may occur to us, the accompanying translation of the pamphlet regarding the proceedings and appeals in the Spanish Courts in the case of the "Tornado," which has been published by the parties interested in

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that vessel, as stated in the letter of Messrs. Isaac, Campbell and Co., which forms Paper No. 8 of Part V of the "Tornado" Papers.

In compliance with your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That the principal object of the pamphlet, as also that of the report of the Fiscal referred to in another report which we have had the honour to make, is to establish that questions of prize are not tried in Spain before any judical tribunal, but are disposed of administratively as questions of public policy by the Crown and the Government. It is very probable that a close investigation of the subject would show that there exists no substantial difference between the mode of deciding whether a vessel be lawful prize or not, in Spain and in other civilized countries. The statement made by the Fiscal of the Supreme Court of War and Marine at Madrid (line 50 in page 49 of Parliamentary Papers, Part VII) is "that all booty belongs to the Sovereign who makes the war, and he disposes of it, sometimes in indemnifying privateers, and sometimes also in rewarding the services which the captors render to the nation. But as equity counsels that, before adjudicating the prize, there shall be an examination whether it has been justly and legally made, without offence to the rights of neutral nations, so it has been found necessary to establish tribunals to conduct that examination, and in creating them, it has also been requisite to determine the nature of such matters. No nation has ever confounded the trial of maritime prizes with ordinary trials, with civil processes." This statement is, we think, correct, and the Prize Court in England (the character of which we may observe, in passing, is but imperfectly understood by the writer of the pamphlet) sits under the authority of a Special Commission from the Crown, issued at the breaking out of every war, though it is possible that the High Court of Admiralty may possess the inherent jurisdiction on the subject of prize.

It occurs, however, to us to observe that so long as a fair and impartial investigation is conducted into the question of the legality of the capture and the rights of the neutral before a Tribunal, or other authority appointed by the Government of the captors for that purpose, whatever may be the particular name of that Tribunal or authority, the neutral state, provided that the principles of International Law are applied to the case, ought to be satisfied. And it appears to us that your Lordship is not under the necessity of taking any objection to the constitution of the Tribunal exercising jurisdiction in the case of the "Tornado," or of prosecuting any inquiry into the antiquarian question as to the origin, or the constitutional question as to the proper authority through the agency of which justice is administrated to the neutral claimant.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 125.

*The Law Officers of the Crown to Lord Stanley.*—(*Received May 23.*)

*Lincoln's Inn, May* 23, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed to transmit to us a despatch from Her Majesty's Consul at Cadiz (No. 38), inclosing a copy of a report to Sir J. Crampton informing him of the probable nature of the decision which will be come as to the competency of the Prize Court at Cadiz, which tried the case of the "Tornado;" and Mr. Hammond was pleased to request that we would take the same into consideration, and furnish your Lordship with any remarks we may have to make thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that whatever doubts or difficulties may exist as to the technical mode of procedure in prize cases, (a subject on which in another report, we have addressed some observations to your Lordship), your Lordship should insist upon the claimants having an opportunity afforded them of being fully heard upon any evidence on which the Court may proceed before any sentence is pronounced.

It is a question of great importance whether the Spanish Government is entitled to avail itself retrospectively of any authorized acts of inquiry already made, should that Government decide to proceed to a new trial, and afford the claimants an opportunity of being heard upon such trial.

We have carefully considered this question, and have come to the conclusion that they are entitled so to avail themselves of the previous inquiry, up to the close of that inquiry; and in reference to the report resulting therefrom, nothing had occured which in our opinion made it the duty of Her Majesty's Government to refuse to allow the report to be used. It was against the subsequent procedure to sentence and condemnation, without hearing the claimants, that we have always protested. Under these circumstances we think there is no just ground for insisting that Spain should not be at liberty to use the evidence already collected, if she desires to re-open the case, and to hear the claimants thereon before the same or any other Tribunal.

But we think, having regard to the exceptional circumstances of this case, that the owners ought to be allowed to produce evidence explanatory or contradictory of the Sumario.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 126.

*The Law Officers of the Crown to Lord Stanley.*—(*Received May 28.*)

*Lincoln's Inn, May* 28, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir John Crampton (No. 134), inclosing a copy of a communication from Señor Retortillo, the claimants counsel in the case of the "Tornado," reporting on the course of the legal proceedings in the case; and Mr. Hammond was to request that we would take these papers into our consideration, and furnish your Lordship with any observations which may occur to us on Señor Retortillo's report.

In obedience to your Lordship's commands we have considered these papers, and have the honour to report—

That we desired to preface our report by observing that the objection to the Tribunal was raised, and has been insisted on by the Spanish Council for the owners; and the objection which Her Majesty's Government has been advised by us to take, has been to the condemnation of the vessel without hearing the parties interested, and not to the Tribunal itself, as to the proper constitution of which we did not express an opinion.

That if, according to the expectation of Señor Retortillo, the case of the "Tornado" be removed from the Tribunal which has hitherto dealt with it, and be treated in the manner termed "administratively," it will be important to watch the case so as to insure that these administrative proceedings are, substantially, of such a judicial character as the neutral State has a right to demand. Upon this point it will be expedient that full and accurate information should be procured as soon as possible.

There is no doubt that the delay which has taken place, and the uncertainty and doubt as to the proper Tribunal, constitute ground of serious complaint on the part of the neutral State. It is the duty of the belligerent to furnish a certain and proper Tribunal to decide upon questions of the capture of neutral vessels upon the high seas.

The neutral owner ought not to be subjected to the inconvenience, delay, and expense incident to the mistakes of the Spanish authorities, as to the Tribunal which is to decide upon the legality of the capture of his vessel. The belligerent Government ought to be prepared with the means of discharging its duty by the proper and prompt administration of international law to the subjects of the neutral State, or it ought to abstain from exercising the right of capture to which this duty is correlatived.

Still, as we have already advised, it will, in our opinion, be right, under the particular circumstances of this case, not to object, even at this late period, to a proper judicial investigation whatever name the Tribunal which conducts it may bear.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

## No. 127.

*The Law Officers of the Crown to Lord Stanley.—(Received May 28.)*

*Lincoln's Inn, May* 28, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. Forbes Campbell, dated the 23rd instant, inquiring whether, in the event of a new trial taking place, the master and crew of the "Tornado" would be required to present themselves for re-examination, and how far their voluntary absence might prejudice their claims for compensation against the Spanish Government; and Mr. Hammond was to request that we would take Mr. Campbell's letter into our consideration, and favour your Lordship with our opinion as to the reply which should be returned to that gentleman.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That an answer should be sent to Messrs. Campbell and Co. to the following effect:—

That they would do well to consult their legal adviser in Spain upon this subject, upon which it is not within your Lordship's province to offer any opinion; but it may be proper to add that, in the event of a new judicial investigation taking place, it would seem probable that Messrs. Campbell and Co. would themselves require the attendance of Captain Collier and some of the crew in Spain for the purpose of establishing the innocent character of their vessel.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 128.

*The Law Officers of the Crown to Lord Stanley.—(Received May 28.)*

*Lincoln's Inn, May* 28, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th of May instant, stating that, with reference to the statements contained in Captain McKillop's letter of the 12th ultimo relative to the "Tornado" and "Cyclone," and to the observations made thereon by Messrs. Isaac, Campbell and Co., in their letter of the 24th ultimo, he was directed by your Lordship to transmit to us, for any observations which we might have to make thereon, a further communication from Captain McKillop relative to the connection of Mr. Isaac, Campbell and Co., with the Chilean Government.

In obedience to your Lordship's commands we have the honour to report—

That, referring to Isaac, Campbell and Co.'s letter of the 24th of April last, it would appear that they *might* be justified in stating "that in *May* 1866 they were ignorant of the existence of Captain McKillop" (No. 44); but the present communication from Captain McKillop shows that he was introduced by the Agent of the Chilean Government to Mr. Samuel Isaac *early* in *June* 1866; that the vessel was purchased on or about the 21st of June, 1866; and that after the purchase Mr. Samuel Isaac left this country for Hamburgh, and Mr. Saul Isaac (one of the partners in the claimants' firm), "acted as the active agent in his absence."

It is unnecessary to say that this letter affords very strong corroboration of the belligerent character of the "Tornado," and of the position of McPherson.

We think that a copy of this letter, without comment, should be sent to Messrs. Isaac, Campbell and Co., unless your Lordship should consider that there is any reason (which does not occur to us), arising from the mode in which the information was obtained, that ought to prevent this course from being taken.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 129.

*The Law Officers of the Crown to Lord Stanley.—(Received June 7.)*

*Lincoln's Inn, June* 6, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that, with reference to our Report of the 28th ultimo, he was directed by your Lordship to transmit to us a further letter from Mr. Forbes Campbell respecting the crew of the "Tornado;" and Mr. Hammond was to request that we would report to your Lordship our opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That an answer should be sent to Mr. Forbes Campbell to the following effect:—

That upon reference to the letter of Mr. Hammond, it will be found that "the legal advisers" of Messrs. Isaac, Campbell and Co., and not of the crew, were referred to.

That Her Majesty's Government have not lost sight of the claims which have been preferred on behalf of the crew against the Spanish Government; but inasmuch as such claims, so far as the Spanish Government is concerned, may depend on the character of the vessel, your Lordship does not consider that this is the time for determining whether any claims exist which can rightfully be pressed against that Government.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 130.

*The Law Officers of the Crown to Lord Stanley.—(Received June 15.)*

*Lincoln's Inn, June* 15, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that, with reference to our Report of the 28th ultimo, he was directed by your Lordship to transmit to us two despatches from Sir J. Crampton and Mr. Consul Dunlop upon the subject of the sentence lately pronounced in the case of the "Tornado" by the Supreme Court of War and Marine. A letter from Messrs. Isaac, Campbell and Co., and the last instructions to Sir J. Crampton dated the 26th and 30th of May, founded on our Reports of the 22nd and 28th of that month, were also inclosed; and Mr. Hammond was pleased to request that we would take this letter into consideration, and report to your Lordship our opinion as to whether any further instructions should be addressed to Sir J. Crampton in the present state of the matter.

In obedience to your Lordship's commands we have the honour to report—

That it appears to be the opinion of Señor Retortillo "that the Court of War and Marine, in revoking the Act of the 30th of January, has given its assent to the pretensions set forth in Mr. Collier's letter of the 14th of January, and has declared—1st, that the Junta is without jurisdiction in the case of the 'Tornado;' 2ndly, that there is ground for nullifying the whole proceedings of the Junta, including the Act of the 15th of December; 3rdly, that Mr. Collier's claim to recover damages holds good."

Messrs. Isaac, Campbell and Co. state that they are legally advised that, according to Spanish law, they are entitled to an immediate restitution of the vessel, with damages and costs, and reimbursement of the wages of the crew.

We think that, having regard to these opinions, Sir J. Crampton should take no steps which would interfere with any right which may accrue to or be claimed by the owners by reason of this reversal of the sentence, but that he should be instructed to await the next proceeding on the part of the Spanish Government; and to communicate with Her Majesty's Government before he makes any official communication on the subject of a new trial to the Spanish Government.

With respect to the letter of Messrs. Isaac, Campbell and Co., these gentlemen

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may be informed that there can be no official interference in the present state of the proceedings by Her Majesty's Government.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 131.

### *The Law Officers of the Crown to Lord Stanley.—(Received June 15.)*

*Lincoln's Inn, June* 15, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th June instant, stating that he was directed by your Lordship to transmit a despatch from Her Majesty's Minister at Madrid (No. 140), inclosing a copy of a report from the Consul at Cadiz relative to the detention of the British trading steamer "Peninsula" by a Spanish man-of-war; and to request that we would take the case into consideration and inform your Lordship what reply should be returned to Sir John Crampton on the subject.

In obedience to your Lordship's commands we have taken the case into consideration, and have the honour to report—

That it is not quite clear to us whether the visitation of the ship "Peninsula" by the Spanish captain was in the exercise of the rights of a belligerent, or in order to enforce a municipal rule applicable only to Spanish waters. But in either case we are of opinion that your Lordship is not called upon to take any official notice of this particular transaction.

According to the British captain's statement the conduct of the Spanish captain does appear to have been objectionable, and if such conduct should become habitual we think it will afford a justifiable cause for remonstrance with the Spanish Government.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 132.

### *The Queen's Advocate to Lord Stanley.—(Received June 18.)*

*Temple, June* 18, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed by your Lordship to transmit the accompanying letter from Mr. Mould, inclosing copy of a petition which he has addressed to the Cortes relative to a railway contract under which he has a claim against the Spanish Government, and requesting that Her Majesty's Minister at Madrid be instructed to support his petition; and Mr. Hammond was pleased to request that I would take these papers into consideration, and report to your Lordship whether this is a case in which Her Majesty's Government might use their good offices in favour of Mr. Mould.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That there is clearly no ground for any official instruction on the part of Her Majesty's Government on behalf of Mr. Mould.

There can be no objection, however, to instructing Her Majesty's Representative at Madrid to exercise his discretion as to using his good offices in supporting the prayer of Mr. Mould to the Cortes.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 133.

### *The Law Officers of the Crown to Lord Stanley.—(Received July 13.)*

My Lord, *Lincoln's Inn, July* 12, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th June ultimo, stating that with reference to a letter from Her Majesty's Law Officers of the 22nd of August, 1864, he was directed by your Lordship to transmit to us, for any remarks we might wish to make thereon, the accompanying despatch with its inclosures from Her Majesty's Minister at Madrid (No. 146), reporting that the supposed murderers of Mr. William H. Abbot, at Puerto Plata, in the Island, on the 28th of August, 1863, have been sentenced to a further imprisonment of three years; and Mr. Hammond was pleased to add that the former papers relating to the case were sent therewith.

In obedience to your Lordship's commands we have perused the papers forwarded to us, and have the honour to report—

That we have not before us in detail the evidence upon which the persons implicated in the murder of Mr. Abbot, were found guilty and sentenced to three years' imprisonment in addition to the confinement they had undergone before sentence.

It appears to us that, under the circumstances of the case, Her Majesty's Government may be satisfied with the proceedings that have been taken in this case in compliance with the requisitions made by Her Majesty's Government.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 134.

### *The Law Officers of the Crown to Lord Stanley.—(Received August 8.)*

My Lord, *Temple, August* 7, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd August instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid, inclosing a confidential note which he had received from the Spanish Minister for Foreign Affairs, with a copy of the "Informe" of the Council of State addressed to the Minister of the Marine, relative to the case of the "Tornado;" and that we would perceive from that despatch that the Spanish Government consider that the "Junta Economica de Cadiz" was the proper Court to try the case, but that the Court erred in treating the matter "judicially" instead of "administratively;" and they propose that the case should be sent back to them to be "rectified" and "amplified" as an administrative affair, and to be definitively decided upon by the Government after hearing the Council of State; and Mr. Hammond was pleased to request that we would take the proposition of the Spanish Government into our consideration and report to your Lordship our views on the matter. Mr. Hammond also added that the last papers about the "Tornado" case which had been printed, but not yet laid before Parliament, accompanied his letter.

In obedience to your Lordship's commands we have taken the proposition of the Spanish Government into consideration, and have the honour to report—

That in the event of the advice contained in the "Informe" of the Council of State being acted upon, we think that Her Majesty's Government will have no ground of complaint against the Spanish Government, and that Messrs. Isaac, Campbell and Co. will have no claim against the Government for interference in their behalf in the event of an ultimate determination that the vessel is good prize of war.

The elaborately prefaced "Informe" of the Council of State sets forth that the Tribunal before which proceedings were originally instituted, the Junta Economica of Cadiz was a properly constituted body to entertain the question whether the vessel was or was not prize. But in treating the matter judicially and not administratively they acted altogether in error. They passed a sentence without hearing the parties interested, and they assumed judicial functions when they had no right by law to do so.

In giving a *résumé* of their views at the end of the "Informe" the Council of State deduce—"Fourthly: that consequently it is proper to declare that as every thing that was done administratively preserves its efficacy as far as folio 25 of the record, or say part 3rd, in which the establishment of the case was completed by the transmission of

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the proceeding to the Junta, whatever was done in an administrative sense after the said folio is of no effect, as was the case with the judicial proceeding by the Decree of the Tribunal of War and Marine.

"Fifthly and lastly: that the case should be returned to the Junta of the Department in order, that making use of the proceedings up to the folio mentioned, which are the base of action, it may hear the interested parties and investigate them, holding a sitting in the manner which was used to decide the case of the Chilean barque 'Alice Ward' on the 22nd of June and 9th July, 1866, without the commander of engineers being present; and having heard the charges and counter-charges, and the proofs required by the general Ordinances being considered, it may pronounce the final resolution which it may consider just, it may acquaint the parties concerned of it, and afterwards remit the case to the Government to be decided on, this body having been heard, in which case the claims of Mr. Collier, which have not been settled, will be taken into consideration as well as those which can be made against the final resolution of the Junta as far as they are just."

We conjecture that the part of the proceedings referred to which "preserves its efficacy" is the Auditor's Report, which it is suggested may properly be made a basis for the further and rectified proceedings. The Junta is to hear the interested parties, holding a sitting and having heard the charges and counter-charges to pronounce their resolution, acquaint the parties of it and remit the case to the Government to be decided on.

Thus a hearing is secured to Isaac, Campbell and Co. and though it is unfortunate, perhaps, that this hearing will be before the same individuals, as we understand (with one exception), as those who affected to decide the case judicially, we do not think that this can be made ground of complaint by Her Majesty's Government.

It is not to be presumed that the Tribunal acting within the scope of its legal powers, and not as a Court of Appeal, will refuse to give due weight to the arguments and evidence of the claimants, or if they should do so that their resolutions will not be reconsidered and reversed when the case is remitted to the Spanish Government for ultimate decision.

We do not think it necessary to examine the reasons of the principles and rules laid down in the "Informe" as governing Prize Courts, such an examination would be a dissertation on prize law; but we would observe that, although perhaps, it is now not material to renew the question as to whether the owners of the vessel and Her Majesty's Government were right in objecting to and protesting against the now annulled sentence as invalid, we think that the strongest corroboration of the justice of the objection is to be found in the "Informe" itself. The Council of State admit that in form and substance a judicial sentence was pronounced, and they seem to us also to imply that a sentence pronounced without hearing the interested parties, would not be upheld or countenanced by Spanish law.

We assume that formal notice will be received by Her Majesty's Government in the event of the Minister of Marine determining to act on the advice of the Council of State.

If this advice be acted upon, we think, as we have before stated, that Her Majesty's Government will not have any objection to make to the course proposed being adopted.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
ROBERT PHILLIMORE.

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## No. 135.

*The Law Officers of the Crown to Lord Stanley.*—(*Received September* 5.)

*Temple, September* 4, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that, with reference to the Report of the Law Officers of the , respecting the case of the "Tornado," he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Minister at Madrid; and to request that we would take the paper into our consideration, and favour your Lordship with our opinion as to whether any communication should be made to the parties thereupon.

In obedience to your Lordship's commands we have the honour to report—

That it is unnecessary that any communication should be made from the Foreign Office to the parties if the interests of the owners of the "Tornado" are represented by an agent at Cadiz, to whom the Consul-General will have made a communication; but if there is any doubt as to the presence of the agent at Cadiz, it would be advisable, in order to prevent the possible failure of communication between the Consul and the agent at Cadiz, to send a copy of the citation to the owners in England, with whom the Foreign Office has already been in communication.

The citation is in the usual form.

The parties are required to give an appearance within thirty days, and present their defence, or the cause will proceed regularly to judgment in their absence.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 136.

*The Law Officers of the Crown to Lord Stanley.*—(*Received September* 28.)

*Temple, September* 27, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that, with reference to our Report of the 4th instant, he was directed by your Lordship to transmit to us a further letter from the owners of the "Tornado," together with the letter to which it is an answer; and to request that we would take the same into our consideration.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, it would not be proper for Her Majesty's Government to interfere in the present state of the proceedings, or to express any opinion upon the question suggested by the letter of Messrs. Isaac, Campbell and Co., as to the inadmissibility of any particular evidence, and we think that Her Majesty's Government cannot reasonably be called upon to assume or to act upon the assumption that gross injustice is meditated by the Spanish authorities.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 137.

*The Law Officers of the Crown to Lord Stanley.*—(*Received October* 8.)

*Temple, October* 7, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th September ultimo, stating that he was directed by your Lordship to transmit to us a correspondence which had taken place with Her Majesty's Minister at Madrid,* relative to the severity of a sentence passed on a British subject by a Spanish court-martial, in consequence of his participation in a drunken affray which took place near the Spanish Lines of Gibraltar; and Mr. Hammond was pleased to request that we would take the papers into our consideration, and report to your Lordship our opinion as to any further steps which can properly be taken on behalf of the individual in question.

In obedience to your Lordship's commands we have taken the papers submitted to us into our consideration, and have the honour to report—

That, in the official report of the Fiscal, it is stated that the Ordinance under which Bautista was tried was one which punishes a person "who shall attack any soldier doing sentry's duty;" and Señor Arrazola in his despatch 14th September, 1867, says, "Your Excellency is aware that soldiers of the Civil Guard in circumstances like those now before us are considered as sentries;" and if this be so (which would certainly appear to those who are not conversant with Spanish law a very wide construction of this Ordinance) a crime seems to have been proved to which Spanish law awards men a greater punishment than that inflicted on the accused.

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* Sir J. Crampton No. 180; to Sir J. Crampton, No. 115; Sir J. Crampton, Nos. 185 and 188; to Sir J. Crampton, No. 118; Sir J. Crampton, No. 224.

Under all the circumstances the sentence appears to us to be severe, but we do not think your Lordship can take any further steps on behalf of Bautista, except in giving assistance to the presentation to the Queen of Spain of a petition for remission or mitigation of the sentence, if the friends of the prisoner should desire to present such a petition.

We advise, of course, upon the assumption that no exception can be taken to the construction put upon the Ordinance, and that there is no appeal according to Spanish law in this case, as there was in the Alicante case now also before us.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 138.

*The Law Officers of the Crown to Lord Stanley.—(Received October 8.)*

*Temple, October 7*, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence with Her Majesty's Minister at Madrid and with Her Majesty's Consul at Alicante,* upon the subject of the arrest and imprisonment at Alicante of some English sailors on a charge of being concerned in a brawl and in an attack upon the police at that port, and as to the legal proceedings to which this occurrence has given rise, which have resulted in the final sentence pronounced upon appeal by the Supreme Court at Madrid, of which a translation is contained in Sir John Crampton's despatch No. 52, Commercial, of the 23rd ultimo.

Mr. Hammond was to request that we would take these papers into our consideration, and favour your Lordship, at our early convenience, with our opinion whether the proceedings of the Spanish authorities in this case afford any grounds for further interference on the part of Her Majesty's Government.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That the proceedings of the Spanish authorities in regard to the arrest and imprisonment of English sailors at Alicante afford no grounds for further interference on the part of Her Majesty's Government. The sentence may be severe, but it seems to be in accordance with the Criminal Code of Spain, and such mitigating circumstances as existed have not been overlooked by the Court.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 139.

*The Law Officers of the Crown to Lord Stanley.—(Received October 22.)*

*Temple, October 21*, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 17th instant, stating that with reference to our Report of the 27th ultimo, he was directed by your Lordship to transmit to us the accompanying letter which your Lordship had received from Captain Collier, the late master of the ship "Tornado;" and to request that we would favour your Lordship with our opinion as to the answer which should be returned to Captain Collier's communication.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we think that an answer should be returned to Captain Collier to the effect that he would do well to take the advice of a Spanish lawyer as to his right to appear in the event of Messrs. Isaac, Campbell and Co., declining to enter an appearance at the trial of the "Tornado."

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* To Consul Barrie, No. 1, January 22; Consul Barrie, No. 4, January 28, and No. 5, February 4; to Consul Barrie, No 2, April 23; to Sir J. Crampton, No. 7, Consular, February 27; Sir J. Crampton, No. 12, Consular, March 4; Consul Barrie, No. 9, April 27; to Sir J. Crampton, No. 17, Consular, May 3; Sir J. Crampton, No. 21, Consular, May 18; to Consul Barrie, No. 3, June 21; to Sir J. Crampton, No. 21, Consular, June 22; Consul Barrie, No. 4, June 27; Sir J. Crampton, No. 28, June 28; No. 31, July 2; No. 37, July 30; No. 38, August 3; and No. 52, September 23, 1867.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 140.

*The Law Officers of the Crown to Lord Stanley.—(Received November 19.)*

*Temple, November* 18, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 30th of October last, stating that, with reference to our Report of the 27th of September, on the case of the "Tornado," he was directed by your Lordship to transmit to us a further despatch and its inclosures from Her Majesty's Consul at Cadiz on the same subject; and to request that we would take the same into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we think that, in acknowledging the receipt of Mr. Dunlop's letter inclosing the protest and letter of Mr. McPherson of the 24th October, your Lordship might add that Her Majesty's Government do not adopt Mr. McPherson's view that from the circumstances of his having been advised to present a protest, or from the statements or arguments contained in that document, a denial of justice is established; and that Her Majesty's Government do not concur in the opinion expressed by Mr. McPherson, that it is high time that Her Majesty's Government should demand the restoration of the ship, or compensation for alleged unwarrantable acts since her capture.

In answer to the latter part of Mr. Dunlop's letter we presume that your Lordship will think it right to approve of the course which he continues to adopt towards John McPherson in furnishing funds for his support.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 141.

*The Law Officers of the Crown to Lord Stanley.—(Received December 27.)*

*Temple, December* 26, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence as marked in the margin,* together with two memoranda drawn up in your Lordship's office, respecting the claim of the charterers of the "Wyvern" against the Spanish Government, and to request that we would take the papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the paper into our consideration, and have the honour to report—

That it appears to us that Señor Arrazola, in his letter of the 16th of November, satisfactorily answers the claim of Messrs. Barter and Co., and justifies the conduct of the Board of Health at Malaga.

We think, however, that the substance of this despatch should be communicated to Messrs. Barter and Co., who should be informed that the statements of the Spanish Minister seem to justify the course which was adopted towards the "Wyvern," and to answer the charge of injustice made against the Spanish authorities.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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* Messrs. Barter and Co., September 1865; to Mr. West, No. 28, September 10; to Messrs. Barter and Co., September 19, 1865; Sir J. Crampton, No. 4, January 19; to Messrs. Barter and Co., January 29; Messrs. Barter and Co., March 18; to Messrs. Barter and Co., March 10; to Sir J. Crampton, No. 43, March 13; Sir J. Crampton, No. 72, March 21, 1866; Mr. Walsham, No. 104, November 25, 1867.

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## No. 142.

*The Law Officers of the Crown to Lord Stanley.—(Received December 30.)*

*Temple, December* 30, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th ultimo, stating that with reference to that portion of our predecessors' Report of the 29th August, 1864, which relates to the case of the "Forward," which was seized by a Spanish cruizer for attempting to break the blockade of San Domingo in that year, he was directed by your Lordship to transmit to us therewith a further letter and its inclosures from the Colonial Office, forwarding a complaint from Mr. Moxey, a passenger on board the "Forward;" and Mr. Hammond was pleased to request that we would take these papers into consideration, and favour your Lordship with our opinion thereupon, more especially as regards the question of personal injury alleged to have been sustained.

The previous papers were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That the claim of Mr. Moxey now made, as a sequel to complaints made in 1864, divides itself into two parts: first, on account of his having been put in irons, imprisoned, and barbarously treated by the Spanish authorities in San Domingo, and on board two vessels of war; and next, on account of his having lost a sum of money which he delivered to the commander of a Spanish vessel of war, and which has never, according to his statement, been restored to him.

We do not find any reasons given why this claim has been allowed by Mr. Moxey to lie dormant for so long a period, and before advising as to the course which we think should be adopted, it appears to us necessary to advert to the main facts and principal documents brought to our attention in the two volumes sent us, and which bear materially on the *bona fides* of this long-deferred claim.

For the purposes of this Report we assume that, notwithstanding questions heretofore raised as to the validity of the capture of the "Forward," that vessel was legally captured, and condemned as lawful prize in 1864. The capture took place on the 18th April in that year, by the Spanish war vessel the "Africa," off San Domingo, as the "Forward" was making her passage to Turks' Island. A prize crew was put on board the "Forward," the crew and passengers were taken on board the "Africa," and, as Mr. Moxey states (and in this he is corroborated by others), all the crew and passengers (except one of the latter and two children) were placed in irons. On the 19th the "Africa" anchored off Puerto Plata, and on the same day left for San Domingo, where the Prize Court established by Spain was sitting, and where the vessel arrived on the 22nd April. Just before the "Africa" reached San Domingo the captain sent to the passengers and crew to ask if they had any money with them, for, if so, they had better deposit it with him, as he was a responsible person and the money would be safe in his hands, whereas on shore it might be taken from them. Money (chiefly Spanish paper money) was given up by several of those on board the "Forward," to the commander of the "Africa," and Mr. Moxey says that certain money was given by him to the commander, which he alleges has never been returned.

On the 23rd, Mr. Moxey and others were interrogated on board the "Africa," and it seems clear that Mr. Moxey then, and on the afternoon of that day, when he was again interrogated before the Commander of Marine, passed himself off as the captain of the "Forward."

On the evening of the 28th, Moxey and the rest were transferred from the "Africa" to the "Don Juan de Astimas," and detained as prisoners. On the 24th, the "Don Juan" went a cruize along the coast; and on the 25th, Mr. Moxey desired to be allowed to go on shore. This application was not granted, but he was allowed to go to the military hospital. There he remained for nine days and then returned to the ship "Don Juan de Astimas."

On the 13th of May, Moxey and the other prisoners from the "Forward" were put on shore and lodged in prison, as the "Don Juan" was ordered to cruize along the coast. On the 16th May, Moxey and the rest were liberated at the intercession of the British Consul. In the meantime, the vessel had been condemned, but by the terms of the sentence a contradictory trial was to be proceeded with and terminated in fifteen days from the insertion of the sentence in the Official Gazette (5th May 1864). After the capture and before Moxey's release, Governor Eyre in Jamaica appears to have received a despatch from the President of Turks Island; in consequence of which, Governor Eyre writes to the Captain-General of San Domingo (18th May, 1864, vol. i), speaking of Moxey as "an Officer of Volunteer Artillery and a Justice of the Peace of the Colony, who is said to have been making the voyage merely as a passenger for the benefit of his health." Having been released on the 16th May, Mr. Moxey appeared before the British Consul at San Domingo on the 18th, and then made a deposition on oath, and protest, in the character of the Master of the "Forward." William Evans, described as the mate, was a party to this deposition.

As regards the money deposited with the commander of the "Africa," this deposition deserves attention. Moxey does not say that he deposited any money, still less does he hint that he had left as much as from 315 to 350 dollars in the commander's hands.

That Moxey was considered to be the captain of the vessel, and treated as such, is shown by the Consul's, Mr. David Leon, letter, 9th June, 1864 (vol. i), and from a passage in that letter it certainly seems that the Consul did not understand that Moxey had deposited any money with the commander of the "Africa."

It is further stated that the passengers and crew were kept in irons and on deck while on the "Africa," with occasional intervals of release until the arrival at San Domingo. On the 27th May, 1864, Mr. Moxey and several others made depositions before Captain Lambert, on board Her Majesty's ship "Liverpool," and Moxey again speaks of himself as having been captain of the "Forward," and the other deponents seem to speak of him as the captain. William Evans calls himself mate.

In this deposition Moxey speaks of having deposited 315 to 330 dollars in Spanish paper with the commander of the "Africa." He says but little of his illness or of the badness of his food in prison. There is nothing to corroborate Moxey's statement of having deposited the money.

On the 27th June, 1864 (vol. ii), Moxey writes to President Moir, stating his grievances; and there is a marked difference between the tone of this letter and that of the previous declarations. He now represents that he took his passage in the "Forward" for the benefit of his health. He alleges that he was ironed and kept on deck of the "Africa" continuously and without any cessation or intervals, and represents that thereby he was "reduced almost to the point of death." He states that he represented himself to be the captain of the "Forward" at Captain Evans' request, "who was too much alarmed to act for himself," though why he continued this deception after his release he does not attempt to explain. No particular sum is mentioned either in this letter or the protest annexed as having been deposited.

We find that before the 9th July, 1864, the British Consul at San Domingo applied to the Captain-General and the Commander-in-chief of the Navy, that the "little" money deposited with the captain of the "Africa" might be given up; they both promised him that, on the return of the "Africa" from an expedition to Monte Christo on which she had been dispatched, the amount should be delivered to him; and, on the 9th July, the Consul, writing to Lord Russell, informs him, that on the arrival of the Spanish steamer "Africa" he addressed to the Captain-General a private note to remind him of his promise regarding the money which the passengers of the "Forward" deposited with the commander, and that orders were given to that effect; and after a few days had elapsed, the amount of 198 dollars 75 cents was delivered to him, and he inclosed a list of the several sums belonging to each individual, which amounts, he stated, he should hold until Lord Russell should instruct him how they were to be disposed of. The list contains the names of—

| | Dols. | c. |
|---|---|---|
| John C. Nugent .. .. .. .. .. .. | 54 | 25 |
| Edward Chevalier .. .. .. .. .. .. | 26 | 25 |
| A. G. Spencer .. .. .. .. .. .. | 118 | 25 |
| | 198 | 75 |

Whether these sums were sent to the persons named we know not, but it seems clear that the amount was paid by the captain of the "Africa" as being all that he had to account for, and was so received by Mr. Leon; and it seems highly improbable that Mr. Leon should have made no comment or representation on the subject, if he had had the least idea from his communications with Moxey that he claimed from 315 to 350 dollars for himself alone. Moxey in his letter to President Moir, 28th June, 1864, speaks of value in cash "taken from myself, 350 dollars."

We have been thus specific in our reference to the facts, as we have gleaned them from the two volumes sent to us, because the charges which Mr. Moxey—now described by Mr. Moir, in addition to his other titles, as "Acting Police Magistrate," and in his own statement to Captain Lambert (Governor Eyre's letter to Mr. Cardwell 7th July, 1864, vol. ii), as "a man of colour, born in Nassau, by trade a shipwright, chiefly employed as a master mariner"—makes against the commander of the "Africa," are little short of charges of purloining his money under most disgraceful and dishonourable circumstances.

In our opinion, Her Majesty's Government should not make a claim for this money, especially after all that has occurred, unless Mr. Moxey can bring corroborative evidence of his having placed the money in the commander's hands. If he knew that the commander had repaid all that he said he received, and yet omitted to press his claim, how can he account for his silence?

The case as to ill-treatment, alleged to have been sustained by Mr. Moxey, stands on a different footing; for though none of the other passengers or seamen appear to have made any actual claim through the Foreign Office, the evidence to show that they were ironed and otherwise treated as prisoners and with considerable severity is certainly cogent. We quite agree with the opinion of our predecessors expressed in their Report of the 22nd August, 1864 (vol. ii), that there is no justification according to modern usage for putting passengers and crews of vessels taken as prize for breach of blockade in irons, or treating them with severity or as prisoners of war. For the treatment to which British subjects taken in blockade-runners have been subjected by the Spaniards, we believe that strong remonstrance has already been addressed by Her Majesty's Government to Spain, and if so it seems unnecessary to repeat any such remonstrance in consequence of Mr. Moxey's renewed complaint. Nor do we think that any claim for pecuniary compensation to Mr. Moxey on account of his alleged ill-treatment should be made upon the Spanish Government, at all events until Mr. Moxey has given further explanation as to the alleged loss of his money, and has detailed more fully and specifically than he has done at present the character of the treatment to which he was subjected. To the commander of the "Africa," Moxey represented himself as captain of the prize, and it is probable that the confinement in irons on board the "Africa" was, having regard to the diminished number of that vessel's crew (some having been sent on board the "Forward" as prize crew), a justifiable precaution, and that the imprisonment on board the ships and at San Domingo was not, having regard to the necessity of keeping the crew and passengers of the "Forward" under surveillance, marked by undue harshness or severity. If, after Mr. Moxey's fuller version of the whole affair has been received, it should be deemed right to make a representation to the Spanish Government of his case, that Government should have ample opportunity of explanation, before a claim for compensation on account of harsh or barbarous treatment should be put forward.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## Tunis.

### No. 143.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 19.)

*Lincoln's Inn, March* 18, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th of February ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul-General at Tunis (No. 9), inclosing a Minute of the proceedings of a Consular Court which had been held in the Island of Gerba, to inquire into the murder of a British subject named Caterina Tortora; and Mr. Hammond was pleased to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the instructions which should be sent to Her Majesty's Consul at Tunis in this case.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Consul-General at Tunis should be instructed to the following effect:—

That Vincenzo Azzopardi should be sent to Malta to be tried for wilful murder, and three of his companions (not including Camana, whom the evidence does not seem to implicate) as accessories, though it may not improbably happen that these three persons will be acquitted.

That my Lords of the Admiralty should be moved to give proper instructions for the conveyance of the prisoners and necessary witnesses to Malta.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 144.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 21.)

*Temple, August* 17, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us therewith a letter from the Colonial Office, inclosing copy of a letter from the Governor of Malta, forwarding a petition addressed to the Secretary of State for the Colonies by Giuseppe Curmi, a native of Malta, requesting to be furnished with a copy of a sentence pronounced against him about two years ago by Her Majesty's Consular Court at Tunis; and Mr. Murray was to request that we would take these papers into our consideration, and furnish your Lordship with our opinion whether Consular Courts established and acting in the Levant, under the Order in Council of the 30th of November, 1864, are bound to give, or should refuse, copies of sentences passed in such Courts.

In obedience to the commands of your Lordship we have perused and considered these papers, and have the honour to report—

That we gather from the answer of the Acting Chief Secretary at Malta, that there is no rule or practice which requires the delivery of copies of sentences of the Consular Courts in criminal cases to the criminals sentenced.

We think, therefore, that the Consular Courts are not bound to give copies of sentences passed in those Courts; and we do not think that on the vague statement made by Curmi, "that he wishes to have a copy of the sentence because of a civil suit which he wishes to move," the refusal to give a copy of the sentence to the petitioner should, as a matter of favour even, be reversed.

By the 13th part of the Order in Council of the 30th November, 1864, sec. 89, power is given to the Judge of the Consular Court to make rules for procedure, &c., in the Supreme Consular Court. We have no copy of the rules (if any) made under this section; but we assume, as we have before stated, that there is no rule extant which affects this question.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
ROBERT PHILLIMORE.

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## Turkey.

### No. 145.

*The Queen's Advocate to Lord Stanley.*—(*Received January* 4.)

*Doctors' Commons, January* 3, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that he was directed to transmit to me the accompanying despatch and its inclosures from Her Majesty's Ambassador at Constantinople, relative to the claim of a Company entitled the "Ottoman Financial Association" against the Turkish Government, under the circumstances therein stated; and as it appears that some doubt has arisen as to the title of the Association to British protection in Turkey, Mr. Hammond was to request that I would take these papers into consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the question involves considerations of some delicacy, but I think Mr. Logie's advice (Inclosure 11 in No. 111), on which Lord Lyons acted, was sound. That the distinction was properly taken between the claim of the English joint-stock company for British intervention and assistance in winding up the affairs of the company, and therefore in recovering debts due from the Ottoman Government to the branch company at Constantinople, and the claim *per se* of that branch (the Ottoman Financial Association), to which the Firman applied, for the like intervention and assistance.

The liquidators of the parent company, so to speak, appear to be the parties interested in the repayment of the debts of the branch company.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 146.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 12.)

*Lincoln's Inn, January* 12, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 28th ultimo, stating that, with reference to our Report of the 19th of September last, he was directed by your Lordship to transmit to us the draft of a despatch which was addressed on the 19th of November to Mr. Logie, Her Majesty's legal Consul-General in Egypt, with regard to the Order in Council of the 10th ultimo, for extending the powers of the British Consular Court in Egypt. A despatch from Mr. Logie, inclosing a draft of deputation authorizing the British Legal Vice-Consul in Egypt to exercise the powers specified in the Order in Council, was also inclosed; and Mr. Murray was pleased to request that we would take the same into consideration and report to your Lordship whether there is any objection thereto. Mr. Murray was also pleased to point out for our consideration that, as now worded, the deputation would enable any Consular officer not having a legal education to exercise the powers conferred upon the Legal Vice-Consul while acting in the absence of the latter.

In obedience to your Lordship's commands we have the honour to report—

That we have considered the draft deputation proposed by Mr. Logie, and have made some alterations therein, and are of opinion that the draft, as so altered, is proper, and should receive the sanction of your Lordship.

We consider the draft deputation to be personal to Mr. Philip Francis, and to give power to him only, and that it does not extend to the Provincial Consular Court if held by any other person than himself.

To avoid the difficulty suggested by the postscript to Mr. Murray's letter, we think it right that the appointment should be thus personal merely, and that it should be revoked if necessary, and a new appointment or deputation made if and when occasion arises.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 147.

*The Queen's Advocate to Lord Stanley.*—(*Received February* 15.)

*Doctors' Commons, February* 14, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed to transmit to me the accompanying despatch, and its inclosures, from Lord Lyons (No. 57, January 29) relative to the suspension for one month, by the Turkish Government, of the "Levant Herald," an English newspaper published at Constantinople, and applying for instructions with respect to a demand for damages preferred against the Porte by Mr. Mc Coan, the editor and proprietor of that newspaper, and to request that I would take this matter into consideration and report to your Lordship my opinion thereupon. The correspondence referred to by Lord Lyons between the Foreign Office and Her Majesty's Embassy at Constantinople in 1865, respecting the Turkish Law on the Press, which formed the subject of the Law Officers' Report of the 14th February, 1865, was also inclosed.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the authority inherent in the Government of every State to refuse absolutely, or to permit under specified conditions, the publication of a public journal within its territories does not appear ever to have been denied to the Porte by any European Power. The trial of the English editor, with a view to his personal punishment by fine or imprisonment, must, according to the Capitulations, be conducted in a particular manner with the intervention of an English authority. But this is no such proceeding. I am at a loss to know why it would not be competent to the Ottoman Government to prohibit altogether the future publication of this journal; and, if so, the lesser exertion of authority by which it is suspended for a particular period must be competent to this Government.

I do not think the Ottoman Government is bound to put that construction or interpretation of their municipal law in this matter which the Representative of a foreign Power may be of opinion is the true construction or interpretation of that law.

It is not further necessary to enter into this consideration, for Lord Lyons in his letter to your Lordship states, "I do not doubt that the Ottoman authorities sincerely believe that, in the present critical state of affairs, the publication of a paper written [illegible] the spirit which has recently appeared to animate the 'Levant Herald' is dangerous to the peace of the Empire."

I have read the articles in the newspapers which accompany the papers, and I think these observations of Lord Lyons are well founded.

But whatever opinion may be formed upon this subject, I have humbly to advise your Lordship that Lord Lyons should be instructed to refuse the request of Mr. Mc Coan, that he will assist Mr. Mc Coan in obtaining compensation from the Ottoman Government for the losses incident to the suspension of the "Levant Herald."

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 148.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 14.)

*Doctors' Commons, March* 14, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 11th instant, stating that he was directed by your Lordship to transmit to me a despatch and its inclosures from Her Majesty's Consul-General at Bucharest respecting an application which has been made to him and to his French colleague by the Managing Director of the Bank of Roumania, for their intervention to obtain the due fulfilment of the Convention, of which a copy is inclosed, under which the Bank was established; and Mr. Murray was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion as to the instructions which should be sent to Mr. Green in this matter.

In obedience to your Lordship's commands I have the honour to report—

That the letter of M. de Herz raises a very difficult question of the Moldo-Wallachian Constitutional Law, as to which, having scarcely any information in the papers before me, I cannot express an opinion.

Upon the true construction, however, of that law must depend the further question whether the Act by which the Bank of Roumania was established, without the previous consent of the Senate, was or was not *ultra vires* of the Prince and the Roumanian Government who made the concession. In this state of things, I think instructions should be given to Mr. Green to the effect that, acting in concert with his French colleague, he should afford such assistance to M. de Herz as, in the exercise of his

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discretion, he may think expedient, either by a written or verbal communication with the Roumanian Government; but that he must be careful, at present, and until your Lordship has received further information and given further directions upon the subject, not to present the claim of M. de Herz to the Roumanian Government as one of which Her Majesty's Government demand the satisfaction as a matter of legal right; and that he should apprise M. de Herz that the official intervention on his behalf is not of that character; and that, therefore, M. de Herz must rely principally upon his own exertions for securing the object which he has in view.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 149.

*The Queen's Advocate to Lord Stanley.—(Received March* 23.)

*Doctors' Commons, March* 23, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that, with reference to my Report of the 14th ultimo respecting the suspension by the Porte of the "Levant Herald," he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Ambassador at Constantinople, inclosing copies of a further correspondence with the editor on that subject; and Mr. Hammond was pleased to request that I would take these papers into consideration, and report to your Lordship my opinion as to the instructions which should now be given to Lord Lyons in regard to this matter.

In obedience to your Lordship's commands I have the honour to report—

That an answer should be sent to Lord Lyons to the following effect: that with respect to the question put by Mr. McCoan, as to whether the Turkish Law on the Press "can be regarded as of any legal force at all in respect of newspapers published by British subjects in this country" (that is, Turkey), that his Lordship should be instructed to reply, that there is no reason to question the legal force of this law, because Her Majesty's Government have come, after duly considering your Lordship's representation on this subject, to the decision that it was not proper that Mr. McCoan's request for your intervention on his behalf with the Turkish Government should be granted. That it is clearly competent to every independent State (as has been stated) either to refuse entirely, or permit under specified conditions, the publication of a journal within its dominions. That the law as to the liberty of the Press is very different even in European countries; for instance, the French exercise a power much the same as that which has been exercised on this occasion by the Ottoman Government, while the English Government possess no such authority. That the law with respect to the Press in the Ottoman Empire forbids the publication of any journal without the previous "autorisation" of the Imperial Government (Articles 1 and 2).

That this "autorisation" is granted to a foreigner on the express condition that he be subjected, in all that concerns the enforcement of the law on this matter, to the same rules and regulations as an Ottoman subject (Article 3).

That the law specifies two modes by which offences committed against the authority of the Sultan, by an authorized journal, may be punished: namely, either by a prosecution before a legal Tribunal, which subjects the offender, on conviction, to the punishment of imprisonment for a period varying from six months to three years, or to a fine varying in amount from 25 to 150 livres (Article 15). The other mode is, not by proceeding before a legal Tribunal, but by what is called "voie administrative;" that is, by the action of the Executive Government alone, in which case the punishment is a suspension of the publication of the journal for a period of time not exceeding one month (Article 27).

That the Ottoman Government by this very law, therefore, reserves to itself a discretion as to which mode of procedure it may think fit to adopt. That the Ottoman Government has thought fit to adopt in the case of Mr. McCoan this last mode of procedure. That, without saying that there might not be cases in which it might be proper that Her Majesty's Representative should remonstrate with the Ottoman Government on behalf of a British subject, the editor of a journal in Turkey, on the ground that this discretion had been unjustly exercised, Her Majesty's Government is of opinion that the case of Mr. McCoan, all the circumstances duly considered, does not fall within this category; and that no demand for compensation on the ground that

the publication of this journal had been unlawfully suspended, ought in this instance to be made by Her Majesty's Representative to the Ottoman Government.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 150.

*The Law Officers of the Crown to Lord Stanley.—(Received March* 28.)

*Lincoln's Inn, March* 28, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Legal Vice-Consul at Alexandria reporting the trial and conviction before him of Carmelo and Angelo Polidano for the murder of one Paolo Allard, but requesting instructions as to the punishment to be actually inflicted on the culprits; and Mr. Murray was pleased to request that we would take this despatch into consideration, and furnish your Lordship with our opinion as to the course which it will be advisable to take in this matter.

In obedience to your Lordship's commands we have the honour to report—

That it would appear to us that the proper sentence in this case is that suggested by the Legal Vice-Consul, namely twenty years' imprisonment with hard labour. We fully enter into the view of the Vice-Consul to carry if possible the sentence into effect in Egypt; but as we are unable to appreciate the difficulties which appear to exist in keeping the criminals in custody in Egypt, we think the Consul should be at liberty to exercise his discretion, and that unless he be satisfied that the sentence will be fully executed, he should send them to Malta to undergo their punishment.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 151.

*The Queen's Advocate to Lord Stanley.—(Received April* 4.)

*Doctors' Commons, April* 3, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed to transmit to me the correspondence which has passed between the Foreign Office and Messrs. Cavan, Lubbock, and Co. and Colonel Stanton, respecting a claim preferred by the Société Agricole et Industrielle d'Egypte against the Viceroy; and Mr. Hammond was pleased to request that I would take the inclosed papers into consideration, and report to your Lordship our opinion as to the course which your Lordship should now take with regard to this matter.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that your Lordship should apprise Messrs. Cavan, Lubbock, and Co. that Her Majesty's Government cannot interfere further on their behalf than by directing Colonel Stanton to continue to use such good offices for the adjustment of their claims as in his discretion he may think expedient. That Her Majesty's Government cannot prefer any direct demand of positive right in this matter against His Highness the Viceroy of Egypt.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 152.

*The Queen's Advocate to Lord Stanley.—(Received May* 7.)

*Temple, May* 7, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, with reference to my Report of the 23rd March last, on the subject of the Turkish Law of the Press and the suspension of the "Levant Herald," he was directed by your Lordship to inclose for any observations I might have to offer thereupon, the accompanying copy of a notification which has been issued by the Porte on the subject.

In obedience to your Lordship's commands I have the honour to report—

That I do not think this "Notification Officielle" calls for any formal complaint from Her Majesty's Government. The language which describes the offences of journalism is very vague; and certainly, by means of this procedure "par voie administrative," the Ottoman Government may suspend the publication of newspapers which have, according to English notions, not exceded the limit of fair discussion.

Nevertheless, the Government has a right to take this course; but I think that it would not be improper to instruct Lord Lyons to express, on the part of Her Majesty's Government, a hope that the Ottoman Government does not intend under cover of this general language practically to restrict a fair and temperate criticism upon public acts and events by any British newspaper in Turkey.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 153.

*The Law Officers of the Crown to Lord Stanley.*—(*Received June* 15.)

*Lincoln's Inn, June* 15, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd April, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Lord Lyons, respecting a concession which the Porte is about to make to foreigners to enable them to hold landed property in Turkey, and inclosing copies of a proposed Law on the subject, and of a Protocol to be signed by the Representatives of Powers desirous of obtaining for their subjects the benefits of that law. Copies of the Capitulations between this country and Turkey of the Firman and Hatti-sherif of 1856 (commonly called the "Hatti-humayoun") and of the Treaty of Paris of 1856, together with the draft of a despatch bearing on the question of the voluntary submission of foreigners to the local Turkish tribunals which, after consultation with the late Law Officers, your Lordship addressed to Mr. Stuart, Her Majesty's Chargé d'Affaires at Constantinople, in 1865, was also inclosed; and Mr. Hammond was pleased to request that we would take these papers into consideration, and furnish your Lordship with our opinion with respect to Lord Lyon's despatch and the drafts of the proposed Law and Protocol.

In obedience to your Lordship's commands we have the honour to report—

That it appears to us that the "projet de loi," with the additional words added by the British and French Ambassadors, is satisfactory.

That we have the honour also to agree with Lord Lyons as to the inexpedience of sanctioning any of the provisions proposed in the Protocol which derogate from the Capitulations. Those Capitulations, interpreted by custom, have for a long period formed the basis of the privileges of Christian subjects in Turkey, and the modifications proposed by the Protocol of the existing rights of foreigners in reference to the exercise of jurisdiction over them by Turkish authorities, though apparently trifling, are likely, as Lord Lyons observes, to lead to embarrassment and inconvenience.

We think that the clauses specially objected to, even with the modifications proposed by Fuad Pasha, should not be sanctioned by Her Majesty's Representative at Constantinople. We adhere to the opinion expressed on the subject, of not permitting individual British subjects in Turkey to waive on their own behalf arrangements made with the Porte for the common benefit of Her Majesty's subjects, expressed in the despatch of Lord Russell.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 154.

*The Law Officers of the Crown to Lord Stanley.*—(*Received June* 24.)

*Lincoln's Inn, June* 24, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us the accompanying papers respecting an expedition which, it is supposed, is being organized in this country for affording assistance to the insurgents in Crete; and Mr. Hammond was pleased to request that we would take this matter into immediate consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we have perused these papers, and are of opinion that upon the statements therein contained there is no sufficient ground for seizing and detaining the vessel in question.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 155.

*The Queen's Advocate to Lord Stanley.*—(*Received June* 29.)

*Temple, June* 28, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Acting Consul-General in Egypt, respecting the claims of certain English drivers against the Egyptian Railway Administration, together with a Report which has been received from Her Majesty's Agent and Consul-General in Egypt, who is now in this country, upon the subject.

For my information Mr. Hammond was also pleased to inclose a correspondence which has taken place in regard to a complaint, made by the Peninsular and Oriental Steam Navigation Company, of the proceedings of the Egyptian Railway Administration in employing natives instead of European drivers in charge of the trains conveying the overland passengers through Egypt; and Mr. Hammond was pleased to request that I would take these papers into consideration, and report to your Lordship my opinion as to the course it would be right and proper to take in this matter.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that the course which Colonel Stanton recommends is substantially right and proper to be pursued.

I think that, although there is good reason to hope that the Commission of Inquiry will make a Report which will furnish a satisfactory solution of the difficulty, it would, in the particular circumstances of this case, be right that Mr. Reade should be empowered, without waiting for such Report, to sequester so much of the quarterly subsidy paid by Her Majesty's Government as would suffice to pay these drivers the sums of money due to them at the time of their ceasing to work. For I agree with Colonel Stanton that the drivers may be considered to have been compelled to adopt this course by the neglect of the authorities to redress their well-founded complaints. These men, moreover, gave fair notice to the railway authorities that they would cease to work unless justice was done to them at the particular time when they actually did so.

I think that the question as to whether they are not entitled to an indemnity for breach of contract on the part of the Railway Administration, should be postponed until the judgment of the Commission of Inquiry be pronounced.

It would, however, be expedient, I think, that Mr. Reade should, previously to placing the sequester upon the funds in question, apprise the Railway Administration that he is ordered by Her Majesty's Government to pursue this course, unless the just claims of these drivers be satisfied within a very short period indeed, which period should be specified; and should also apprise them that there will then remain to be considered the further question, as to the title of these men to compensation for the breach of contract on the part of the Railway Administration.

I have, &c.
(Signed) ROBERT PHILLIMORE.

## No. 156.

*The Queen's Advocate to Lord Stanley.*—(*Received June* 29.)

*Temple, June* 29. 1867.

My Lord,

I AM honoured with Mr. Hammond's letter of the 28th instant, inclosing to me, with reference to his letter of the 27th instant on the subject of the claims of certain English drivers against the Egyptian Railway Administration, and upon which my Report had already been sent to your Lordship, a copy of a further telegram from Mr. Reade, announcing that certain offers of compromise had been offered on the part of the said railway authorities.

With reference to this telegram I have the honour to report—

That, assuming the accuracy of the statement made by Colonel Stanton, it can cause no surprise that these inadequate offers of compensation should have been rejected by the men; but I do not understand that the Commission has as yet made any Report, so that there is still hope of an equitable adjustment in this matter.

It does not occur to me to be necessary, in consequence of this telegram, to make any alteration in the Report which I had the honour to transmit to your Lordship yesterday.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 157.

*The Queen's Advocate to Lord Stanley.*—(*Received July* 15.)

*Temple, July* 15, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that,—with reference to a question which is to be asked in the House of Commons on Monday next (to-day), namely, whether the lending of a British Naval Officer to the Porte, in the crisis of the Cretan insurrection, with a view to his being named head of the Naval Council appointed by the Turkish Government for the purpose of re-organizing the Turkish Navy, is consistent with the principle of non-intervention declared by Her Majesty's Government,—he was directed by your Lordship to transmit to me the accompanying correspondence with the Turkish Ambassador, Lord Lyons, and the Board of Admiralty on the subject, and was pleased to request that I would report to your Lordship whether there is anything in this arrangement inconsistent with the duties of this country, as a Power neutral in the contest between the Porte and the Cretan insurgents.

In obedience to your Lordship's commands I have the honour to report—

That, with respect to general principles, applicable to the *status* of non-intervention, I am of opinion that a State which professes to be neutral between two belligerents in a civil war, and the Government of which lends a skilled officer to one belligerent for the purpose of rendering his naval or military force more effective against his enemy, does depart from the strict position of a neutral, and does, *pro tanto*, intervene in the contest.

With respect to the application of the general principle to this case, I feel some difficulty arising out of my partial acquaintance with the facts. Her Majesty's Government has not, I think, either formally or *de facto*, recognized the insurgent Cretans as belligerents, but has declared, generally, a policy of non-intervention in the contest. If Her Majesty's Government has reason to believe that the assistance of this British officer is sought by the Ottoman Government with special reference to this particular civil war, then, I think, the assistance could not, consistently with a strict maintenance of the *status* of non-intervention, be granted at this moment. But if Her Majesty's Government are satisfied that the assistance is asked for the general purpose of improving the naval administration of a friendly State, irrespectively of this war, and in pursuance of a policy framed antecedently to it, then I think that a compliance with this request may be defended on the ground that it is not any intervention on the part of Her Majesty in the civil war now carried on between the Ottoman Government and the insurgents in Crete.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 158.

*The Law Officers of the Crown to Lord Stanley.*—(*Received July* 18.)

My Lord, *Lincoln's Inn, July* 16, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that, with reference to our Report of the 15th ultimo, respecting the tenure of real property by foreigners in Turkey, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Ambassador at Constantinople, inclosing a translation of a Law granting to foreigners the right to hold real property in the Ottoman Empire, and the draft of a Protocol to be signed by those Governments who desire to obtain for their subjects the benefit of that law; and Mr. Hammond was pleased to request that we would take these papers, together with Lord Lyons' former despatch, into consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we have taken these papers into our consideration and are of opinion that the alterations which have been made in the "projet de loi," now sent in print, are not such as to affect the opinion which we expressed as to its satisfactory character upon the manuscript copy laid before us in April.

As regards the Protocol, we have the honour of agreeing with Lord Lyons in the view entertained by his Lordship, as expressed in his letter of the 24th June, that the alterations and additions made to the Protocol do not diminish the force of the objections of Her Majesty's Government communicated to his Lordship in your Lordship's despatch of the 18th June.

The objectionable clauses remain unaltered, and, we think, should not be assented to.

The law respecting the succession to "vacoufs," and which seems to be a law extending the right of inheriting this description of property in certain cases, does not appear to us to call for any particular remark.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 159.

*The Queen's Advocate to Lord Stanley.*—(*Received July* 22.)

*Temple, July* 22, 1862.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that, with reference to my Reports of the 28th and 29th of June, he was directed by your Lordship to transmit to me two despatches and a telegram since received from Her Majesty's Acting Consul-General in Egypt,* respecting the claims of the English engine-drivers, and reporting that he had sequestered a portion of the subsidy due to the Turkish Company for the conveyance of the British mails through Egypt; and Mr. Hammond was to request that I would take these papers into consideration, and report to your Lordship my opinion on the matter as it now stands.

In obedience to your Lordship's commands I have the honour to report—

That it would be desirable to compare the Report which the Commission of Inquiry has made with the reply of Cherif Pasha; as I understand, from Mr. Reade's last despatch, that the conclusions at which these two authorities have arrived are materially different, the former recognizing, the latter disavowing, the claims of the drivers to pay after they had ceased to work, and during the time that the Commission was examining into the grounds of their complaint.

There are probably other points of discrepancy which may be of importance when this Report has been examined.

I venture to suggest that the best course to pursue, in the present state of this controversy, would be to give directions to Colonel Stanton to repair to Alexandria for the purpose of again endeavouring to bring about an equitable arrangement, and of

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* Mr. Reade, Nos 10 and 11, July 4; Telegram, July 13, 1867.

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reporting fully to your Lordship upon the matter. In the meantime, Mr. Consul Reade should be directed not to make any further advance to the drivers out of the remaining sum of the quarterly subsidy. At present the drivers have only been paid the sum which the Commission itself has, I understand, found to be due to them.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 160.

*The Attorney- and Solicitor-General to Lord Stanley.*—(*Received August* 1.)

*Temple, August* 1, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of 31st July ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter, dated 30th ultimo, with its inclosures, from the Treasury relative to the suspicion entertained that the vessels therein referred to are intended to take part in the Cretan insurrection; and that he was to request that we would take these papers into our consideration, and report to your Lordship whether, in our opinion, they contain sufficient evidence to justify any, and what, proceedings on the part of Her Majesty's Government.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That we are of opinion that though these vessels should be watched, there is not sufficient evidence to justify any proceedings on the part of Her Majesty's Government at the present time.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.

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### No. 161.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 15.)

*Temple, August* 14, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that the papers which, by the direction of your Lordship, he then inclosed,* and some of which had been recently under our consideration, go to show that measures are being actively taken by certain parties at Liverpool to equip cruizers to be employed against Turkey in aid of the Cretan insurrection; and looking to these objections with reference to the announcement of the so-called Provisional Government in Crete of their intention to issue letters of marque with the view of assailing Turkish commerce, which formed the subject of Mr. Hammond's further letter of the same day's date, Mr. Hammond was to request our opinion as to the propriety of a Proclamation being issued under the Foreign Enlistment Act, warning Her Majesty's subjects against taking any part in any such proceedings; and that if we should be of opinion that it would be proper to issue such a Proclamation, Mr. Hammond was to request that we would prepare the draft of one for your Lordship's consideration.

In obedience to your Lordship's commands we have considered these papers,† and have the honour to report—

That the question submitted to us as to the propriety of issuing a Proclamation of Neutrality by Her Majesty, in the matter of the Cretan insurrection, is one of great delicacy and grave importance.

When a civil war has broken out in the dominions of a friendly State, and armaments are brought into the field, or upon the sea, by the contending parties, it is undoubtedly competent to a neutral State, without any breach of international law, to recognize both parties as belligerents, and to declare herself neutral between them.

It is always a question of fact, to be determined by the Government of the neutral State, whether the insurrection has or has not assumed the dimensions of war, and whether the legitimate interests of the neutral State do, or do not, require that she should claim from both parties the performance towards her of the obligations incident to the status of a belligerent; according equally to both parties, in return, the recognition of that status.

This question of fact cannot, in our opinion, be established by the mere assertion of a certain number of persons styling themselves "Provisional Government." Many other circumstances must obviously be required before a neutral State can be justified in recognizing as belligerents persons in insurrection against the Government of a State with whom she is on terms of amity. Among these circumstances, the length of time during which the contest has existed; the number, order, and discipline of the rebel forces; their subordination to a *de facto* existing Government, capable of maintaining international relations with foreign States; the acts of the Government against which the rebels are in arms, both with respect to the rebels themselves and to foreign States,—must obviously find place.

We perceive that it is stated in these papers that the Ottoman Government has declared the ports of Crete to be in a state of blockade; if so, we presume it would have notified the fact of this declaration to foreign States.

We do not, however, know whether this be the case or not; but if the Ottoman Government does require from foreign States the recognition of what is, strictly speaking, a blockade, and not merely a right, incident to every independent State, of closing the ports of any part of its dominions against foreign vessels; if, in fact, the Ottoman Government has declared a formal blockade, it would have no reason to complain if foreign States simply recognized the rebels as belligerents; because a blockade implies the existence of war, and of two belligerents at least, bound to respect the rights of neutral States.

We have thought it proper to make these general remarks, in the hope that they may either assist Her Majesty's Government in forming a conclusion on the facts before them, or may induce Her Majesty's Government to lay before us the facts of which they are in possession, without which we are unable ourselves to arrive at a satisfactory conclusion on this subject.

With respect to the question whether it be expedient that Her Majesty's Government should issue a Proclamation of Neutrality, in order to restrain Her Majesty's subjects from taking any part in this civil war, we have to observe that even without the issue of any such Proclamation, Her Majesty's subjects cannot lawfully enlist themselves in the service of any foreign State without the express permission of the Crown.

It is true that such a Proclamation has been usual, and of late years been very generally issued, in order to admonish Her Majesty's subjects that if they take any part in a war as to which Her Majesty is neutral, they will thereby infringe the law, disobey Her Majesty's order, and will be entitled to no protection from Her Majesty's Government. And if Her Majesty's Government should be of opinion, upon the facts before them, that the insurgents have established what may be recognised as a Government, and that this insurrection has assumed the character of a war, we think it would be proper that such a Proclamation should issue, but not otherwise; for the issuing of such a Proclamation might operate as a public recognition of the existence of a state of war. We have, however, thought it right, subject to these observations, to prepare and append to our Report a Draft Proclamation drawn in conformity with the usual precedents; which Draft, however, may require some alterations in order to meet the state of circumstances actually existing.

There remains to be considered the important question relative to the declared intention of the so-called "Provisional Government" of Crete to issue letters of marque and send forth privateers. We are of opinion that if this "Provisional Government" is to be treated as a belligerent *de facto*, they have a right, according to the general principles of international law, to resort to this means of self-defence, and of aggression against their enemy; but if they are not entitled to the *status* of belligerents, and these privateers sail upon the high seas under no flag of any *de jure* or *de facto* Government, they would be liable to be treated generally as piratical vessels, and especially to be treated as such if they should attempt to interfere in any way with the vessels of any foreign State. This consideration still further increases the importance of the decision at which Her Majesty's Government may arrive, upon the facts before them, as to the issue of a Proclamation of Neutrality, which might, as we have said, be a public recognition of the insurgents as belligerents. The notice now received of the intention of the "Provisional Government" of Crete to arm privateers and

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* Treasury, June 22; Mr. Negropouli, July 17 and July 24; Treasury, June 29 and July 30, 1867.

† Also letter of August 5, from Mr. Hammond, inclosing letter of Provisional Government of Crete, notifying their intention to issue letters of marque.

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issue letters of marque, renders it expedient to keep strict watch over the movements of the suspected vessels at Liverpool.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
ROBERT PHILLIMORE.

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### Inclosure in No. 161.

### BY THE QUEEN.

### *A Proclamation.*

WHEREAS We are happily at peace with all Sovereigns, Powers, and States:

And whereas hostilities have unhappily commenced and exist between the Government of the Ottoman Porte and certain persons exercising or assuming to exercise powers of government in the Island of Candia or Crete:

And whereas We, being at peace with the said contending parties, have declared Our Royal determination to maintain a strict and impartial neutrality in the said contest and hostilities now existing and being carried on between them, as aforesaid:

We therefore have thought fit, by and with the advice of Our Privy Council, to issue this Our Royal Proclamation:

And We do hereby strictly charge and command all Our loving subjects to observe a strict neutrality in and during the aforesaid hostilities, and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto, as they will answer to the contrary at their peril.

And whereas, in and by a certain statute made and passed in the fifty-ninth year of His Majesty King George III, intituled "An Act to prevent the enlisting or engagement of His Majesty's subjects to serve in a foreign service, and the fitting out or equipping, in His Majesty's dominions, vessels for warlike purposes, without His Majesty's license," it is, amongst other things, declared and enacted as follows:—

"That if any natural-born subject of His Majesty, his heirs and successors, without the leave or license of His Majesty, his heirs or successors, for that purpose first had and obtained, under the Sign-Manual of His Majesty, his heirs or successors, or signified by Order in Council, or by Proclamation of His Majesty, his heirs or successors, shall take or accept, or shall agree to take or accept, any military commission, or shall otherwise enter into the military service as a commissioned or non-commissioned officer, or shall enlist or enter himself to enlist, or shall agree to enlist or to enter himself to serve as a soldier, or to be employed, or shall serve in any warlike or military operation in the service of, or for, or under, or in aid of any foreign Prince, State, Potentate, Colony, Province, or part of any province or people, or of any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people, either as an officer or soldier, or in any other military capacity; or if any natural-born subject of His Majesty shall, without such leave or license as aforesaid, accept, or agree to take or accept, any commission, warrant, or appointment as an officer, or shall enlist or enter himself, or shall agree to enlist or enter himself, to serve as a sailor or marine, or to be employed or engaged, or shall serve in and on board any ship or vessel of war, or in and on board any ship or vessel used, or fitted out or equipped, or intended to be used for any warlike purpose, in the service of, or for, or under, or in aid of any foreign Power, Prince, State, Potentate, colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people; or if any natural-born subject of His Majesty shall, without such leave and license as aforesaid, engage, contract, or agree to go, or shall go to any foreign State, country, colony, province, or part of any province, or to any place beyond the seas, with an intent or in order to enlist or enter himself to serve, or with intent to serve in any warlike or military operation whatever, whether by land or by sea, in the service of, or for, or under, or in aid of any foreign Prince, State, Potentate, colony, province, or part of any province or people, or in the service of, or for, or under, or in aid of any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people, either as an officer or a soldier, or in any other military capacity, or as an officer or sailor, or marine in any such ship or vessel as aforesaid, although no enlisting money, or pay, or reward, shall have been or shall be in any or either of the cases aforesaid actually paid to or received by him, or by any person to or for his use or benefit or if any person whatever within the United Kingdom of Great Britain and Ireland, or in any part of His Majesty's dominions elsewhere, or in any country, colony, settlement, island, or place belonging to or subject to His Majesty, shall hire, retain, engage, or procure, or shall attempt or endeavour to hire, retain, engage, or procure, any person or persons whatever to enlist, or to enter, or engage to enlist, or to serve or to be employed in any such service or employment as aforesaid, as an officer, soldier, sailor, or marine, either in land or sea service, for, or under, or in aid of any foreign Prince, State, Potentate, colony, province, or part of any province or people, or for, or under, or in aid of any person or persons exercising or assuming to exercise any powers of government as aforesaid, or to go, or to agree to go, or embark from any port of His Majesty's dominions for the purpose or with the intent to be so enlisted, entered, engaged, or employed as aforesaid, whether any enlisting money, pay, or reward shall have been or shall be actually given or received or not, in any or either of such cases every person so offending shall be deemed guilty of a misdemeanor, and upon being convicted thereof upon any information or indictment shall be punishable by fine and imprisonment, or either of them, at the discretion of the Court before which such offender shall be convicted."

And it is in and by the said Act further enacted:—"That if any person within any part of the United Kingdom, or in any part of His Majesty's dominions beyond the seas, shall, without the leave and license of His Majesty for that purpose first had and obtained as aforesaid, equip, furnish, fit out, or arm, or attempt or endeavour to equip, furnish, fit out, or arm, or procure to be equipped, furnished, fitted out, or armed, or shall knowingly aid, assist, or be concerned in the equipping, furnishing, fitting out, or arming of any ship or vessel, with intent or in order that such ship or vessel shall be employed in the service of any foreign Prince, State, or Potentate, or of any foreign Colony, province, or part of any province, or people, or of any person or persons exercising or assuming to exercise any powers of government in or over any foreign State, Colony, province, or part of any province or people, as a transport or store-ship, or with intent to cruize or commit hostilities against any Prince, State, or Potentate, or against the subjects or citizens of any Prince, State, or Potentate, or against the persons exercising or assuming to exercise the powers of government in any Colony, province, or part of any province or country, or against the inhabitants of any foreign Colony, province, or part of any province or country with whom His Majesty shall not then be at war; or shall, within the United Kingdom, or any of His Majesty's dominions, or in any settlement, colony, territory, island, or place belonging or subject to His Majesty, issue or deliver any commission for any ship or vessel, to the intent that such ship or vessel shall be employed as aforesaid, every such person so offending shall be deemed guilty of a misdemeanour, and shall, upon conviction thereof, upon any information or indictment, be punished by fine and imprisonment, or either of them, at the discretion of the Court in which such offender shall be convicted; and every such ship or vessel, with the tackle, apparel, and furniture, together with all the materials, arms, ammunition, and stores which may belong to or be on board of any such ship or vessel, shall be forfeited; and it shall be lawful for any officer of His Majesty's Customs or Excise, or any officer of His Majesty's Navy who is by law empowered to make seizures for any forfeiture incurred under any of the laws of Customs or Excise, or the laws of trade and navigation, to seize such ships and vessels aforesaid, and in such places and in such manner in which the officers of His Majesty's Customs or Excise and the officers of His Majesty's Navy are empowered respectively to make seizures under the laws of Customs and Excise, or under the laws of trade and navigation; and that every such ship and vessel, with the tackle, apparel, and furniture, together with all the materials, arms, ammunition, and stores which may belong to or be on board of such ship or vessel, may be prosecuted and condemned in the like manner and in such Courts as ships or vessels may be prosecuted and condemned for any breach of the laws made for the protection of the revenues of Customs and Excise, or of the laws of trade and navigation."

And it is in and by the said Act further enacted:—"That if any person in any part of the United Kingdom of Great Britain and Ireland, or in any part of His Majesty's dominions beyond the seas, without the leave and license of His Majesty for that purpose first had and obtained as aforesaid, shall, by adding to the number of the guns of such vessel, or by changing those on board for other guns, or by the addition

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of any equipment for war, increase or augment, or procure to be increased or augmented, or shall be knowingly concerned in increasing or augmenting, the warlike force of any ship or vessel of war, or cruizer, or other armed vessel, which at the time of her arrival in any part of the United Kingdom, or any of His Majesty's dominions, was a ship of war, cruizer, or armed vessel in the service of any foreign Prince, State, or Potentate, or of any person or persons exercising or assuming to exercise any powers of government in or over any Colony, province, or part of any province, or people belonging to the subjects of any such Prince, State, or Potentate, or to the inhabitants of any Colony, province, or part of any province, or country, under the control of any person or persons exercising or assuming to exercise the powers of government, every such person so offending shall be deemed guilty of a misdemeanour, and shall, upon being convicted thereof, upon any information or indictment, be punished by fine and imprisonment, or either of them, at the discretion of the Court before which such offender shall be convicted."

Now, in order that none of Our subjects may unwarily render themselves liable to the penalties imposed by the said statute, We do hereby strictly command that no person or persons whatsoever do commit any act, matter, or thing whatsoever contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of Our high displeasure. And We do hereby further warn all Our loving subjects, and all persons whatsoever entitled to Our protection, that if any of them shall presume, in contempt of this Our Royal Proclamation and of Our high displeasure, to do any acts in derogation of their duty, as subjects of a neutral Sovereign, in the said contest, or in violation or contravention of the law of nations in that behalf, as, for example, and more especially, by entering into the military service of either of the said contending parties as commissioned or non-commissioned officers or soldiers; or by serving as officers, sailors, or marines on board any ship or vessel of war or transport of or in the service of either of the said contending parties, or by serving as officers, sailors, or marines on board any privateer bearing letters of marque of or from either of the said contending parties; or by engaging to go, or going to any place beyond the seas, with intent to enlist or engage in any such service; or by procuring or attempting to procure, within Her Majesty's dominions at home or abroad, others to do so; or by equipping, furnishing, fitting out, or arming, or knowingly aiding, assisting, or being concerned in the equipping, furnishing, fitting out or arming any ship or vessel to be employed as a ship of war, transport, or store-ship, by either of the said contending parties against the other of such parties; or by breaking, or endeavouring to break, any blockade lawfully and actually established by or on behalf of either of the said contending parties; or by carrying officers, soldiers, despatches, arms, military stores or materials, or any article or articles considered and deemed to be contraband of war, according to the law or modern usage of nations, for the use or service of either of the said contending parties; all such persons so offending will incur and be liable to the several penalties and penal consequences by the said statute, or by the law of nations, in that behalf imposed or denounced. And We do hereby declare that, all Our subjects and persons entitled to Our protection, who may misconduct themselves in the premises, or otherwise act against the law or the statutes in such cases made and provided, will do so at their peril and of their own wrong, and that they will in no wise obtain any protection from Us against any liabilities or penal consequences, but will, on the contrary, incur Our high displeasure by such misconduct.

Given at Our Court at this day of in the year of Our Lord 1867, and in the year of Our reign.

God save the Queen.

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## No. 162.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 24.)

*Temple, August* 17, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th July ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence* which had taken place on the subject of the differences which have arisen between the Turkish authorities and Mrs. Thompson in regard to certain schools which she had established, and others which she is desirous of establishing, in Mount Lebanon, and to request we would take the papers into our consideration and report to your Lordship our opinion thereupon, as well as upon the two special questions raised by Mrs. Thompson, in regard to the right of English Protestants to establish schools in that country, and the right of the Turkish Government to close the same.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That according to the general principles of public and international law, it is competent to the Government of every independent State to make such regulations with respect to the establishment within their dominion of places of instruction of foreigners.

There are obvious reasons why this power should be exercised by a Government in places where, as in the Lebanon district, a fanatical population exists. Both upon general principles therefore, and with reference to the application of these principles to the present case, there can be no doubt that the Ottoman Government possesses this power with respect to the institution of schools by foreigners, unless it has conceded by solemn Treaty a liberty to foreigners inconsistent with this right. The burden of proving this exception in his favour certainly lies upon the foreigner who claims it.

We do not find in the original Capitulations which regulate the status and right of British subjects in the Ottoman dominions, or in any subsequent Treaty, any provisions which confer any exceptional privilege as to the matter upon British subjects. It appears to us that it was competent to the Governor of the Lebanon district to order the school to be closed which was opened without any previous permission being asked for, or granted to Mrs. Thompson.

Lastly, we think that there is no sufficient ground for the official interference of Her Majesty's Government on behalf of Mrs. Thompson.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
ROBERT PHILLIMORE.

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## No. 163.

*The Queen's Advocate to Lord Stanley.*—(*Received September* 5.)

My Lord, *Temple, September* 4, 1867.

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 27th ultimo, stating that he was directed by your Lordship to transmit to me a correspondence having reference to the claims of Mr. Petherick, late Her Majesty's Consul at Khartoum, against the Egyptian Government. That these claims were put forward in the year 1864, when, in consequence of the proceedings of the Governor-General of the Soudan, Mr. Petherick abandoned his trading pursuits and all his trading materials, and claimed compensation for the losses which he thus incurred. That his claim was submitted to the Queen's Advocate, who at the time gave it as his opinion that it should not be supported.

That Mr. Petherick has, however, requested your Lordship to reconsider the case, and that your Lordship is desirous that it should again be looked into in order to see whether Mr. Petherick may not, to some extent at least, if not wholly, be held to have a fair claim against the Egyptian Government, and whether it may be right that it should receive the support of Her Majesty's Government. That Mr. Petherick's claim is founded on an alleged unjust decree of the Governor-General of the Soudan, by which his trade was stopped, and that he asserts that this measure was adopted in order to get rid of him and other traders, and thus to enable the Governor-General to monopolize the trade to himself, and put an end to the opposition raised by Mr. Petherick as Consul to proceedings which were nothing less than a direct encouragement of the Slave Trade, which Mr. Petherick, in accordance with his duty and inclinations, said he did his best to suppress. That it was alleged as against his claim that Mr. Petherick was more or less concerned in the Slave Trade, inasmuch as the persons whom he employed to procure his articles of commerce obtained them by means of slave razzias, and that his own boats were found with slaves on board,

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* Mr. Eldridge, No. 31, May 12, 1866; Mrs. Rogers, No. 15, May 14; Major-General Clarke, June 29; to Lord Lyons, No. 193, July 4; Lord Lyons, No. 313, July 15, 1867.

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That Mr. Petherick denies the assertion that he was in any way connected with the Slave Trade, and that, as a proof of his hostility to it, he says he himself denounced his servants for wrong-doing and handed them over to the Egyptian authorities for punishment. That Her Majesty's Government accepted Mr. Petherick's statements and exonerated him from all charge of slave-trading; and that he holds, therefore, that his claim his entitled to support. That the particulars of this case are fully explained in the correspondence; and Mr. Murray was pleased to state that your Lordship requests my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration and have the honour to report—

That I am of opinion Mr. Petherick is, to some extent, deserving of the support of Her Majesty's Government. Her Majesty's Government has explicitly acquitted Mr. Petherick of all direct complicity with slave-dealing, and the Governor-General of the Soudan appears to have failed to elicit from Mr. Petherick's Egyptian servants any unfavourable evidence against their employer. It deserves also to be borne in mind that if it is probable that the trade in ivory, &c., on the White River fosters indirectly the Trade in Slaves in the interior of Africa, Mr. Petherick was a trader in ivory, &c., when he was appointed Consul at Khartoum, on a small salary, and was allowed to continue his trade.

The complaint of Mr. Petherick against the conduct of the Governor-General of the Soudan, in the month of December 1863, may be briefly stated. It appears that, at the commencement of that month, an expedition of boats, according to the custom of the traders with the White River, had been fitted out by Mr. Petherick, and that the preparations for its departure were completed when the Governor-General of the Soudan decreed a new impost, and, by putting it at once in force, compelled Mr. Petherick to abandon his expedition, and thereby not merely stopped his immediate means of communication with his establishments on the White River, but indirectly ruined his trading establishments on that river by cutting off his means of communication with them. Mr. Petherick claims accordingly compensation, not merely for the loss which he has incurred by the detention of the boats equipped for that expedition, but for the indirect ruin of his general trade which that detention occasioned. It is unnecessary, in my opinion, to determine what was the real motive of the Governor-General in imposing the new tax; whether his object was immediate, and the double poll-tax was *bonâ fide* intended to check the out-flow of the able population towards the White River, which Mr. Petherick represents to have undergone an enormous development since 1859, or whether the Governor-General had a more remote object in view, and the tax was intended to drive away Mr. Petherick and the other traders, according to Mr. Petherick's suggestion, with a view to enable the Governor-General himself to monopolize the ivory trade.

I do not think that Mr. Petherick's unfavourable conclusions against the Governor-General on this latter head, which might give a more serious aspect to the case, are necessary inferences from the facts to be gathered from the correspondence.

My opinion, therefore, does not proceed upon any such conclusions against the Governor-General, but upon the circumstances under which the tax was imposed.

It appears that the expeditions from Khartoum to the White River start at a fixed season of the year, and occupy about six months, and the custom of the trader is to pay the boatmen five months' wages in advance. Mr. Petherick had followed the usual practice of himself and other traders in preparing his annual expedition, and had paid his boatmen five months' wages in advance, when the Governor-General announced the new tax.

Mr. Petherick, in his letter of the 26th December, 1863, addressed to Consul-General Colquhoun, asserts that the Governor-General, at the time when he wrote his despatch to Mr. Petherick, was aware of the fact that Mr. Petherick, as well as every other trader, had paid the boatmen five months' wages in advance, the voyage being calculated to last six months.

The despatch itself is set-forth at length in the printed summary therein prepared by Mr. Petherick, as well as the protest against the impost, which Mr. Petherick thought it his duty to deliver to the Governor-General, and in which Mr. Petherick presses on his Excellency's attention the fact that his Excellency was aware that every trader from Khartoum to the White River had paid his men five months' wages in advance, and had otherwise completed his preparations at the time when the "werko" (or poll-tax) was imposed; and that it was an oppressive act to enforce such a tax upon the trader without a fair warning.

Two questions at once suggest themselves upon perusing the Governor-General's despatch announcing the nature of the impost, and further, that the British traders were to be held responsible for the collection and payment of it:—

(1.) Whether the levying of a "werko," or poll-tax, to be paid by every British trader on the number of men leaving and returning with the boats employed by him in the White River trade, of *double* the amount of the "werko" levied upon each daily labourer at home, was not an indirect form of exacting from British traders a payment for the *permission* to transport their merchandize, and so far contrary to the spirit of Article II of the Treaty of April 29, 1861, which forbids any local Governor to compel British subjects to receive a permit for the removal of any article when purchased from one place to another;

(2.) Whether the impost of a "werko," or poll-tax, to be levied upon the men remaining at the trading stations on the White River, of *treble* the amount levied upon each labourer at home, and for the collection and payment of which in respect of the number of men in their employment at their stations on the White River each British subject trading to the White River was to be held responsible, was not altogether *ultra vires*, as regards the right of the Governor-General to impose taxes, and a wrongful exercise of power on his part as regards his attempt to exact payment of it from British traders, seeing that their stations on the White River were beyond the Egyptian frontier, and that the men at those stations had left the Soudan before the tax was introduced.

It seems, however, not to have been the impost of the *treble* "werko" in respect of the men employed at his establishments on the White River which, as I understand Mr. Petherick's case, compelled him to consign his boats to the charge of the Pasha and to give up his expedition, but the impost of the *double* "werko" in respect of the men engaged by him to leave and return with the boats.

The question accordingly narrows itself to the *double* "werko"—whether Mr. Petherick was justified in refusing to pay it, and whether the Governor-General of the Soudan, upon Mr. Petherick declining to become personally responsible for the payment of the *double* werko, was justified in refusing to allow the men to depart with the boats, whereby they were constrained to break their contract with Mr. Petherick after they had received five-sixths of their wages. I think Mr. Petherick was justified in refusing to pay the *double* werko, or to become responsible for it. It deserves remark that he had engaged the men for six months only, and he was required to pay the *double* werko for a whole year: and as Mr. Petherick was justified in refusing to become responsible for the impost, it follows that the Governor-General was not, upon Mr. Petherick's refusal, justified in refusing to allow the men to fulfil the contract which they had entered into with Mr. Petherick before the impost was announced.

This breach of contract undoubtedly damnified Mr. Petherick, and I think he is entitled to some compensation for the immediate loss which resulted to him from the abandonment of this expedition, which abandonment the conduct of the Governor-General may be said to have caused contrary to natural justice.

I do not, however, think that Mr. Petherick's claim for compensation for the subsequent breaking up of his establishments on the White River can be supported with equal reason. It was out of his power to take any measures to obviate the immediate effect of the Governor-General's exercise of arbitrary power as regarded the expedition from Khartoum; but Mr. Petherick's establishments on the White River were beyond the Egyptian frontier, and consequently beyond the Governor-General's control, and the evidence is not conclusive that their breaking-up can be fairly attributed exclusively to the conduct of the Governor-General.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 164.

*The Queen's Advocate to Lord Stanley.—(Received September* 30.)

*Temple, September* 28, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed by your Lordship to transmit to me a letter dated the 19th June ultimo, and its inclosures, from Mr. W. E. Robinson, respecting a claim preferred by him against the Egyptian Railway Administration, together with Reports on the subject which your Lordship has received from the

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Acting British Consul-General in Egypt (No. 18), and from Colonel Stanton (August 24), and to request I would take the same into consideration, and report my opinion as to the course which your Lordship should take with regard to this matter.

In obedience to your Lordship's commands I have the honour to report—

That it will not be proper for Her Majesty's Government to give any support to the claim of Mr. W. E. Robinson against the Egyptian Railway Administration.

Mr. Robinson rests his claim on alleged parole promises made to him by officers of the Railway Administration subsequently to his own written undertaking; but all the parties are reported to concur in denying that such alleged promises were ever made by them.

Mr. Robinson appears further to have taken a wrong view of his own written undertaking, and to have kept possession improperly of the house belonging to the Railway Administration after he had received a written notice to give up possession of it.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 165.

*The Queen's Advocate to Lord Stanley.—(Received October 5.)*

*Temple, October* 4, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th ultimo, stating that he was directed by your Lordship to transmit to me a despatch from Mr. Barron (No. 37), reporting the steps taken by Her Majesty's Embassy at Constantinople to obtain a settlement of a claim preferred against the Porte by Colonel Churchill, a British subject resident in Syria, on account of the sequestration of a quantity of salt. The previous correspondence referred to by Mr. Barron, which however relates also to another and a distinct claim, was likewise inclosed; and Mr. Hammond was pleased to request that I would take these papers into consideration, and report to your Lordship my opinion with regard to this matter.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it appears that all the members of the Mixed Commission concur in the opinion that Colonel Churchill was not aggrieved by the sequestration placed upon his salt in February 1857, as that sequestration was justified as a measure of protection to Antoon Bey; and that no damages are due to Colonel Churchill on account of the sequestration.

Three of the Commissioners concur in the opinion that, under the contract of Antoon Bey, Colonel Churchill is entitled to remove his salt beyond the eyalet of Sidon.

The Commissioners are equally divided upon the question whether any damages are due to Colonel Churchill; the English Commissioners being of opinion that the local authorities ought to have replied to Colonel Churchill's protest, and informed him that he was entitled to remove his salt, and that the Turkish Government is responsible for any losses which may have accrued to Colonel Churchill in consequence of the long sequestration.

As the Commissioners hold the sequestration to have been justified to prevent any further sale of the salt within the eyalet of Sidon, I am of opinion that Colonel Churchill's protest against the sequestration was ill-founded, and that he is not entitled to any damages by reason of its having been disregarded by the local authorities. It does not appear from the Report of any of the Commissioners what were the precise terms of that protest; but it appears from the letter addressed by Mr. Stuart to Earl Russell on 9th February, 1864 (No. 64), that Colonel Churchill's complaint at that time, upon which the Mixed Commission was appointed to report, was against the local authorities of Beyrout, on account of his having been illegally prohibited by them from selling his salt. The Commissioners being unanimous in opinion that the prohibition from selling the salt was perfectly justified, I am of opinion that your Lordship will be warranted in declining to support any claim of Colonel Churchill for compensation, by reason of losses consequential on the sequestration; and that your intercession may reasonably be confined to procuring for Colonel Churchill permission to export his salt, and to sell it beyond the eyalet of Sidon. With regard to the objection raised in the Report of Mustafa Effendi to the sale of the salt beyond the eyalet of Sidon, I think, inasmuch as the local authorities do not appear, at the time when the sequestration was placed upon the salt, to have informed Colonel Churchill that he was at liberty to remove it out of the eyalet of Sidon, that Colonel Churchill ought not to be prejudiced by any subsequent order of the Turkish Government which may have made salt a monopoly of the "Miri." I may add that if any serious loss has resulted from Colonel Churchill's stores being broken into by the local authorities pending the sitting of the Commission, your Lordship may with justice, in my opinion, press upon the Turkish Government the propriety of compensation being made to Colonel Churchill on that account.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 166.

*The Queen's Advocate to Lord Stanley.—(Received October 8.)*

*Temple, October* 5, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th ultimo, stating that, with reference to the Report of Her Majesty's late Advocate-General of the 6th October last, he was directed by your Lordship to transmit to me the accompanying correspondence respecting a claim preferred against the Porte by M. de Mattos, on account of interest on the value of coals supplied by him to the Turkish Military Council in 1859, but which, contrary to the terms of the contract, were not paid for until 1862. And further stating that I should perceive, from Fuad Pasha's note, of which a copy was inclosed in Mr. Barron's last despatch, that the Porte declines to admit this claim; and Mr. Hammond was pleased to request that I would take this matter into consideration, and report to your Lordship my opinion as to the course which Her Majesty's Government should take.

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That as it appears from the last letter of Fuad Pasha that the Ottoman Minister of War declares it to be impossible for the Artillery Department to comply with M. de Mattos' claim for interest in the absence of legal proofs proper to justify the claim, I am of opinion that the most advisable course for your Lordship to pursue with a view to give further aid to M. de Mattos' claim, will be to propose that the question of interest, the contract being silent on the subject, should be referred to a Mixed Commission to inquire and report whether, according to the practice of the Turkish Commercial Courts, interest would be allowed by them upon a contract of an analogous kind.

As the claim for interest depends upon the *lex loci solutionis,* which in this case is Turkish law, and Fuad Pasha's letter implies that the Minister of War denies all legal liability to pay interest, I think that your Lordship cannot well insist on the payment of M. de Mattos' claim for interest, until it has been established that such a claim has the sanction of Turkish law.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 167.

*The Law Officers of the Crown to Lord Stanley.—(Received October 11.)*

*Temple, October* 10, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th of August last, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Mr. Reade, the Acting British Consul-General in Egypt, respecting the case of the English engine-drivers, together with despatches on the subject from Colonel Stanton, Her Majesty's Agent and Consul-General now on leave in this country, and drafts of instructions which, under the advice of Her Majesty's late Advocate-General, your Lordship had addressed to Mr. Reade;* and

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* Mr. Reade, Nos. 1, 10, 12, 15, 19, and 21; Colonel Stanton, June 25, July 24, and August 24; to Mr. Reade, Nos. 24, 25, and 30.

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Mr. Hammond was pleased to request that we would take these papers into consideration, and favour your Lordship with our opinion on this matter, and as to the course which it would be proper for Her Majesty's Government to pursue. We were also honoured with your Lordship's commands signified in Mr. Hammond's note of the 3rd September ultimo, in which he stated that, with reference to his letter of the 30th of last, he was directed by your Lordship to request that we would take into consideration and report our opinion upon the accompanying additional papers respecting the case of the engine-drivers on the Egyptian Railway.

In obedience to your Lordship's commands we have taken the papers submitted to us into consideration, and have the honour to report—

That the claims of these engine-drivers arise mainly out of alleged breaches of contracts by the Egyptian Government, such contracts being in writing, and regulating, as is properly pointed out by Cherif Pasha in his despatch of the 2nd July last, the relations between the employers and employed.

Early in this year, the drivers, after making complaints with respect to different matters, which complaints it is alleged were not properly noticed, intimated that unless their demands were complied with, they should refuse to work under their contracts; and the Railway Administration deeming that their complaints were not well-founded, did not attend to them; and, accordingly, twenty-eight drivers, on a given day, "struck," or at all events refused to work, to the serious inconvenience of the Railway Administration.

Their grounds of complaint appear to have been :—

1. Erroneous calculation of "overtime" made, to their detriment.
2. Refusal to allow night tickets, that is, an allowance for nights passed away from home.
3. Repayment of fines illegally levied, as they contend, upon certain of the engine-drivers (see Mr. Reade's letter 7th June, 1867; Cherif Pasha, 2nd July).

Upon the strike taking place, correspondence ensued between Mr. Reade and the Egyptian Minister of Foreign Affairs, and His Highness the Viceroy appears to have appointed a Commission to investigate the circumstances connected with the strike; which Commission appears to have concluded its sittings in June, though their Report is not dated until 5th July, 1867, and was only obtained by Mr. Reade and forwarded to England in the middle of August last.

Meantime, however, Mr. Reade had pressed the claims of the engine-drivers upon the Egyptian Government, upon the assumption that the Commission, at whose sittings he had been present, would report favourably to the engine-drivers; and as the Egyptian Government declined to accede to Mr. Reade's demands, he, acting under the authority of Her Majesty's Government, in consequence of an opinion of the late Queen's Advocate upon the statements then before him, sequestered a portion of a subsidy or payment due from Her Majesty's Government to the Egyptian Government, in satisfaction of part of the claims of the engine-drivers, tendering the balance to that Government, which they refused to accept, and have returned.

The engine-drivers further claim wages or remuneration during the time they remained to give evidence before the Commission, and six months' wages and expenses, or damages, to which they allege they are entitled, because they were *dismissed*, or because, by reason of breach of contract by the Egyptian Government, they had a right to break the contract, stop work, and sue for damages.

The Report of the Commissioners is in some respects favourable to the drivers, in some respects adverse; on some points the members of the Committee differ, and they appear to take upon themselves to say what ought fairly to be done between the Egyptian Government and the drivers, rather than to consider what the legal rights of the parties are.

It certainly does not appear that the Commissioners were in any sense arbiters by whose opinion the parties were to be bound; but the drivers seem to have remained in Egypt, and attended before the Commissioners with their witnesses, in the expectation that the dispute would be terminated by the Report of the Commissioners.

On the most important question, two out of three members of the Commission, viz., the President and Sami Bey, "are of opinion that the men were most decidedly wrong in stopping work" (page ). From this view, Mr. Phillips, the third member, differs.

All the members think that the men were compelled to work unreasonably long hours, and that they were inadequately paid by the sum of 1*s.* 4*d.* per hour for such extra services.

Sami Bey and Mr. Phillips think that the men had cause of complaint, by reason of their not having places in which to sleep and eat comfortably while away from home. In this view the President differs, thinking that there was no breach of contract.

The Commissioners are unanimously of opinion that the claim for "night tickets" is not capable of being supported (page 6).

That repayment of the fines cannot properly be claimed, for reasons given at length (page 7).

A claim by one man, Lawson, in consequence of his only having received half-pay, is dismissed (page 15).

The Commissioners are unanimously of opinion "that the system on which the Divan has calculated the overtime of the men is illiberal and wrong" (page 16).

Lastly (page 22), the Commissioners say: "Whatever decision His Highness the Viceroy may condescend to take with reference to the drivers' strike, we respectfully beg your Excellency that the men may be paid up to the day on which such decision is communicated to them. As the men—whether in the right or in the wrong—were detained here to give evidence before this Commission, we consider this payment is only a matter of justice."

Cherif Pasha comments on the Report of the Commission in his despatch of the 11th of August, and thus the matter rests at present so far as the Egyptian Government is concerned.

In September, Mr. Bridgefield forwards the claims of some of the drivers, who send their contracts, and require wages from the 20th of April, 1867, till the 4th of July, 1867, being the period during which the Commissioners sat, at 22*l.* per month (53*l.*); six months' salary, in lieu of notice to terminate their engagements (132*l.*); and interest from the 4th of July until payment.

The *actual facts* of the case are not before us; but so far as we can judge of them from the reports and statements, the claims made by the men are not such as your Lordship can be advised to insist upon.

It is probable that they and their advisers here have not seen the Report of the Commissioners, which, as we have pointed out (by the opinion of two of the Commissioners), negatives entirely the right of the men to strike.

If this view be adopted, not only was their engagement *not* terminated by the Government, but *they* may be actually liable to the Government for improperly breaking their contracts.

It is not a question whether they had a right to sue for arrears of pay, or for being compelled to work for an unreasonable number of hours, or to refuse to obey orders because unlawful; the question is, whether, by reason of alleged breach of contract by the Egyptian Government, they had a right to determine the engagement, and treat such determination as a *wrongful discharge* by the Government. From what we can gather, we are of opinion that this cannot be done; that the men should have performed their part of the contract, and taken their remedy against the Government if they were not dealt with according to contract. By "striking," we think they placed themselves in a wrong position, and that their claims for damages cannot be supported in law.

We would suggest that the Report of the Commission should be furnished to Mr. Bridgefield if he has not seen it, and that he should be informed that, under the circumstances, Her Majesty's Government do not feel justified in making the claims put forward on the Egyptian Government.

It occurs to us that if, in addition to a fair settlement of the overtime account, the Egyptian Government could be induced to pay the men for their time while remaining in Egypt to attend before the Commission appointed by the Viceroy—which Commission has in some respects justified the men's complaints of breach of contract, and of hardships imposed not contemplated by the contract—a not unreasonable compromise of this affair, which has, from circumstances, assumed a somewhat important aspect, would be arrived at.

We have, &c.

(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 168.

*The Law Officers of the Crown to Lord Stanley.*—(*Received October* 24.)

*Temple, October* 23, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 14th August last, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Francis, the Legal Vice-Consul in Her Majesty's Consular Court at Alexandria (No. 10), requesting instructions relative to two applications made to him for the grant of British protection; the first case being that of one Bagio, a Jew, whose parents were Ottoman subjects of Aleppo, but who is alleged to have been born in British India.

The second is that of a native of Scio, named Schilizzi, who was for some time a naturalized British subject, and lived at Manchester, where four children were born to him, for whom he claims British nationality, as well as for a fifth recently born in Egypt.

Mr. Murray was pleased to add that cases similar to those above referred to have at various times been referred for the decision of our predecessors in office; and that he was to call our attention more particularly to the Queen's Advocate's Report of the 13th of September, 1850, and to a Report from the Law Officers of the Crown of the 14th of August, 1860, upon which Reports were founded the instructions addressed on the subject to Colonel Sheil and Mr. Alison,* who successively held the post of Her Majesty's Minister in Persia, which were also transmitted; and Mr. Murray was pleased to request that we would take these papers into our consideration, and furnish your Lordship with our opinion as to the nature of the instructions which should be addressed to Mr. Francis.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the instructions to be given to Mr. Francis, as regards the person named Bagio, must, we think, depend in a great measure on the question whether he was or was not born in British India. It seems to be admitted that his parents were Ottoman subjects who went to India, but returned to the Turkish dominions, though it is not stated where, nor at what period of Bagio's life, nor whether he came with them from India.

The Egyptian Government allege that Bagio was not born in India, and if so he appears to have no claim to British protection. Assuming that he was born in British India, we think that his claim for protection must depend on the usage and practice that have prevailed hitherto in Turkey.

In the Report of the Law Officers of the 14th of August, 1860, to which we are referred, we find it stated that they believe that children born in Her Majesty's dominions of Turkish parents, and afterwards going into Turkey, habitually enjoy British protection, unless they act in such a manner as to forfeit the right thereto, and to show that they have "elected" the (Turkish) nationality of their father.

Bagio, therefore, if born in British India, would, as we understand the practice that has hitherto prevailed, be entitled to claim British protection in Turkey, unless he has by his acts adopted his father's nationality. It is probable that, under the law of Turkey, Bagio (even though born abroad) is, by reason of his parentage, deemed to be a Turkish subject; and it might be a question of policy deserving of much consideration whether it is expedient to keep up, in the case of Turkey, the distinction which has been observed by this country between persons born in Her Majesty's dominions, of foreign parents, who are the subjects by parentage of another Christian country, and who, when in that country, do not enjoy British protection, and persons similarly circumstanced in a country professing the Mahomedan religion, who, according to practice, are allowed such protection.

With respect to Schilizzi, we understand that he was born in Turkish dominions, but that he resided for some time in England, and was naturalized here, and that he has now returned to Turkey.

We think that neither he nor his child born in Turkey can claim British protection there; and we think that the children born in England, while they form part of their father's family (unless some usage to the contrary has prevailed in Turkey), should not be taken under British protection.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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* To Colonel Sheil, No. 82, September 14, 1850; to Mr. Alison, No. 64, August 25, 1860.

### No. 169.

*The Queen's Advocate to Lord Stanley.*—(*Received October* 24.)

My Lord, *Temple, October* 23, 1867.

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 18th instant, stating that he was directed by your Lordship to transmit to me a letter from a Mr. Isaac Pariente, who states himself to be the defendant in a case which was recently tried before Her Majesty's Consular Court in Egypt, and which was decided against him, but who points out the difficulty of appealing to the Supreme Court at Constantinople, inasmuch as Mr. Francis, the local Judge before whom the case was in the first instance tried, has since been promoted to the office of Supreme Judge.

Mr. Egerton was pleased to request that I would inform your Lordship what answer should be returned to Mr. Pariente.

In obedience to your Lordship's commands I have the honour to report—

That the Secretary of State for Foreign Affairs has no power of interfering with the regular order of proceeding in matters of appeal from the Provincial Consular Courts, which are directed by Her Majesty's Order in Council of 30th November, 1864, to be heard before the Supreme Consular Court.

Your Lordship may, however, enable Mr. Pariente to have a *bonâ fide* hearing of his appeal before the Supreme Court by exercising the power which your Lordship has, under the Order in Council, of approving on an emergency a fit person to act temporarily as Acting Judge, and I think it would be proper for your Lordship to give Mr. Pariente the option of having such a *bonâ fide* hearing.

But if there should be a difficulty in obtaining the services of a competent Acting Judge, there is an alternative course, if the amount at issue in the cause exceeds 500*l.*, so as to allow of a final appeal to Her Majesty in Council, which Mr. Pariente seems from his present application to have ultimately in view. Mr. Pariente, as appellant, may agree with the respondent to accept a formal judgment from the Supreme Court of the same tenor as the judgment of the Provincial Court, and thereupon appeal from that judgment in regular course to Her Majesty in Council. Such a proceeding by consent would not prejudice Mr. Pariente before the Judicial Committee of the Privy Council, whilst it would be calculated to save all parties both expense and time. It will be for Mr. Pariente to consider which course he should adopt, and if he should, upon consulting with his legal advisers, prefer the latter course, it will not be necessary for your Lordship to appoint an Acting Judge.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 170.

*The Queen's Advocate to Lord Stanley.*—(*Received October* 25.)

My Lord, *Temple, October* 24, 1867.

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 18th instant, stating that with reference to my letter of the 4th ultimo, he was directed by your Lordship to transmit to me two letters from Mr. Petherick, dated the 8th and 9th instant, together with a Memorandum by Mr. Hammond relating to his claim against the Egyptian Government; and that one of these letters contains a statement of his account with the Egyptian Government, showing the amount of compensation to which he considers himself entitled.

And Mr. Egerton was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion as to the course which should be pursued in dealing with this claim.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That Mr. Petherick should be informed that the statement of account which he has submitted to your Lordship is not a sufficient compliance with your Lordship's request that he should furnish a detailed statement setting forth the items of compensation to which he considers himself to be entitled, in regard to his claim for loss incurred by the

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detention of his boats fitted out for the expedition from Khartoum in 1863, and that he should be requested to supply fuller details in explanation of that portion of his account which refers to the merchandize, &c., stopped by order of the Egyptian Government, amounting to 486,299 Egyptian piastres 30 paras, and the set-off against it of receipts on account of sale, &c., of merchandize, &c., amounting to 171,394 Egyptian piastres, and that in preparing his further statement he should distinguish the items of expenditure for wages from the items of expenditure for merchandize, &c.

With regard to the other portions of his account, they appear *primâ facie* to refer to the trade carried on by Mr. Petherick at his stations beyond the Egyptian frontier, from which it is apparent upon the face of the account that he continued to receive returns in ivory up to a very recent period. Whether such ivory was the produce of the hunting expedition on the White Nile, or was purchased with the merchandize, &c., in consignment at Mr. Petherick's stations on the White Nile, or was the result partly of the one and partly of the other, does not appear; but these returns, which are spread over four successive years, go to support the view which I expressed in my previous Report, that there was not that immediate connection between the stoppage of the expedition from Khartoum in 1863, and Mr. Petherick's abandonment of his trade at his stations on the White Nile, which would justify your Lordship in regarding the latter as a necessary consequence of the former, and so exclusively to be attributed to the arbitrary conduct of the Governor-General of the Soudan that any loss incurred by Mr. Petherick at his stations on the White Nile would be a just subject for indemnification at the hands of the Egyptian Government.

Unless, therefore, Mr. Petherick is prepared to make out that any portion of the loss incurred by him at his stations on the White Nile was the immediate consequence of the stoppage of his boats in 1863, it will not be necessary for your Lordship to request him to furnish you with fuller details of this portion of his accounts; at the same time, it may be proper to inform Mr. Petherick that he may exercise the option of submitting to your Lordship further details on this part of his account.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 171.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 3.)

*Temple, December* 2, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 29th of November, stating that with reference to my Report of the 24th of October last, relative to the claims of Mr. Petherick upon the Egyptian Government, he was directed by your Lordship to transmit to me a further letter and its inclosure from Mr. Petherick, dated the 28th November ultimo, upon the subject of his claims; and Mr. Egerton was pleased to request that I would take these papers into consideration, and report to your Lordship my opinion whether the further explanation and accounts now furnished are sufficient to justify Her Majesty's Government in pressing Mr. Petherick's claims upon the Egyptian Government, and, if so, to what extent of his demands.

The former papers relating to this case were annexed.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That Mr. Petherick, in his amended account, has furnished your Lordship with sufficient materials for ascertaining the immediate loss which was caused to him by the stoppage of the expedition from Khartoum in 1863.

It appears that the value of the two boats, the merchandize embarked upon them, and the wages of the men hired to navigate them, amounted to 4,987*l*. 13*s*., from which the sum of 1,682*l*. 2*s*., the produce of the sale of the boats and merchandize, will have to be deducted. The clear loss accruing to Mr. Petherick on this part of the account will be about 3,305*l*. 11*s*.

Mr. Petherick has also furnished an item of account, being the seventh item, which may be regarded as a loss immediately consequent on the stoppage of the expedition, namely, the sum of 43,007 piastres for goods purchased of Omar Bitoni on the stoppage of the supplies from Khartoum.

This item, which will amount to 374*l*. or thereabouts, may fairly be added to the previous sum of 3,305*l*. 11*s*.

The other items of Mr. Petherick's account appear to be connected with his general trade at his stations on the White Nile beyond the Egyptian frontier. I have already reported to your Lordship that I consider the losses which Mr. Petherick may have incurred at those stations not to be a just subject for indemnification at the hands of the Egyptian Government. Mr. Petherick, from motives of prudence as a merchant, may have deemed it the less of two evils to abandon his general trade rather than to continue it with a prospect of increased expenses and increased difficulties of communication with his stations, but it was clearly competent for the Governor-General of the Soudan to impose a double poll-tax in future upon all Egyptian subjects leaving the Soudan far the White Nile, and, after reasonable notice, to prevent any subject leaving the Soudan in the service of a foreign merchant without having previously paid his quota of the tax. There is also a circumstance to which I may justly call your Lordship's attention as conclusive evidence that Mr. Petherick's abandonment of his general trade was not an inevitable step forced upon him by the arbitrary proceedings of the Governor-General like the abandonment of his expedition of boats in 1863, namely, that it appears that other European merchants continued their trade from Khartoum to the White Nile, notwithstanding the impost of the poll-tax upon the Egyptian boatmen in their employment.

Mr. Petherick will, I think, be further entitled to interest at 5 per cent. on the sum above named.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 172.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 7.)

My Lord, *Temple, December* 6, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th November ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatches from the Acting British Consul at Constantinople, upon the subject of an application made to him to solemnize a marriage between Mr. Jenner, Third Secretary in Her Majesty's Diplomatic Service, and a lady calling herself Stephanie Emilianoff.

Mr. Hammond was also pleased to say, that we would see from these despatches that a caveat had been entered against the marriage in question by the mother of Mr. Jenner, on the ground that the intended bride had been already married in Russia to a man named Papparagopolis, and that, although she subsequently obtained a divorce in the Greek Law Courts, such divorce does not render her free to contract a second marriage.

Mr. Hammond was pleased to inclose, for convenience of reference, a volume which contains the various Acts of Parliament relating to Consular marriages, and to request that we would favour your Lordship with our opinion as to the instructions that should be given to Mr. Guarracino in the matter.

In obedience to your Lordship's commands we have perused the papers submitted to us, and have the honour to report—

That for the purpose of the proposed marriage at the British Consulate, Madame Stephanie Emilianoff, who is described in the notice of marriage as "divorced," is to be regarded as a foreigner, and that Her Majesty's Consul is entitled to require, and ought to receive, satisfactory proof that the previous marriage has been dissolved by the sentence of a competent Court in the country of her matrimonial domicile; and that by the law of that country she is free to contract a second matrimonial engagement. Under these circumstances Her Majesty's Consul may properly delay solemnization of the proposed marriage, against which a caveat has been entered, until proof by affidavit, declaration, or otherwise, has been furnished, that Madame Stephanie Emilianoff, a Russian subject, was duly married to Mr. Papparagopolis, a Greek subject in Russia; that their marriage was subsequently dissolved at Athens, both parties being there domiciled, by the sentence of the Metropolitan; and that by reason of such sentence, according to the laws of the Kingdom of Greece, Madame Stephanie Emilianoff is free to contract a second matrimonial engagement. As part of such proof, an authenticated

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copy of the sentence should be sent; and in order to satisfy Her Majesty's Consul of the legal effect of such sentence, a certificate from a competent authority on Greek law should be furnished, that Madame Stephanie Emilianoff is free under such sentence to contract a second matrimonial engagement, according to the laws of the Kingdom of Greece.

Her Majesty's Acting Consul has not formally requested that his statement should be referred to the Registrar-General under sec. 7 of 12 & 13 Vict., cap. 68, though Mr. Jenner at the end of his letter of the 18th November requests that the question may be so referred. Perhaps your Lordship will, under the circumstances, think it right to refer the question to the Registrar-General for his decision in writing, as pointed out by the statute, in order that your Lordship may communicate such decision to the Consul.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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# United States.

## No. 173.

*The Law Officers of the Crown to Lord Stanley.*—*(Received January* 15.)

*Lincoln's Inn, January* 12, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st day of December, 1866, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Washington (No. 380), inclosing a copy of a Report by the Special Claims Commission established in that city relative to a demand for compensation put forward by Mrs. Mary Cassin for destruction of her property during the war, and also a copy of a note from Mr. Seward respecting a claim of the same description put forward by Mr. Emmanuel Jones.

Mr. Hammond was also pleased to state that we should perceive that Sir Frederick Bruce contrasts the grounds advanced for the rejection of the one claim with those advanced in the other case; and to request that we would take these papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That the Special Claims Commission appears to be a Municipal Tribunal established by the authorities of the United States for the purpose of adjudicating upon claims of their own citizens, as well as on claims of foreigners domiciled there. The establishment of such a Commission was, we think, within the power of the United States, and when established, the United States' authorities were, we think, entitled to lay down rules for its guidance. The rules and regulations, in fact, laid down, and of which copies have been sent us, do not appear to have made any substantial distinction between United States' subjects who had given aid to the rebellion, and domiciled foreigners in the same position (see the 6th and 8th Rules), and there is nothing to be complained of on this ground.

The decision of the Commission on Cassin's claim is, as to part of the property claimed, that it was purchased after the State of Georgia was declared to be in insurrection; that is, that the purchase was an act giving aid to the rebellion, and that it was subject to legal capture or destruction alike by the rules of public and of municipal law. And as to other part of the property purchased by Cassin before the rebellion, the evidence in support of the claim was held insufficient; but it was said that the parties might be entitled to relief if they could establish the conditions of having been the *bonâ fide* neutral subjects of a foreign State or Power at peace and amity with the United States.

The claim of Mr. Jones does not appear to have been before the Commission at all; but Sir F. Bruce, in his diplomatic character, appears to have called the attention of the United States' Minister to it, who, in his reply, no doubt treats the claimant as having acquired a domicile as a trader in an enemy's country, but he refers at the same time to the Special Claims Commission, and intimates that if Mr. Jones presents his case there he has no doubt it will be patiently examined and justly decided.

Of course it does not follow that the Commission, if Mr. Jones should present his claim there, would adopt the views of Mr. Seward.

There is no doubt a discrepancy in the views expressed by the Commission and by Mr. Seward as to the position of parties making claims for compensation under circumstances substantially the same. But it does not occur to us that this discrepancy furnishes ground for any action by Her Majesty's Government in the matter, or for any representation to the United States' Government in reference thereto. We think no good grounds exist, from anything appearing upon the papers before us, to complain of, or seek to interfere with the acts or decisions of the Special Claims Commission; nor are we aware of any ground on which an application could be made to the United States' Government for the establishment of any other Tribunals than such as are already in existence in the United States.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 174.

*The Queen's Advocate to Lord Stanley.*—*(Received February* 14.)

*Doctors' Commons, February* 13, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed to transmit to me a letter from Messrs. Jewell and Chamberlain, forwarding a Memorial from the holders of the Confederate Cotton Loan, together with a legal opinion which they have obtained on the subject of their claims; and to request that I would take these papers into consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That the positions for which the petitioners contend appear to be these:—

1. That the late Confederate States have been recognized as *de facto* belligerent by Her Majesty's Government, and by the Tribunals of the United States, and are to be considered exactly in the same light as a foreign enemy whose territory has been conquered and passes *cum onere* to the conqueror, that is, with the obligation to discharge its debts contracted with the other foreign States binding upon him.

2. That the debts in this case were contracted on behalf of separate States which had, independently of their temporary union under a Confederacy, by their prior original political constitution, as acknowledged by the United States, power to contract such debts, and that the Confederate Government was only the agent of each, or all of these States separately, competent to contract *per se* the loan.

3. That these States have been prevented from discharging their debts by the conqueror, the United States, and have been forced to repudiate them.

4. That the United States has possessed itself as conqueror of all the resources of the States available for the discharge of the debt, and even of the cotton which was especially pledged for the payment of the foreign creditor.

Upon these grounds principally, if not exclusively, the Memorialists apply to Her Majesty's Government to intervene on their behalf with the Government of the United States, and obtain from them payment of the bonds issued by the late *de facto* Confederate Government.

The Memorial raises two distinct questions—

(1). Whether the United States are bound by the principles, rules, and precedents of international law to pay to the foreign creditor debts owing to him from the Confederate Government?

(2). Whether, whatever may be the true answer to this question, the case of the

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Memorialists is made out for the official intervention of Her Majesty's Government on their behalf with the Government of the United States.

The second question alone calls for any remarks from me. I am of opinion that Her Majesty's Government ought not to accede to the request of the Memorialists. It might be enough to say that Her Majesty's Government could not do so without, to a certain extent, pronouncing judgment upon the difficult question of foreign constitutional law with respect to the limits of the sovereignty of each State, and their relation to the Supreme Government of the United States which in great measure gave rise to this very war.

The Memorialists take their stand upon the language of the Confederate Constitution previous to the war of the United States (page 5 *in fine*, 6), with respect to the sovereignty of each State composing the Union, and protest "against the charge that the bonds which we hold were issued by insurgents or by a Government having its origin in insurrection."

Her Majesty's Government must, therefore, necessarily assume as the basis of their right to intervene, that the very proposition of American Constitutional Law, as to which this fierce controversy has arisen, and which has practically been solved by force and conquest after a bloody civil war, is, nevertheless, incontrovertible in the sense contended for by the Confederates and their creditors.

In other words, Her Majesty's Government must found their application to the United States' Government on the ground that the war which they have waged, and in which they have conquered, was unlawful, and contrary to the principles and laws of their own internal constitution.

It is obvious that it is not competent to Her Majesty's Government to take this course. The United States' Government would be entitled to treat it in the same spirit as Her Majesty's Government would have treated the intervention of the United States' Government on behalf of a subject who had lent money to a native Indian Prince during the late rebellion in India, to enable him to levy war against the Queen of England. The United States' Government might by a like process of reasoning contend that the original contract subsisting between the East India Company and the native Prince had been broken, that he being an independent Sovereign had a right to borrow money of a foreign creditor, and that the conqueror took his territory *cum onere* and was bound to discharge the debt.

The argument from the recognition of the Confederates as *de facto* belligerents fails altogether as an argument for the interference of Her Majesty's Government.

Her Majesty proclaimed a strict neutrality, and enjoined it upon her subjects, admonishing them that if they aided either belligerent, they would do so at their own peril, and without any claim upon her assistance, if evil consequences ensued to them therefrom.

To furnish a belligerent with money is to render him the most material aid, to supply him with the very sinews of war. Let me, moreover, suggest some tests by which both the duty of the neutral Government towards its subjects, and the *jus victoris* may be tried.

If the money, *in specie*, advanced by the Memorialists to the Southerners, had been captured on its way out to them;—if the United States' army had seized the money *in specie* in the Treasury of the Confederates;—if, instead of money, munitions of war, ships, cannons, and the like, had been furnished by the Memorialists, and the United States' army had seized these articles, for which cotton bonds had been given as a security, and afterwards the very cotton itself which was pledged for their payment:—in any or all of these instances the unfitness of any intervention on the part of Her Majesty's Government would be apparent; but it would not be easy to distinguish, in principle, the right of Her Majesty's Government to demand, on behalf of the Memorialists, from the United States repayment of the money which had actually reached the hands of the Confederate Government and been expended by them; from the right to do so, when the money had been captured on the high seas, or on land, or when the loan had been contracted by an exchange, immediate or promised, of commodities (*e.g.*, so much munitions of war for so much cotton), and these commodities had been seized *jure belli* by the conqueror.

I do not think that Her Majesty's Government is bound to consider the remaining question, namely, as to the obligation of the United States towards the private British creditor of the late Confederacy, if my opinion be well founded, that this creditor has no claim to the official intervention of Her Majesty's Government on his behalf.

But I will offer upon this part of the case also a few observations. The United States' Government may not unfairly contend that the general obligation of the conquering State to discharge the debts previously contracted with foreign creditors by the conquered State does not extend to the case, where these debts have not been the subject of an engagement previous to the war, but have been contracted during, and for the express purpose of carrying on, the war, inasmuch as this doctrine would compel the conqueror to defray the costs not only of his own conquest, but of the resistance of his enemy.

But that at all events it cannot be said to apply to the case of a debt contracted by Provinces or States which, before the war, were subject to the authority of the Power from which they revolted, and by which they have been, after a short struggle by force of arms, recovered.

This war (the United States' Government may observe) was not closed by a Treaty which contained stipulations that the conqueror should, either altogether or in a specified proportion, pay the debts of the conquered, according to the usage which has long prevailed on the subject. No foreign State intervened in the war, or made any demand at the close of it, that a foreign debt should be recognized by the conqueror. The creditors, in this case, entered of their own free-will into a speculation which, if the Confederates had prospered, would have been lucrative, but which their failure has rendered the reverse.

Whether they have any right to complain that their debtors, the States of the late Confederacy, yielded without making terms, on their behalf, with the conqueror; or that they accepted the repudiation of the debt as a condition of their being restored to the Union; or that they do not now contrive some means of fulfilling their engagements with their creditors,—are questions which the Government of the United States may well refuse to entertain.

The importance of the subject has led me to report at greater length than I could have wished; but, for the reasons which I have stated, I am clearly of opinion that Her Majesty's Government ought not to comply with the prayer of the Memorial from the holders of the Confederate Cotton Loan.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 175.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 14.)

My Lord,
*Lincoln's Inn, February* 14, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us a note from Mr. Adams, forwarding a copy of a despatch from Mr. Seward, dated the 28th ultimo, replying to the proposals contained in your Lordship's despatch to Sir F. Bruce of the 30th of November last, with regard to the settlement of claims arising out of the civil war in the United States; and Mr. Hammond was pleased to request that we would take this despatch into consideration, and furnish your Lordship with our opinion thereupon at our earliest convenience.

A printed copy of your Lordship's despatch of the 30th of November was also inclosed.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That Mr. Seward's despatch shows, in our opinion, the great importance of the principle asserted in your Lordship's despatch of the 30th November last, that no reference to arbitration was possible in respect of the alleged premature recognition of the Confederate States as a belligerent Power.

The arguments of Mr. Seward all tend to show that his main ground of complaint is now, as it was before, the premature recognition of the Confederate States as a belligerent Power, and that the premature and unfriendly character of that recognition is, in his opinion, the main issue to be tried; and his conclusion that the United States would expect to refer the whole controversy, just as it is found in the correspondence which has taken place between the two Governments, with such further evidence and arguments as either party may desire, without restrictions upon the umpire, and without waiving any question upon the consideration that it involves a point of national honour, shows that he now proposes to include in any arbitration the question of the justice of the recognition at the time it was made, and, if found unjust by the arbitrator, to insist on the liability of Her Majesty's Government, as a conse-

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quence of such unjust recognition, to all the losses already claimed, and all such further claims as the United States may hereafter advance.

We think that your Lordship's former conclusion that no reference is possible with regard to the alleged premature recognition of the Confederates as a belligerent Power, and the grounds on which that conclusion was founded, have not been in any way displaced or disproved by Mr. Seward's arguments; and we may add that it appears to be of the utmost importance that that conclusion should be steadfastly insisted on, and that no reference should be permitted which would leave to the arbitrator the power of attributing to Great Britain any liability to loss in respect of such alleged premature recognition of belligerency.

The claims of the United States under such a reference might extend to make Great Britain liable to the United States for the whole expenses of the war.

To these arguments of the United States it has been repeatedly replied, and we think rightly replied, that this recognition was in accordance with principle and practice; that it was within the scope of the undoubted privilege of the neutral State; and lastly, that the course pursued by the declaration of blockade on the part of the Government of the United States had rendered this recognition both necessary and inevitable.

The right of blockade which pressed so severely upon the interests of neutral States was a right incident, and incident only, to a state of war in which two or more belligerents were engaged, and never before, in the history of States, was the recognition of so extensive a blockade required by a neutral State; never was any blockade more loyally recognized than this of the United States by Great Britain, though it was to the great and especial detriment of her subjects; never, we believe, was the right to visitation and search, claimed by the United States as a belligerent, more frankly submitted to them by England, though her merchant-ships were thereby subjected to such visitation and search in every quarter of the globe.

In the despatches from the Foreign Office, and in Reports of the Law Officers, it has always throughout the controversy been contended, that for the United States to demand the exercise of these belligerent rights, and at the same time to refuse a belligerent status to the enemy, was plainly contradictory.

But the demand is now again put forward by Mr. Seward just as strongly as if it were now stated for the first time.

Closely connected with this controversy is that relating to the recognition by England of the "Sumter" and other vessels as ships duly commissioned by the belligerent.

It would, we believe, be impossible to find any adequate authority for the position that it is the duty of a neutral State to inquire into the places at which the captain of a belligerent ship received his commission. It is the duty of the neutral to be satisfied that the ship is commissioned by an authority which it has recognized as belligerent; but neither principle nor usage require or justify any further examination.

It is surprising that Mr. Seward should maintain that, unless the commission has been delivered in a belligerent port, the ship which bears it is undistinguishable from a pirate. The characteristic of a pirate is not that he has received his commission on the high seas, but that he has no commission at all from any Power or State existing *de facto* or *de jure*.

For belligerent purposes the Southerners were recognized as *de facto* existing States by England, and generally by European Powers. But if it were (as it surely is not) the duty of the neutral State to inquire into the place where the commission was received, why should it not be received upon the high seas? And if it were necessary that the commissioning Power should have ports, had not the Southern States ports? Did not the United States claim the right of closely blockading those very ports?

In truth, the position is as novel as unsound in international law, and clearly propounded for the first time, for the obvious purpose of giving the United States the advantage of being exclusively recognized by the neutral State as belligerent.

Some hint or suggestion appears also in Mr. Seward's despatch to the effect that the United States need not have claimed the status of a belligerent, nor resorted to a blockade, but might have closed their own ports by municipal authority; this may or not be a sound contention, but the answer is twofold:—

1. That the United States did proclaim a blockade.

2. That unless they had done so, and claimed a belligerent status for the purpose of enforcing the blockade, they could not have exercised the right of visitation and search as they freely did exercise it, upon neutral vessels navigating the high seas.

With regard to the details of Mr. Seward's despatch, we think that the passages in it relating specifically to the cases of the "Sumter," the "Alabama," the "Florida," the "Georgia," and the "Shenandoah," and such other passages as we have not specifically referred to, may be left without further answer than a reference to the statement contained in your Lordship's despatch of the 30th November last.

The reference to what may appear in the unpublished records, and the confidential archives of the two countries in a despatch intended for publication, is, we believe, without precedent, and certainly is open in principle to very grave objection.

It is for your Lordship to consider whether this statement that Her Majesty's Government required the United States' Government to relax, rather than increase, their vigilance, should or should not be noticed, and if so, in what manner.

The explanation attempted to be given of the statement in the judgments of the American Tribunals referred to by your Lordship is not such as the reference warrants, or as can be accepted by your Lordship. The statement of the Courts "that the proclamation of the blockade was of itself conclusive evidence that a state of war existed, the blockade itself being a belligerent right," was, in our opinion, a correct exposition of international law; and we do not think that the Court qualified, or intended to qualify, the proposition so laid down, by reference to other circumstances, which also evidenced the existence of a state of war.

The statement found at page 10 of the despatch* is one which, in our opinion, ought not to be passed by unnoticed and unrefuted. This is one of many statements to be found in the same despatch, having for their object to establish the position that the conduct of Great Britain gave to what would have otherwise been a mere insurrection, the importance and proportions of a civil war—statements in our opinion wholly destitute of foundation.

Mr. Seward meets the considerations presented by your Lordship in your despatch of 30th November, that Her Majesty's Government had to provide at a distance for the interests of British subjects in or near the seat of war, by asking the questions, Who required British subjects to be there? who obliged them to remain in a place of danger? and the like. It is new to us that the duty of a neutral Power to protect its subjects in a time of war can be abandoned or weakened by reference to such considerations.

We have, &c.
(Signed) ROBERT PHILLIMORE.
(And for Attorney- and Solicitor-General.)

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## No. 176.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 23.)

My Lord,
*Lincoln's Inn, February* 22, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th December last, stating that, with reference to our letter of the 7th of that month respecting the case of the "Meteor," in which we stated the advisability of obtaining a full report, and an authentic copy of Judge Bett's Judgment in the case of that vessel, he was then directed by your Lordship to transmit to us a despatch from Her Majesty's Acting Consul at New York (No. 111, November 30, 1866), together with a printed copy of the Decree of Condemnation; and Mr. Hammond was to request that we would take this paper into consideration and furnish your Lordship with our opinion thereupon.

We are also honoured with Mr. Hammond's letter of the 17th December last, forwarding to us a despatch from Her Majesty's Minister at Washington (No. 361, December 3, 1866), inclosing a newspaper extract which contained Judge Bett's decision in the case of the "Meteor," for our consideration.

In obedience to your Lordship's commands we have considered these papers, and have the honour to report—

That we should have been glad to have possessed a more authentic copy, in a more convenient form for examination and reference, of this decision.

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* "What the President thus wisely and humanely declined to do, the Queen of Great Britain too promptly performed. She baptised the slave insurrection within the United States a civil war; and thus, as far as the British nation and its influence could go, gave it a name to live and flourish and triumph over the American Union. By this proceeding the Queen of Great Britain intervened in the purely domestic and internal affairs of the United States, and derogated from the authority of their Government."

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That the result of the opinion which we have formed upon the newspaper report is, that the Judgment in question places a more stringent construction upon the Foreign Enlistment Act than any which is to be found in the previous decisions upon the subject in the Courts of Great Britain, or in the United States of North America.

The learned Judge is reported to have said: "The mischief against which the statute intended to guard, was not merely preventing the departure from the United States of an armed vessel, but the departure of any vessel intended to be employed in the service of any foreign Power, to cruize or commit hostilities against any other foreign Power with whom the United States are at peace. The neutrality of the Government of the United States in a war between two foreign Powers would be violated quite as much by allowing the departure from its ports of an unarmed vessel with the clear intent to cruize or commit hostilities against one of the belligerents, as it would be by permitting the departure from its ports of an armed vessel with such intent. If the intent to cruize or commit hostilities is one adapted to the purpose, the subsequent arming is a very easy matter. The facility with which this can be done was made manifest in the case of the 'Shenandoah,' and other vessels which, during the late rebellion, left England unarmed and with the full intent on the part of those who sent them forth that they should be used to cruize, and commit hostilities against the United States, and were subsequently armed in neutral waters.

"It would be a very forced interpretation of the statute to say that it was not an offence against it to knowingly fit out a vessel with everything necessary to make her an active cruizer, except her arms, and with the intent that she should become such cruizer, because it could not be shown that there was any intent that she should be armed within the United States.

"The evil consequences which would flow from interpreting the statute to mean that the crime must include the arming of the vessel within the United States, become especially apparent in reference to that part of the third section which forbids the issuing or delivering a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed for the purpose named in the section. Under such an interpretation of the statute it would be no offence to issue or deliver a commission within the United States for any vessel, unless such vessel was actually armed at the time, or, perhaps, were intended to be armed prior to her departure from the United States; and it would be no offence to issue a commission within the United States for a vessel fitted and equipped to cruize or commit hostilities, and intended to cruize and commit hostilities so long as such vessel was not armed at the time, and was not intended to be armed within the United States, although it could be shown that a clear intent existed on the part of the persons issuing or delivering the commission, that the vessel should receive her armament the moment she should be beyond the jurisdiction of the United States."

If the learned Judge meant to lay down the proposition *that if there was an intent* that the vessel should be employed as a ship-of-war by the belligerent, then that, whatever her structure might be—with the condition perhaps that it was not such as to render her adaptation to warlike purposes impossible, she fell within the restrictions of the Foreign Enlistment Act,—he certainly gave a scope to those provisions which they have never hitherto received, and which, we think, they would not receive in a Court of Justice in this country.

It is to be observed that the words in the English Foreign Enlistment Act, "or in order that," are not in the American Act, which has the words "with intent alone;" and some stress was laid upon this circumstance, in the case of the "Alexandra," by one of the Judges, who held that the words "in order that" restricted and explained the word "with intent."

The previous cases decided in the American Courts certainly did not go the length of the decision in the "Meteor;" and it is impossible not to see that Judge Betts was embarrassed by the decision pronounced by Judge Story on behalf of the Supreme Court in the case of the "Santissima Trinidad;" who said:—"It is apparent that though equipped as a vessel of war she was sent to Buenos Ayres on a commercial adventure, contraband indeed, but in no shape violating our laws or our national neutrality. If captured by a Spanish ship-of-war during the voyage, she would have been justly condemnable as a good prize for being engaged in traffic prohibited by the law of nations. But there is nothing in our laws or in the law of nations that forbids our citizens from sending armed vessels, as well as munitions of war, to foreign ports for sale. It is a commercial adventure which no nation is bound to prohibit, and which only exposes the persons engaged in it to the penalty of confiscation. Supposing, therefore, the voyage to be have been for commercial purposes, and the sale at Buenos Ayres to have been a *bonâ fide* sale (and there is nothing in the evidence before us to contradict it), there is no pretence to say that the original outfit, or the voyage, was illegal, or that a capture made after the sale was, for that cause, invalid."

It is unfortunate that the "Alexandra," which is practically the only case in which the provisions of that statute have been subjected to judicial investigation, should have been left, from circumstances, in a very unsatisfactory condition. It was argued, first, before the Lord Chief Baron (Pollock) and a jury.* The Lord Chief Baron thought that the object of the statute was to prevent any hostile vessel being fitted out and equipped so as to make a port in this country (the port of discharge) the commencement of hostile operations. He thought that the equipment must have been complete, and not inchoate; and the jury found, under his directions, that the "Alexandra" ought not to have been seized. A rule for a new trial was granted and argued before four Judges of the Court of Exchequer, two of whom (including the Lord Chief Baron) were for sustaining the Judgment, two for reversing it, or, in technical terms, making the rule absolute; these two, it is to be observed, however, arriving at the same conclusion upon somewhat different reasons. The case was then appealed to a Court of Error and afterwards to the House of Lords, where it was unfortunately dismissed upon purely technical grounds.

We have thought it useful to refer your Lordship to the opinions expressed by the four Barons of the Court of Exchequer when the case was tried before them *in banco;* and if in this conflict of judicial opinions it be our duty to express an opinion, we are bound to say that the construction of the statute which renders unlawful even the partial and incomplete fitting out of a vessel adapted for war, with the intent that she be used as a vessel of war of a foreign State, is the construction which appears to us on the whole to be right: and if Judge Betts, in the case of the "Meteor," meant to make this interpretation of the statute the foundation of his judgment, we do not disagree with him.

The opinions of the Barons are as follows:—

The Lord Chief Baron (Pollock) said ("Alexandra" case, vol. iii, page 525): "The evidence for the Crown clearly established the warlike character of the vessel; it was not at all adapted for commerce, but was capable of being adapted for warlike purposes, and though it might have been used as a yacht, according to the evidence of Captain Inglefield, it was in all probability intended to be used by the so-called Confederate States as a vessel of war when adapted for that purpose by *them* (suitable equipment and fitting-up being furnished). And if the making in pursuance of an agreement or order for that purpose with intention to sell and deliver to one of the belligerents the hull of a vessel suitable for war, but unarmed, and not equipped, furnished, or fitted-out with anything which enabled her to cruize or to commit hostilities or to do any warlike act whatever, be a violation of the Foreign Enlistment Act, my direction to the jury was wrong in point of law."

Mr. Baron Bramwell said:—"Taking this view of the statute, I think that a right direction to the jury would be, If you are satisfied that the parties concerned were equipping or arming, or attempting to do so, the ship claimed, with intent that it should be employed in the service of a foreign Prince to cruize or commit hostilities against others as alleged, find for the Crown; but such equipment or attempted equipment must be of a *warlike character*, so that by means of it she is in a condition, more or less effective, to cruize or commit hostilities, otherwise find for the claimant. I have no doubt that the vessel was building and equipping for the Confederates, and in order that they might use her, when armed and equipped, for hostitities against the Federals. This was being attempted, but I see no evidence that it was intended to arm or equip her in the Queen's dominions so as to be capable of attack or defence. On the contrary, I believe it was intended to evade, not to infringe, the statute; not to commit a misdemeanor, nor to do, or attempt to do, what would cause a forfeiture of the ship. I believe, on the evidence, that it was intended to deal with this vessel as with the 'Alabama,' namely, to get her out of the country and give her warlike equipment and armament out of the Queen's dominions."

Mr. Baron Channell said:—"Suppose a jury to find, as a matter of fact, that a certain vessel is intended to be sent to the West Indies and then to have guns put on board; that when her guns are on board the mainsail with which she has been equipped in Liverpool may assist her in chasing an enemy's vessel; are they then justified in deducing from that that the mainsail is an equipment in order that she

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* Page 54, separate volume, "Alexandra" case.

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may be employed to cruize? I have, after giving the question my best consideration, come to the conclusion that the jury may so reason. I am supposing a case where an equipment is made which, though not in itself sufficient to make the vessel a war vessel, is still a necessary part of the equipment of a war vessel. It would, as it strikes me, be a question for the jury to consider whether the equipments are in fact equipments for war; and they may decide that question for themselves by the nature of the equipments, if they sufficiently show it (in which case they will have to look to the intent and purpose only so far as to see that the vessel is to be employed against a Power with whom we are at peace), or they may decide that certain equipments which are capable of being used for war are, as a matter of fact, equipments of war on the ground of evidence being laid before them showing an intent so to use them. But if a jury found specially these facts, that A.B. had equipped a vessel which was in its structure capable of being converted into a war vessel to the extent merely of enabling it to sail away from this country; that he knew that the purchaser intended to convert it into a war vessel: but if the jury also distinctly found that what A.B. did to it was done, not in order to convert it into a war vessel, or in order to be useful to it when so converted, but simply in order to enable it to reach a port where the purchaser might, if he pleased, convert it—in such a case I do not mean to say that A.B. ought to be convicted of a misdemeanor under this Act. That case would not, I think, be within the Act, because the jury would there, in effect, find that the intent with which the Act was done was a different one from that mentioned in this section. So far then as to what may be called the principal offence. The question finally left to the jury seems to me to be correct so far as it goes."

The Lord Chief Baron says: "Was there any intention that, in the port of Liverpool or any other port, she should be equipped, furnished, fitted out, or armed, with the intention of taking part in any contest? That, I think, so far as it went, was right; but, in my opinion, it ought to have been accompanied by some further explanation than was given of the words 'equip, &c., in order that.' Further, I think the jury ought to have been directed that they might form their opinion as to whether she was to be equipped with the intention of her taking part in any contest, either from the nature of the equipment, or from any evidence before them as to the intention of the parties with respect to such equipment, if they thought it *ancipitis usus*. I think, further, that though there may have been no equipment completed, the question whether there was an attempt at such an equipment as would, if completed, have been within the Act, should have been distinctly left to the jury. It is a satisfaction to me to find that my brother Pigott has arrived in the result at the same conclusion with myself, although his reasons for doing so may not be entirely the same as my own. It is also a satisfaction to me to know that although I differ from the Lord Chief Baron and my brother Bramwell in the result, there are many broad points of agreement between us. I agree with them in thinking that what this Statute forbids is an equipment for war. I agree with them in thinking that the main object of the Statute was to prevent our ports being made stations of hostilities. Our difference appears to be this, that they think that the equipment must be intended to be completed so that the vessel when it leaves our port shall be in a condition at once to commit hostilities; whilst it seems to me that in the fair and reasonable meaning of the words used, another case is included, namely, where the equipment not being complete *to that extent, is yet capable of being used for war, and the intent is clear that it is to be used for war*. I say that the fair and reasonable meaning of the words includes that case, and that we should judicially construe the Act to include it."

Mr. Baron Pigott said: "But I am of opinion that any act of equipping, furnishing, or fitting out, done to the hull or vessel, of whatever nature or character that act may be, if done with the *prohibited* intent, is expressly within the plain language, and also within the evident spirit of the Statute. The intent I take to mean, an intent of the principal (who has control of the ship), having directly for its object the employment of the vessel by a foreign State, and in the equipper a like intent, and with such intent a contributory equipment of some kind necessary to such employment; and it is evident that the intents need not be derived solely from the nature of the equipments, but may be proved *aliunde*. It may not be easy to define in all cases the exact point at which the building of the hull ends, and the act of equipping or fitting out begins, but that in each case would be for a jury to decide. In fine, I see no more reason for saying that the ship must, in order to violate the Statute, be so equipped in our ports with arms as to be ready to commit hostilities on leaving them, than for saying that she must be sufficiently manned also, without which she would certainly not be in such a condition. I cannot so restrict the Statute by construction without feeling that I should virtually repeal it."

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 177.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 7.)

My Lord, *Lincoln's Inn, March* 7, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, with reference to our letter of the 14th ultimo giving our opinion on Mr. Seward's reply to the proposals of Her Majesty's Government for the settlement of the claims arising out of the civil war in America, he was directed to transmit to us, for our consideration, the draft of an instruction on the subject to Sir F. Bruce, and was pleased to request that we would inform your Lordship whether we concur in the terms of the instruction.

In obedience to your Lordship's commands we have the honour to report—

That with the alterations which we have ventured to suggest in the margin of the draft, we think that the letter is right and proper to be sent.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 178.

*The Law Officers of the Crown to Lord Stanley.*—(*Received May* 17.)

My Lord, *Lincoln's Inn, May* 16, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th January last, stating that he was directed by your Lordship to transmit to us a pamphlet on "American Neutrality" by an American gentleman named Bemis, together with a despatch from Her Majesty's Minister at Washington (No. 7, January 7, 1867), containing comments on the same. Mr. Hammond was also pleased to state that your Lordship would be glad to be favoured with any observations we might have to make on those papers.

In obedience to your Lordship's commands we have perused the pamphlet submitted to us, and have the honour to report—

That the object of this pamphlet is to prevent the adoption by the Senate and the President of the United States of a Report and Bill prepared by General Banks upon the subject of the American Foreign Enlistment Act, which Report and Bill have been already unanimously adopted by the House of Representatives in that country.

The object of General Banks appears to be to lessen the stringency of the provisions of the Statute of 1818, upon the model of which our own Foreign Enlistment Act is substantially framed.

General Banks says (page 7) that "in reviewing the Statute of 1818 we cannot escape the conclusion that it disregards the inalienable rights of the people of all nations; that it was imposed upon the country by considerations affecting exclusively the political interests of other nations; that it criminally restrains the rights of nations at peace for the benefit of those at war; that it was intended to perpetuate the supremacy of favoured nations on the sea. It properly belongs to another age, and is not of us nor for us."

Mr. Bemis enters his protest against the measure, and against the policy which dictates it upon five grounds (page 3):—

1. That it begins its work with an unjust and unjustifiable disparagement of the country's historic good name and fame.

2. That it untruly and unfairly characterizes British neutral legislation, which it professes to adopt for its standard of comparison and imitation.

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3. That it virtually amounts to protective legislation in favour of filibusterism and Fenianism.

4. That the present legislative embodiment of the scheme is so imperfect and defective a piece of law-making that it fails of any legal validity and effect, except to express the ultimate and objectionable designs of its originators.

5. That the whole movement is antagonistic to our truest and best future neutral policy.

And Mr. Bemis develops these propositions in five separate chapters or parts, into which his pamphlet is divided, and which are as follows:—

Part 1. Vindication of the national fame for past neutrality.

Part 2. The true estimate of British neutral laws and British neutrality.

Part 3. Unworthy promotion of Fenian belligerency.

Part 4. Defective execution of the attempt to deteriorate ("scale") the neutral laws of the United States.

Part 5. The expedient future of American neutrality.

Mr. Bemis maintains that enmity to England, and sympathy with Fenianism, are the real causes of this Bill.

(Page 91.) "Fenianism and antagonism to Great Britain then are the two great watchwords by which we are to interpret this revolutionary attempt to undermine and set aside the long cherished policy of the American Government."

In the existing American Neutrality Act there are thirteen sections; seven of these appear to be maintained with a slight modification in the new project.

The five sections which are left out are:—

Section 4, which forbids the fitting out by citizens of the United States of privateers to be employed in committing hostilities against citizens of the United States.

Section 6, and part of Section 8, which forbad the setting on foot of military expeditions within the territory of the United States to be carried on from thence against the territory of a foreign State, and which enabled the President to employ forces of the United States to stop them; and Sections 10 and 11, which are termed the *bonding* clauses, whereby citizens of the United States are compelled to enter into a bond not to employ armed ships belonging to them against foreign subjects, and whereby collectors of Customs are empowered to detain "any vessels manifestly built for warlike purposes," with a cargo principally of arms, and a suspicious number of men, until the owners have given bonds that the vessel will not be employed against a foreign State.

It is true, Mr. Bemis observes, that Sections 6 and 8 (page 98) are not to be found in the British Act, but for the reason that Great Britain being an island, the deficiency is supplied by the provisions of the Foreign Enlistment Act already referred to, forbidding any vessel (for, of course, the exit from England must be by vessel), or master of a vessel to carry away any recruits or enlisted soldiers from British territory.

The *bonding* sections it is well known are not to be found in the English Act.

Mr. Bemis observes also that the part of the 3rd Section of the existing American Act which provides that informers shall have one-half of the forfeiture is omitted (pages 109, 110); and that a high authority pronounced that in consequence of the omission there would probably never be a prosecution under the Act.

By the 10th Section of the English Act "one moiety of every penalty" goes to the informer.

The 10th Section (page 210) in the new Bill is very remarkable, "And be it further enacted that nothing in this Act shall be so construed as to prohibit citizens of the United States from selling vessels, ships, or steamers built within the limits thereof, or materials or munitions of war, the growth or product of the same, to inhabitants of other countries or Governments not at war with the United States: Provided that the operation of this section of this Act shall be suspended by the President of the United States in regard to all classes of purchases whenever the United States shall be engaged in war, or whenever the maintenance of friendly relations with any foreign nation may in his judgment require it."

Mr. Bemis (page 117) finds fault with this proposed new section on the grounds that its tendency would be contrary to the intentions of the authors of it to limit the free traffic in ships of war as articles of commerce which, subject to their liability to be captured as contraband, he maintains is permitted by existing international law.

The remarks of Mr. Bemis on the comparative merits of the English and American neutrality statutes are striking. He maintains that General Banks is altogether in error (page 65) in supposing that "the restrictions of the British statute are nominal compared with those of the American." And Mr. Bemis says, "So far is it from being true that we shall have to *make a descent* in our legislation on this head in order to come down upon a level with that of England, that I venture to affirm that in many, if not in most, respects the English statute is decidedly the more high-toned and comprehensive of the two."

Mr. Bemis proceeds to enunciate nine points (Chapters 6 and 7) as to which he conceives the English is superior to the American statute.

In his very interesting chapter on the "expedient future" of American neutrality, Mr. Bemis suggests first of all six defects in the existing American law, which he says (page 173) "have been drawn into discussion in connection with the superior completeness of the British code." And further urges the necessity (page 174) of what he calls "original or independent reforms which the lesson of English recent practice of neutrality inculates upon us."

The first of these reforms is to intervene at the points between equipping to order a ship of war for belligerent use (which we now hold to be plainly unlawful), and selling the same as an article of merchandise (which our jurisprudence and practice have pronounced legitimate) so as to denounce in an unmistakable terms that evasion of the law sanctioned by Baron Bramwell's opinion in the English Court of Exchequer in the "Alexandra" case, viz., the equipping of a ship of war in a neutral port so as to fit her all ready to receive her guns, and then sending out her guns by a separate vessel to join the war ship and complete the arming outside the line of neutral jurisdiction.

The second is (page 175) "to reform our practice in the matter of furnishing transports or store-ships to belligerent foreign Powers."

And the third is (page 177), "that we should reconsider our cherished tenet of the right of the neutral to furnish arms and munitions of war to belligerents, and either restrict it within narrow limits, or else altogether repudiate it, and put such material of war upon the same footing as armed ships."

The fourth is (page 181), "that we should make our binding clauses efficacious by taking away from them the reproach which Earl Russell has justly cast upon them of being useless to stop such sort of expeditions as the 'Alabama' and the 'Alexandra.'"

The fifth is (page 183), "that we should extend the powers of the executive and its subordinate functionaries towards enabling them to administer prompt preventive remedies for the preservation of neutrality."

Mr. Bemis adds, "at present, as my readers are well aware, the United States insist that they have proved their superior good faith in enforcing neutral duties more than in any other particular by not waiting to be armed with proof *sufficient to convict* before moving, but in setting the machinery of the law in motion on *a primâ facie case of intended violation*. This practice I fancy has grown up rather from the good disposition of the American authorities to compel neutral rectitude than from any intrinsic superiority of their legislation over that of the British in this particular."

The sixth is (page 184), "to adopt a provision giving the Government *pecuniary redress* against the citizen who renders the State liable to foreign Powers for infractions of neutrality."

The seventh is (page 185), "to take away from the forum of trial by jury all issues arising out of the enforcement of the neutrality laws, unless indictable offences or involving personal punishment, and commit them to the Admiralty jurisdiction."

Upon this point Mr. Bemis dwells with great energy, and we think his arguments are well founded. He refers to the "Alexandra" case in England, and the "Mc Leod" case in New York (1858), and asks, "Who can doubt that the function of a jury is sometimes misapplied when employed to administer a purely executive and political function?"

The remaining forms require less notice, but they will be found at page 186.

There is one very remarkable passage in this work, the citation of which is the last it will be necessary to make.

Mr. Bemis is arguing that it is for the advantage of the United States to expand rather than contract the existing neutral code. He refers to the ravages of the "Alabama," "Florida," and the "Shenandoah," and he says (page 138):—

"If, as is doubtless the case, we shall have to go largely outside of the Neutrality Law of either country, and invoke the aid of the law of nations to help us to make good our claim against England for co-operating in these neutral (or unneutral) enormities, is it not a startling caution to us that hereafter the argument shall not be thrown in our teeth, 'Well, your own laws would not have prevented American citizens from doing the same thing.'"

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These are the observations which occur to us to be useful to make upon these passages.

It is the work of a person who has brought considerable powers of argument, intimate acquaintance with his subject, and generally a spirit of candour and fairness through the discussion of this branch of international law, though various passages may be found which we could have wished omitted, and which we think open to reprobation.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 179.

*The Law Officers of the Crown to Lord Stanley.*—*(Received May 23.)*

My Lord,
*Lincoln's Inn, May* 22, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us, together with a copy of the despatch on the subject of the "Alabama," and other claims forwarded to Her Majesty's Minister at Washington after the receipt of our Report of the 7th March, and a copy of a further despatch to the same Minister giving an account of the reply received through the American Minister in this country to that despatch, a draft of a further despatch which your Lordship now proposes to address to Sir Frederick Bruce on the subject of that reply; and Mr. Hammond was to request that we would take this draft into consideration, and furnish your Lordship, at our earliest convenience, with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we think the proposed despatch proper to be sent, in order to prevent any misconception or misunderstanding. It seems to us, however, that Mr. Seward, in speaking of "Alabama" claims, means to refer to all claims in respect of the "Alabama" and other vessels, and means to decline arbitrament unless all claims of every description are adjusted by one and the same tribunal, and under the same terms of reference.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 180.

*The Law Officers of the Crown to Lord Stanley.*—*(Received June 1.)*

My Lord,
*Lincoln's Inn, May* 31, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st of April ultimo, stating that he was directed by your Lordship to transmit to us a despatch and its inclosures from Her Majesty's Consul at Charleston (No. 15, March 6, 1867), relative to the rejection by the United States' Court of Claims of Mr. Carmalt's claim for indemnity on account of the destruction of his property by the orders of General Sherman in February 1865, and requesting that we would favour your Lordship with our opinion respecting the case.

In obedience to your Lordship's commands we have the honour to report—

That we presume that the claim of Mr. Carmalt has been dealt with by the Court of Claims, to which it was submitted in the manner prescribed by the law of the United States applicable to such a case.

In these circumstances we cannot advise (although the case presents features of hardship) any official intervention on the part of Her Majesty's Government.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 181.

*The Law Officers of the Crown to Lord Stanley.*—*(Received June 16.)*

My Lord,
*Lincoln's Inn, June* 14, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Consul at Charleston (No. 27), respecting the claim of Messrs. Wood and Heyworth, of Manchester, against the Government of the United States, on account of the seizure and destruction of some cotton belonging to them, during the late civil war; and to request that we would take these papers into consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we think in this case, as in that of Messrs. Lemonius and Co., the course pursued by Mr. Walker has been right and proper, and we see no reason for the intervention of your Lordship with the United States' Government on behalf of these claimants.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 182.

*The Law Officers of the Crown to Lord Stanley.*—*(Received June 16.)*

My Lord,
*Lincoln's Inn, June* 14, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Consul at Charleston (No. 28), respecting the claim of Messrs. Lemonius and Co., of Liverpool, against the Government of the United States, on account of the seizure and destruction of cotton belonging to them during the late civil war; and to request that we would take these papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we are of opinion that the course pursued by Mr. Walker has been proper, both in allowing the claim to be placed on the file with the archives of the Consulate, and also in the reply which he sent to Messrs. Lemonius and Co., and that we see no reason for the intervention of your Lordship on behalf of these claimants.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 183.

*The Queen's Advocate to Lord Stanley.*—*(Received June 17.)*

My Lord,
*Temple, June* 15, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to me the papers relative to a collision which occurred in the year 1864 between the British steamer "Kedar" and the American vessel "Czarina," in reference to which case the owners of the former vessel have been recently called upon by the United States' District Court at New York to give bond for an amount which the owners of the "Kedar" consider to be excessive; and Mr. Hammond was pleased to request that I would take this case into consideration, with especial reference to the construction to

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be placed upon the terms of the United States' law regarding collisions at sea, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the High Court of Admiralty decided, previously to the passing of the Merchant Shipping Amendment Act of 1862, that the law (Merchant Shipping Act, 1854, section 504) which limited the liability of owners of British ships to the value of the ship and freight, did not apply to foreign ships; and in the case of a collision between a British and foreign ship upon the high seas, it was decided that the foreigner was not entitled to any limitation of his liability. (The "Wild Ranger:" Lushington R., 553.)

After this decision the Merchant Shipping Act Amendment Act, 1862, was passed, in the 54th section of which were introduced for the first time the words "the owners of any ship, British or foreign." And it was decided by the Judicial Committee of the Privy Council, in the case of a collision between a British and foreign vessel on the high seas,* the limited liability applied equally to British and foreign vessels.

That the law of the United States at this time is substantially identical with the law of England as it existed previously to the last-mentioned statute; and it appears to me, at least, very probable that the Court of the United States, whether Federal or State, which exercised jurisdiction in this case of the collision of the "Kedar" and "Czarina," would adopt in favour of its own subject the construction of the law which the English Court, construing a statute substantially identical with the American statute, adopted in favour of the English subject, and would rule that the limitation of liability could not, under the American statute, be extended to the foreigner.

I perceive that is not the opinion of Mr. Carlisle; but then it does not appear that the case of the "Wild Ranger" was brought to his notice or present to his mind; and the same remark applies to the opinion of the Board of Trade.

If this should be the decision of the United States' Court, it is manifest that international comity requires that the law in both these maritime States, on this particular subject, should be identical, and that a proper application should be made in the proper quarter to induce the United States to alter their law so as to afford to the English owner that protection which the English law now extends to the American owner.

With respect to the circumstances of this particular case, I do not think they furnish any ground of complaint. The bail is demanded, I presume, upon the principle that there is no limitation of liability by American law in the case of a foreign owner. I cannot say whether any or what effect will be ascribed by the American Court to the judgment of the English Court of Admiralty upon the merits of the case; but I am not prepared to say that, in the converse case, the judgment of an American Court of Admiralty would be treated as an estoppel by the English Court of Admiralty.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 184.

*The Law Officers of the Crown to Lord Stanley.—(Received July 3.)*

*Lincoln's Inn, June* 29, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed to transmit to us a Memorial which has been submitted to your Lordship by Mr. James O'Keefe on the subject of his claim against the United States' Government for the destruction of cotton belonging to him in the Southern States. That the Memorial has been referred to Sir Frederick Bruce, who has reported on the case in the accompanying despatch; and Mr. Hammond was also pleased to state that your Lordship considers that the decision of the United States' Court on cotton claims must be awaited before any steps can be taken in the matter, but that your Lordship would be glad to be furnished with any observations that we might have to make upon Mr. O'Keefe's case.

In obedience to your Lordship's commands we have the honour to report—

That the present case appears on the claimant's statement to be one of considerable hardship, for which the claimant may reasonably expect that the laws of the United States will afford him redress. It is to be hoped that the decision of the Court of Claims may enable him to arrive at this result, but we do not think that this case can

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* The "Amalia," 1 Moore P. C. Reports, p. 471; Cail *v.* Papayanni.

be taken out of the category of cases upon which we have had the honour to report to your Lordship, to the effect that the claimants are entitled to whatever remedies and redress a subject of the United States might claim in similar circumstances, but not to the official intervention of Her Majesty's Government.

Property situate in the enemy's country may be seized or destroyed, *jure belli*, by the military force of the other belligerent.

The innocent subject who is the owner (and the domiciled or resident neutral cannot claim a more advantageous *status*) ought to be allowed to claim compensation at the hands of the Government, for his private property thus sacrificed to the general exigencies of the State. But unless the neutral resident be invidiously denied a remedy open to native subjects, the Government of the neutral has no valid ground for official intervention on his behalf.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

P.S.—That we have perused the additional papers, and do not think they affect the opinion which we have already had the honour to express.

J. R.
J. B. K.
R. P.

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## No. 185.

*The Law Officers of the Crown to Lord Stanley.—(Received July* 30.)

*Temple, July* 29, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd July instant, stating that he was directed by you to transmit to us a despatch from Her Majesty's Minister at Washington (No. 188), relative to an application which had been made to him by the owners of the brig "Volant," to assist them in obtaining from the United States' Government the value of their ship and cargo which were condemed by a District Court of the United States during the American war, and sold as prize, the proceeds being invested in the First National Bank of New Orleans.

Mr. Hammond was also pleased to say that the bank had since failed, and the condemnation of the vessel having been reversed by the Supreme Court of the United States, the owners were anxious that Sir Frederick Bruce should prefer a claim against the United States' Government for the proceeds of their property; and that he was to request that we would take the papers into consideration, and favour your Lordship with our opinion as to the instructions that should be given to Sir Frederick Bruce in the matter.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That it has been according to the practice of the English and American Prize Courts (a practice referred to in former Reports of Law Officers) to order in certain cases the sale of vessels brought in for trial. The money which is the produce of the sale being either paid into the Registry of the Court, or invested in some Government security.

The Government of the captors is, we think, under an obligation to pay the money produced by the sale of the "Volant" to the owners, who have had no voice in the selection of the bank in which the money has been placed, but are entitled by the decree of the Court to receive that sum of money which represents their property sold under the order of the Court; and we think that it will be right for Sir Frederick Bruce to prefer a claim against the United States' Government for the proceeds of the property.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
ROBERT PHILLIMORE.

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### No. 186.

*The Law Officers of the Crown to Lord Stanley.*—(*Received July* 31.)

*Temple, July* 29, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th of May, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at New York, forwarding copy of the decision of the United States' Supreme Court in the case of the "Springbok." The previous correspondence was also inclosed for convenience of reference; and Mr. Hammond was pleased to request that we would take the same into consideration, and report to your Lordship our opinion thereupon.

We are also honoured with Mr. Hammond's letters of the 29th of May and the 25th ultimo, transmitting further papers respecting this case, and a letter from Messrs. Barter and Co., inquiring whether the owners' claim for full compensation would be prejudiced by his endeavouring to obtain what the United States' Government are prepared to pay.

In obedience to your Lordship's commands we have the honour to report—

That having regard to the cases decided by Lord Stowell in the English Prize Court (which are enumerated and commented upon in the Report of the Law Officers, May 16, 1864, upon this vessel), we think the Judgment of the Supreme Court in this case of the "Springbok" affords no ground of complaint.

That with reference to the letter of Messrs. Barter and Co. of the 25th of May, 1867, we concur in the opinion already expressed by the Law Officers of the Crown, that the sale of the ship by auction was in accordance with the rules of law and practice of the United States, and that the owners are entitled to the amount which the vessel realized upon the sale by auction, and in the absence of any special circumstances we think that the owners who have succeeded in the Prize Court are only entitled to this amount. It is said, however, by Messrs. Barter and Co., that this vessel had been, when sold, "much depreciated, through plunder and want of care being taken of her after capture." If such has been the case there might be ground for remonstrance and intervention in favour of the owners by Her Majesty's Government. But unless and until very clear evidence of this is furnished by the owners to Her Majesty's Government, it would not be right for Her Majesty's Government to interfere.

With reference, lastly, to Messrs. Barter and Co.'s letter of the 20th of June, we think that if the owners of the "Springbok" accepted the sum which the United States' Government are prepared to pay, under protest, and without prejudice to any claims they may have for further compensation. they would not prejudice such further claims, if any, as they may be hereafter in a position to make against the United States' Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
ROBERT PHILLIMORE.

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### No. 187.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 8.)

*Temple, August* 7, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, forwarding a despatch from the Governor of British Guiana reporting the steps taken by him with regard to the enlistment of a British subject on board the United States' steamer "Penobscot," and to request that we would take these papers into our consideration, and favour your Lordship with our opinion generally on the statements of the Governor, and specifically on the point raised by him with regard to the Foreign Enlistment Act.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we are of opinion that Charles Hubbard was guilty of an offence against the Foreign Enlistment Act, and that the persons who procured his enlistment were also guilty of an offence against the Act.

We think that the "Penobscot" having entered the port of Demerara in the circumstances stated must be deemed to have been exempt from the jurisdiction of the Sovereign within whose territory she was, and that in this view a warrant for the arrest of Hubbard ought not to have been served on board the vessel. Indeed, Acting Governor Mundey appears not to have intended to have the warrant served on board the vessel (paragraph 3 of his letter of 7th June, 1867), and in this we think he was right.

We think that the better course for the Acting Governor to have adopted would have been to apply direct to the captain of the steamer for the restoration of Hubbard, and in the event of refusal to have reported the case to the British Government, in order that a formal complaint and claim for the boy's restoration might be made to the United States' Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
ROBERT PHILLIMORE.

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### No. 188.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 8.)

My Lord, *Temple, August* 7, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th July ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, dated the 11th ultimo, forwarding a despatch and inclosures from the Governor of Hong Kong, on the subject of an application made to him by the United States' Consul for the detention of some mutinous sailors, and to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the instructions which Her Majesty's Secretary of State for the Colonies should be advised to give to the Governor of Hong Kong for his guidance in such cases.

Mr. Hammond was pleased further to say that some papers relating to an application of a somewhat similar nature, made last year by the French Consul at Galle, and which were referred to the then Law Officers on the 3rd of August, were inclosed for our information.*

In obedience to your Lordship's commands we have perused and considered the papers submitted to us, and have the honour to report—

That we think that in this case the American Consul had no right to claim that the sailors of the American vessel the "Parsee," who had been brought on shore at Hong Kong and detained at the request of the Consul by the police authorities of Hong Kong, should be delivered up to him to be sent to America for trial.

The exact offence of which the men were alleged to have been guilty does not clearly appear from the papers before us.

It may be that they were properly triable by the Courts at Hong Kong for piracy *jure gentium*; but if they were not triable for any offence cognizable by those Courts, we think that they ought not to have been detained by the police, and that the claim of the Consul "by the comity of nations" to have the men so detained in aid of his object and purpose of sending them back, *proprio motu*, to America, to be tried there for any offence against the law of that country which they might have committed, cannot be recognized and is not capable of being maintained.

Whether this was a case within the 6th and 7th Vict., cap. 76 (Extradition Treaty Act with America), we cannot determine, upon the information before us; but if it were, the Consul did not adopt the forms prescribed by that Act in order to have the alleged offenders delivered up, but rested his demand on a claim to have them placed at his disposal by reason of some supposed right, usage, or comity which, as we have said, does not, in our opinion, exist, in the absence of Treaty bearing upon the subject.

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* Colonial Office, July 28; to Colonial Office, September 11, 1866.

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We think that directions similar to those contained in Sir G. C. Lewis' despatch of 30th July, 1860, as to the powers of foreign Consuls, and the extent of the power and jurisdiction of British authorities abroad to aid such Consuls, might properly be forwarded to Hong Kong for the guidance of the authorities there.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
ROBERT PHILLIMORE.

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### No. 189.

*The Law Officers of the Crown to Lord Stanley.*—*(Received September* 17.)

*Temple, September* 16, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 22nd ultimo, stating that with reference to our Report of the 29th July, relative to the case of the "Volant," he was directed by your Lordship to transmit to us a letter and its inclosures, from Messrs. Cotterill and Son, urging the claim of the owners of the "Volant," for compensation for the seizure of the ship; and Mr. Hammond was pleased to request that we would take these papers into consideration, and furnish your Lordship with our opinion as to whether such claim for compensation can properly be supported by Her Majesty's Government in the face of the decision of the Supreme Court of the United States that the capture was justifiable.

In obedience to your Lordship's commands we have the honour to report—

That we think that the Supreme Court was not bound, on adjudging restitution of the vessel and cargo, to award damages to the owners, and that the claim of the owners of the "Volant" for compensation for the damages sustained by them in consequence of her unlawful seizure, cannot therefore properly be supported by Her Majesty's Government in the face of the decision of the Supreme Court of the United States, the proceedings of which, as well as of the District Court, from which the Appeal was presented to the Supreme Court, appear to have been regular.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 190.

*The Law Officers of the Crown to Lord Stanley.*—*(Received October* 7.)

*Temple, October* 5, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th of September, stating that he was directed by your Lordship to inclose a letter from Mr. Maguire, dated the 4th ultimo, requesting the support of Her Majesty's Government to a claim which he alleges he has on the United States' Government for remuneration, for services in watching suspicious ships in British ports during the late war; and to request that we would take this matter into consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That is does not appear clearly whether Mr. Maguire desires the assistance of Her Majesty's Government, because he assumes that some arrangement exists with the United States for settlement or investigation of claims of British subjects against the American Government, or whether his request is made independently of any such supposed arrangement.

We think that in answer to Mr. Maguire's letter he might be told that no arrangement has been come to with the United States' Government for the investigation or settlement of the claims of British subjects against the United States' Government arising out of the late civil war, and that in the absence of any arrangement which would embrace his claim, Her Majesty's Government cannot support the demand of Mr. Maguire against the United States' Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 191.

*The Law Officers of the Crown to Lord Stanley.*—*(Received October* 14.)

*Temple, October* 11, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th ultimo, stating that he was directed by your Lordship to inclose a copy of a despatch, dated the 12th August last, from Mr. Seward to the United States' Minister at this Court, on the subject of arbitration on the "Alabama" claims, and that this despatch is in answer to the despatch to Sir F. Bruce of the 24th of May, which is the last paper in the correspondence recently laid before Parliament and transmitted to us therewith for convenience of reference.

Mr. Hammond was also pleased to request that we would take Mr. Seward's despatch into our consideration, and furnish your Lordship with any remarks that may occur to us to make thereupon.

In obedience to your Lordship's commands we have taken Mr. Seward's despatch into our consideration, and have the honour to report—

That, as we understand Mr. Seward's despatch, he seeks to put a construction upon your Lordship's letter of the 24th of May which is not warranted by the terms of that despatch, especially when coupled with the previous communications that have passed between the Governments. Your Lordship has distinctly stated more than once that Her Majesty's Government could not consent to refer to a foreign Power to determine whether the conduct or action of Her Majesty's Government in recognizing the Confederate States as a belligerent Power was or was not justified by the circumstances of the time when the recognition was made; yet we infer from the present somewhat vaguely worded communication of Mr. Seward, that if the limited arbitration proposed by your Lordship were agreed upon the United States' Government would deem itself at liberty, in discussing the question of the moral responsibility of the British Government to make good, either in whole or in part, the losses of American citizens, to insist upon the premature recognition of a state of belligerency as a ground of complaint affecting the responsibility of Her Majesty's Government.

We beg to suggest the expediency of at once repudiating the construction which Mr. Seward seeks to put upon your Lordship's communication.

We understand that your Lordship contemplated that the arbiter who was to determine the question of the moral responsibility of Her Majesty's Government was to proceed upon the assumption that an actual state of war existed between the American Government and the Confederate States, and that the question for his determination was to be, whether upon that assumption there had been any such failure on the part of this Government, as a neutral, in the observance, legally or morally, of any duties or relations towards the American Government, as could be deemed to involve a moral responsibility on the part of this Government to make good losses of American citizens caused by the "Alabama" and other vessels of the same class: and if we are right in this view of your Lordship's proposal, Mr. Seward's attention should be pointedly called to what we conceive to be the mistake under which he labours.

The other matters adverted to in Mr. Seward's despatch, viz., the number and character of the proposed *Tribunals* of Reference, do not appear to us to require any particular notice.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 192.

*The Law Officers of the Crown to Lord Stanley.*—(*Received October* 15.)

*Temple, October* 12, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th ultimo, stating that he was directed by your Lordship to transmit to us therewith, together with the previous papers,* a letter from the Colonial Office,† inclosing a transcript of an Act which has passed the Newfoundland Legislature, amending the Act relating to the constitution of a Marine Court of Inquiry in that Colony, which formed the subject of the Law Officers' Report of August 22, 1866; and to request that we would take this Act into our consideration, and favour your Lordship with our opinion as to whether it should be approved by Her Majesty.

In obedience to your Lordship's commands we have taken this Act into consideration, and have the honour to report—

That we are of opinion that the Act which has passed the Newfoundland Legislature amending an Act to make provision for the constitution of a Marine Court of Inquiry in that Colony, removes the objection which it was pointed out by former Law Officers would have existed to the first Act if it had become law.

We presume, however, that Her Majesty's approbation to the first Act was withheld altogether; and if so, it is certainly an inconvenient course to ask Her Majesty to assent to an Act which contains objectionable clauses, and at the same moment to assent to an Act amending the first Act by repealing those clauses. The preferable course, we think, would have been for the Newfoundland Legislature to submit for Her Majesty's assent a new Act omitting the objectionable clauses; and in this view we think that the Acts should not in their present form be submitted to Her Majesty for confirmation.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 193.

*The Law Officers of the Crown to Lord Stanley.*—(*Received October* 24.)

*Temple, October* 23, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 21st of October instant, stating that, with reference to our letter of the 11th instant, giving our opinion on Mr. Seward's despatch of the 12th of August respecting the "Alabama" claims, he was directed by your Lordship to transmit to us a draft of an instruction which your Lordship proposes to address to Her Majesty's Chargé d'Affaires at Washington, in answer to Mr. Seward's despatch; and Mr. Egerton was pleased to request that we would take the papers into our consideration, and inform your Lordship, with the least possible delay, whether we concur in its contents.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we think that the passage in page 13 (pencil) of the draft despatch states clearly the principle upon which alone Her Majesty's Government would agree to refer to the decision of an arbiter the question of the moral responsibility of that Government to claims of American citizens arising out of the depredations of the "Alabama" and other vessels of that class.

We would submit, however, that it would be well to modify some parts of the despatch. The passage at page 2, beginning, "Her Majesty's Government are *glad to find*," &c., quotes Mr. Seward's despatch in which he pointedly speaks of "the late rebellion;" and it occurs to us that in referring to this passage, and that which follows, in which Mr. Seward states what the United States' Government would, *in this view*, deem itself at liberty to insist upon before the arbiter, it would be better, instead of adopting the tone of comment to be found at pages 8 and 9 to the top of page 10, to write to the effect that the language used by Mr. Seward in his despatch appears to Her Majesty's Government to be open to the construction that the Arbiter and Mixed Commission might enter into the question whether the act or policy of Her Majesty's Government in recognizing the Confederate States as a belligerent Power was or was not suitable to the circumstances of the time when the recognition was made—a construction which, after the distinct and repeated avowal of Her Majesty's Government that they would not consent to a reference of such a question, and especially having regard to your Lordship's despatch of the 9th of March last, Her Majesty's Government can hardly suppose that it was intended for the passage to bear. The letter might then point out (as in page 10) that Her Majesty's Government do not recede from their refusal to refer that question, and to indicate, as in page 13, what the basis of the reference of the claims must be.

We would also submit that exception may be taken to the description given of the *character* of the claims which might come before the proposed Mixed Commission at pages 17 and 18 of the draft. Your Lordship, in the despatch (No. 11) of the 24th of May last to the late Sir F. Wright Bruce (page 44 of printed correspondence), says: "The number of claims in this class on either side may be great, the circumstances of each more or less different, and the points involved in them complicated in their nature and bearing;" and it is perhaps too much to say that some of these claims *may* not include questions of principle, which will have to be determined by the Tribunal to which they are referred.

We think that the refusal to refer all questions to one and the same Arbiter or Tribunal should be maintained.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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* Colonial Office, July 31; Law Officers, August 22, 1866.

† Colonial Office, September 11, 1867.

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## No. 194.

*The Law Officers of the Crown to Lord Stanley.*—(*Received November* 13.)

My Lord, *Temple, November* 13, 1867.

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us a draft to Her Majesty's Chargé d'Affaires at Washington on the "Alabama" claims, in which the alterations suggested in our Report of the 23rd ultimo have been embodied; and Mr. Egerton was pleased to request that we would take it again into consideration, and that if it does not meet our views to alter it accordingly, explaining, if we think it necessary, in our Report the grounds on which the alterations are proposed. A copy of Mr. Seward's last despatch was also inclosed for information.

In obedience to your Lordship's commands we have the honour to report—

That we have suggested a few alterations, some of which speak for themselves; and we refer briefly to the reasons which have induced us to propose others:—

In page 4, we refer to the passages of former despatches refusing to refer the question whether the policy of the Government in recognizing the Confederates was suitable to the circumstances of the time, as it qualifies and explains the proposal to refer the question of "moral responsibility."

Page 6. This alteration is made because Mr. Seward urges that but one Tribunal shall be appointed, or if two be appointed, for the sake of convenience, that each shall be clothed with the same powers.

The omission (page 7) is proposed, as the general claims may be brought forward by American as well as British subjects.

Page 12. We would suggest the words "followed by" instead of "converted into."

Page 16. This alteration is suggested because Mr. Seward maintains that there should be but one Tribunal.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 195.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 27.)

My Lord, *Temple, December* 26, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th December instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, dated the 10th instant, forwarding correspondence respecting the abduction from Canada of a British subject, named Allan Macdonald, by an officer of the State of Michigan; and to request that we would take the papers into our consideration and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That we think that Lord Monck has done right in the course that he has taken in requiring the restoration of Macdonald, and in claiming reparation from the United States' Government for his abduction and the violation of Her Majesty's territory, and for the personal injury done to her subjects—assuming, of course, that the statements contained in the affidavits cannot be substantially controverted.

We think that there is considerable doubt whether Lord Monck can press the claim for extradition. The Treaty applies to cases of murder, assault with intent to commit murder, piracy, arson, robbery, forgery, and the utterance of forged paper; and we think it very questionable whether the evidence is reasonably satisfactory to prove "an assault with intent to commit murder" within the terms of the Treaty.

We have, &c.  
(Signed) JOHN B. KARSLAKE.  
C. J. SELWYN.  
TRAVERS TWISS.

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## No. 196.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 27.)

My Lord, *Temple, December* 26, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to me a copy of a Treaty signed in March last between Russia and the United States, by which the Russian Possessions in North America were ceded to the United States; and Mr. Hammond was pleased to request that I would favour your Lordship with my opinion as to how far, under international law, the United States are now bound by the Treaty between Great Britain and Russia of 1825, of which a copy was annexed for my information.

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That the United States are bound by the recitals from the Convention of 1825 which are incorporated into the Treaty of Cession, as far as the geographical limits of the ceded territory are concerned. Those recitals, although they do not constitute any direct Treaty engagement between Great Britain and the United States, make Articles III and IV of the Convention of 1825 evidence against the United States, that Great Britain has an established title to the line of demarcation described in those Articles; but as regards the other Articles of that Convention, whereby certain points connected with the commerce, navigation, and fisheries, of British and Russian subjects were settled for their reciprocal convenience, none of the obligations contracted by Russia towards Great Britain, under those Articles, devolve upon the United States by virtue of the Treaty of Cession.

I have, &c.  
(Signed) TRAVERS TWISS.

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## No. 197.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 30.)

My Lord, *Temple, December* 30, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. Arthur B. Forwood, relative to the case of the "Adela," now pending before the Supreme Court of the United States, together with a draft of the answer which your Lordship proposes to return to it.

That the accompanying Memorandum gives an outline of the former correspondence on the subject.

And Mr. Hammond was pleased to request that we would take these papers into consideration, and furnish your Lordship with our opinion whether we concur in the terms of the proposed draft.

In obedience to your Lordship's commands we have perused and considered these papers, and have the honour to report—

That we presume that hitherto Mr. Forwood has not been apprised of what appears to have amounted to an arrangement with Mr. Seward that no steps would be taken by Her Majesty's Government with reference to the "Adela," while proceedings were pending in the District Court or Court of Appeal. To accede to Mr. Forwood's application would be a departure from that arrangement, and we think that his letter will be best answered by stating that your Lordship cannot comply with his request in the present state of the proceedings. We have made a slight alteration in the draft letter accordingly.

We have, &c.  
(Signed) JOHN B. KARSLAKE.  
C. J. SELWYN.  
TRAVERS TWISS.

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# Venezuela.

## No. 198.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 3.)

My Lord, *Lincoln's Inn, January* 3, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th December, 1866, stating that with reference to our Report of the 13th of December, relative to the seizure of the steam-vessel "Bolivar," belonging to the Government of Venezuela, by the British crew, he was directed by your Lordship to transmit to us therewith a letter, with its inclosures, from the Colonial Office,* together with three Reports received from the Admiralty,† relative to the movements of the vessel in question; and he was to request that we would take these papers into our consideration, and report to your Lordship our opinion as to any further instructions upon the subject which should be issued to Her Majesty's Naval or Colonial authorities in the West Indies.

Mr. Hammond was also pleased to inclose the previous papers in this case, together with the drafts of a despatch to Mr. Fagan and of a letter addressed to the Colonial Office by your Lordship's directions, upon the receipt of our Report of the 13th of December last.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That it does not appear to us that any other instructions in reference to the ship should be issued to Her Majesty's Naval or Colonial authorities in the West Indies than such as are in accordance with our Report of the 13th of December last.

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* Colonial Office, December 19, 1866.

† Admiralty, December 15, 15, and 17, 1866.

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In reference to the officers and crew of the ship, it is evident they have been placed in a situation of great difficulty, and while we remain of opinion that Her Majesty's Government ought not at present to interfere in any way on their behalf with the Venezuelan Government, we also think that nothing should be done to prejudice any questions that may arise between that Government and the officers and crew, and that such of them as may desire it should, in case of need, be sent home as distressed British seamen.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 199.

*The Law Officers of the Crown to Lord Stanley.—(Received January 10.)*

*Lincoln's Inn, January* 9, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that, with reference to his letter of the 20th ultimo, he was directed by your Lordship to transmit to us a further letter from the Colonial Office relating to the Venezuelan steamer "Bolivar," and to request that we would take the same into consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have taken this case into consideration, and have the honour to report—

That we are of opinion that the conduct of Lieutenant-Governor Pine in delivering up the "Bolivar," and that of Mr. Baynes in delivering up her boat, to the Captain of the "Naparari," as stated, has been right and proper.

We do not think that Her Majesty's Government is called upon at present to interfere in the matter of the agreement between the Captain and crew of the "Bolivar" and the Venezuelan Government.

We think also that Governor Pine should be instructed to take no further steps on behalf of the Captain and crew, and if it should hereafter be advisable that any interference on their behalf should be made, Her Majesty's Government will forward such instructions as shall be deemed right to Mr. Fagan.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

P.S.—Our Report on Mr. Hammond's letter of the 20th ultimo had been sent to Foreign Office before the receipt of his letter of the 1st instant.

J. R.
J. B. K.
R. P.

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### No. 200.

*The Queen's Advocate to Lord Stanley.—(Received April 24.)*

*Temple, April* 23, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Chargé d'Affaires in Venezuela (No. 23), reporting that in a Message addressed to the Legislature of that Republic, it was recommended that a law should be passed obliging all foreigners to have their claims settled by the tribunals of the country, without admitting diplomatic interference; and Mr. Hammond was pleased to request that I would furnish your Lordship with my view of the legal bearing of the proposed arrangement.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That it is not competent to the Venezuelan Legislature to compel foreign States to recognize the validity of a law which prevents them from interfering to protect the interests of their subjects commorant in Venezuela.

Mr. Fagan should be instructed to express this opinion on the part of Her Majesty's Government.

Probably the Representatives of other foreign States will take the same course; and if so it would be desirable that he should act in concert with them.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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### No. 201.

*The Law Officers of the Crown to Lord Stanley.—(Received July 2.)*

*Lincoln's Inn, June* 29, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th June instant, stating that with reference to his letter of the 1st of April last he was directed by your Lordship to transmit to us the accompanying further letter from Mr. Smith, dated the 5th instant, informing your Lordship that the Captain of the "Bolivar" had arrived, and was ready to give evidence before us if we should think it necessary; and Mr. Hammond was pleased to request that we would inform your Lordship if we desired to see the Captain.

In obedience to your Lordship's commands we have the honour to report—

That it would not be expedient, or in the ordinary course of practice, for the Law Officers of the Crown to take the evidence of the Captain of the "Bolivar," as suggested.

But we think that a communication might properly be made to the Captain, to the effect that the memorial of the officers and crew of the "Bolivar" is now under the consideration of Her Majesty's Government, and inasmuch as there is considerable difficulty in ascertaining what the facts of the case are, the Captain may be invited to give a detailed statement, for the entire accuracy of which he can vouch, as to what actually did occur, more particularly with reference to the alleged conduct of the officers and crew of the "Bolivar," in turning adrift at night in an open boat the Venezuelan sailors who had come on board, and then carrying off the vessel by stratagem.

It may be also suggested that Her Majesty's Government have received information that it was proposed by the Venezuelan Government, when it was discovered that a contract had been entered into with officers and crew which that Government had not sanctioned, and could not ratify in its integrity, that the officers and crew should renounce their rights as foreigners, or, if they objected to take that course, that they should be paid three months' wages, or wages to the time of their departure, and a free passage home should be given them.

The Captain's comments on this statement, or his own version of the facts, may be invited.

At the same time the Captain should be informed that, in suggesting that he should furnish a full statement of facts, Her Majesty's Government must not be understood as giving any pledge as to the course which will be taken on the memorial.

We suspend our opinion on the memorial of the officers and crew of the "Bolivar," which is still before us, as the information which may be obtained from the Captain may affect it.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 202.

*The Law Officers of the Crown to Lord Stanley.—(Received July 18.)*

*Lincoln's Inn, July* 16, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd May last, stating that the continued evasion of the Government of Venezuela to do justice to British claimants renders it necessary for Her Majesty's

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Government seriously to consider whether the time has not arrived for having recourse to measures more stringent than remonstrances, which have hitherto proved ineffectual to obtain redress for the British sufferers.

That the claims may be divided generally into two classes:—one arising out of loans made at different times to the Venezuelan Government; the other out of wrongful proceedings by which individual British subjects have been sufferers. That a memorandum briefly relating the nature of the respective claims was inclosed; but as we should doubtless desire fuller and more detailed information on the subject, Mr. Hammond was pleased to send the accompanying volumes, which contain the correspondence during several years on the two classes of claims. That as regards the individual claims, Mr. Hammond was specially to call our attention to a report made by the late Mr. Edwardes, when Her Majesty's Consul-General and Chargé d'Affaires, after a very close examination into the particulars of each case, the result of which the Venezuelan Government agreed to accept with a view to their liquidation of the amounts fixed by Mr. Edwardes. That we should observe, however, that there are various claims in the same class which have not been subjected to the like strict inquiry, and the merits of which remain to be ascertained. That as regards the bondholders' claims we should observe that in respect to the war of 1862, the Venezuelan Government have forcibly appropriated, after the money had actually been paid to the agents of the bondholders, a sum of 18,443 dollars, which sum, therefore, stands on a different footing from the general liabilities of the Government to the bondholders. That this class of claims, however, arises in the main out of the neglect of the Venezuelan Government to provide for the charges of the loans out of the revenues specially assigned for that object.

Mr. Hammond was also pleased to observe, however, with reference to an attempt which we should notice to have been made by some parties to fix Her Majesty's Government with an obligation to obtain redress for the bondholders on the ground of Her Majesty's Chargé d'Affaires being allowed at one time to act on their behalf, that this was allowed on the express and recorded understanding that Her Majesty's Government incurred no liability by deferring to the repeated request of the committee of the bondholders, and that Her Majesty's Chargé d'Affaires acted not by direction of the Foreign Office, but merely by the permission of it, as to a certain extent the agent of the bondholders. That with these preliminary remarks, Mr. Hammond was pleased to request that we would take these matters into consideration, and report to your Lordship to what extent Her Majesty's Government are entitled or called upon to enforce, if remonstrance fails, the claims either of individual claimants or of the bondholders; and in what manner, and to what extent, if so entitled or called upon, they would be warranted in proceeding to obtain satisfaction for all or any of the claims.

We are also honoured with Mr. Hammond's letters of the 29th May and the 26th ultimo, transmitting further papers relating to this case.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That having regard to the continued evasion of the fulfilment of these obligations for which we find in these papers no adequate justification or excuse, and to the constant remonstrances made by Her Majesty's Government which have produced no effect, we are of opinion that it would be competent to Her Majesty's Government to use measures of force for the purpose of compelling the Venezuelan Government to fulfil their obligations to Her Majesty's subjects.

The expediency of pursuing such a course is a matter of policy which is perhaps beyond our province to advise upon.

No measures of force should be resorted to until another opportunity, upon a further remonstrance, be afforded to the Venezuelan Government of doing justice.

This remonstrance should indicate clearly that Her Majesty's Government will feel themselves fully justified in resorting to reprisals or other stringent measures, in the event of such remonstrance being disregarded.

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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## No. 203.

### *The Law Officers of the Crown to Lord Stanley.—(Received October 14.)*

My Lord,

*Temple, October* 12, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letters of the 1st April last and of the 14th ultimo, stating that, with reference to the report of the Law Officers of June 29th last, respecting the case of the "Bolivar," in the last paragraph of which they state that they had suspended their opinion on the memorial of the officers and crew of the ship, as it might be affected by further information which might be obtained from the Captain, he was directed by your Lordship to transmit to us therewith a further letter from Mr. Smith, inclosing a detailed statement of what occurred, together with other documents relating to the case; and Mr. Hammond was pleased to request that we would take these papers into our consideration, and furnish your Lordship with our opinion thereupon at our earliest convenience.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the statement of facts contained in the Minute and voluminous Report of Captain Fock de Robeck differs, as might naturally be expected, in many particulars from that maintained by the Venezuelan Minister, and it is of course impossible for us to determine where the truth really lies.

We think, however, that we may safely assume that the crew of the "Bolivar" entered into what they believed to be a contract binding on the Venezuelan Government with Mr. Hemming, the Venezuelan Consul in London, which they performed in part, and which they were ready to complete, but which the Venezuelan authorities declared was unauthorized and which they declined to fulfil, and which, in fact, the state of the treasury rendered it impossible for them to carry into effect.

Proposals were made on the part of the Venezuelan Government to effect what was contended to be a fair arrangement and compromise with the crew.

These proposals were not acceded to. The crew demanded between 3,500*l.* and 4,000*l.* as the price of their giving up their contract, which the Government authorities said it was impossible to raise; and finding that the Government had not kept, and would not keep, the agreement entered into by the Consul, or accede to the terms demanded, they resolved that no further negotiations with the Government should be carried on, that the officers and soldiers who had been put on board the ship by the Venezuelan Government should be landed, and that the ship should be carried off. It is said by the Captain that these soldiers were sent on shore in a lifeboat capable of carrying sixty men, that they had six oars and that they were not unwilling to go ashore. The Venezuelan Minister tells a very different tale. At all events, on getting rid of the Venezuelans, the ship was carried off by the Captain and crew, it remained in their possession for some time, and was ultimately given up to the Venezuelan Government by the Representative of the British Government.

The question is whether your Lordship shall comply with the request of the officers and crew, and make a demand on or request to the Venezuelan Government for compensation for breach of the engagement entered into by the Representative of that Government in England.

Under any circumstances we think that the conduct of the officers and crew was such that your Lordship could not have insisted upon satisfaction of their claims, for although they appear to have had much grounds for complaint against the Venezuelan Government, their act of carrying off the vessel cannot be justified.

But it appears to us from all the papers now laid before us by the Captain that there can be no doubt that the "Bolivar" was a ship of war in the service of the Republic; that the Captain, officers, and crew enlisted and agreed to serve on board that ship of war; and that the representation of the Captain that it was understood they were to be engaged in preventing smuggling cannot be trusted or acted upon. We think that officers and crew were guilty of an infringement of the Foreign Enlistment Act, sec. 2, and this notwithstanding the attempt made to give a lawful character to the engagement by sec. 2 of the articles of agreement entered into with the Consul.

The character of the vessel is made clearly to appear by the terms of the "War Patent," and we think that though the Republic was not actually at war, the case falls strictly within the prohibition of the Act.

It appears to us, therefore, that it would not be right for your Lordship to aid the officers and crew in obtaining compensation in respect of a breach of contract

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for service which was prohibited by statute, and that the applicants should be informed that on this account, independently of other considerations, your Lordship cannot properly lend the assistance of Her Majesty's Government for the purpose of obtaining compensation from the Venezuelan Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 204.

*The Law Officers of the Crown to Lord Stanley.—(Received December* 30.)

*Temple, December* 30, 1867.

My Lord,

WE are honoured with your commands signified in Mr. Hammond's letter of the 16th ultimo, stating that, with reference to our Report of the 12th of October last, he was directed by your Lordship to transmit to us the accompanying letter which had been received from Mr. Smith, respecting the claim which the officers and crew of the "Bolivar" consider they have against Her Majesty's Government; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to that gentleman.

Mr. Hammond was also pleased to say that the former papers in the case were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That the claim now set up by Mr. Smith, on behalf of the Captain and crew of the "Bolivar," viz., that they have "in justice a claim against the British Government for depriving them of their security by compelling them to give up the vessel to the Venezuelan Government at Antigua, instead of bringing it back to London to the owners, where they could have obtained payment of their wages and claims," is one which, as far as we can see, after again perusing the papers sent to us (which, however, do not include the Captain's statement), has never been advanced before.

We think that there is not a pretence for such claim.

In point of law the Captain and crew had no right to detain the vessel under claim of lien, and nothing could justify them in carrying her away by force from La Guayra.

In point of fact the owners were the Venezuelan Government, as the Captain fully admitted; his statement in his letter, without date, written "off Granada" to the harbourmaster, that the Venezuelan Government "declared they did not want her," being glaringly untrue.

The Captain was willing to "deliver up the vessel to any one who claimed her on behalf of her rightful owners." This is proved by his letter to Governor Price, St. Johns, 25th November, 1866.

The vessel was not under a British flag, as stated by Mr. Smith; she carried the colours of the Republic of Venezuela, as shown by the letter from Mr. Eldridge to Sir F. Rogers, Antigua, 27th November, 1866.

We think that your Lordship should state, in reply to Mr. Smith's letter, that Her Majesty's Government do not consider that the Captain and crew of the "Bolivar" have any such claim as they assert against the British Government, nor can they admit the accuracy of the statements of fact or law upon which the claim is based.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

## Zanzibar.

### No. 205.

*The Law Officers of the Crown to Lord Stanley.—(Received January* 10.)

*Lincoln's Inn, January* 9, 1867.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Egerton's letter of the 29th of December ultimo, in which he stated that he was directed by your Lordship to inclose to us a letter from Colonel Playfair, Her Majesty's Consul and Political Agent at Zanzibar, in which he suggested that for the future, native dhows captured by British cruizers in the neighbourhood of Zanzibar should be taken for adjudication to that port, to be dealt with by Her Majesty's Consul in a Vice-Admiralty Court.

Mr. Egerton was pleased to inclose a copy of the Order in Council of August 9, 1866, by Article XXXIX of which the powers of a Vice-Admiralty Court Judge are conferred upon Her Majesty's Consul at Zanzibar; and to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to whether there is any objection to the plan proposed by Colonel Playfair.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we see no objection to the plan proposed by Colonel Playfair in regard to vessels captured on suspicion of being engaged in the Slave Trade within the dominions of the Sultan of Zanzibar. (See 29th section of the Order in Council of the 9th of August, 1866.)

We have, &c.
(Signed) JOHN ROLT.
JOHN B. KARSLAKE.
ROBERT PHILLIMORE.

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### No. 206.

*The Queen's Advocate to Lord Stanley.—(Received June* 3.)

*Temple, May* 31, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 30th instant, stating that with reference to the Law Officers' Report of the 30th of October last, upon the question whether the firm of Fraser and Co., established at Zanzibar, had violated the provisions of the British laws for the suppression of the Slave Trade by entering into contracts with the Sultan of Zanzibar, and with certain other Arab Chiefs for a supply of slaves to cultivate their sugar estates, he was directed by your Lordship to transmit to me the accompanying despatches from the Acting British Consul at Zanzibar relating to this matter; that it would be seen from these papers that Messrs. Fraser and Co. would have it to be inferred that the contracts which have been pronounced illegal by the Law Officers of the Crown were framed on a contract previously drawn up and authenticated by Colonel Playfair, the British Consul and Political Agent at Zanzibar in 1864, and that some discussion has taken place between the present Acting British Consul and Messrs. Fraser upon this point. That as, however, the question of the employment of slaves by Messrs. Fraser under this contract has been brought to a satisfactory issue by the generous conduct of the Sultan of Zanzibar, who has emancipated the whole of the slaves (711 in number) who were in Messrs. Fraser's employ, your Lordship is of opinion that it would answer no practical purpose to enter into a discussion with that firm as to whether they were led into error or not by any previous arrangement or contract sanctioned by Colonel Playfair, and that your Lordship would propose, therefore, to rest satisfied with what has been attained, and to instruct Mr. Seward to inform Messrs. Fraser that any penalties which they have incurred by acts on their part in violation of the provisions of the British Laws for the prevention of the dealing in slaves will not be enforced, nor any proceedings adopted against them on their undertaking not to offend for the

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future. But before, however, writing to Mr. Seward in this case, your Lordship would be glad to be furnished with any observations I may have to offer upon this case, and upon the manner in which your Lordship proposes to deal with it.

In obedience to your Lordship's commands I have the honour to report—

That I think the manner in which your Lordship proposes to deal with this case in the present position of it, is right and proper. It seems to me expedient that the language which your Lordship employs towards Messrs. Fraser should be such as to leave no doubt on their minds that, in your Lordship's opinion, they have had a very fortunate escape from the penal consequences of an illegal act; and that Mr. Seward should be apprized of your Lordship's satisfaction with the course which he has pursued throughout these proceedings.

The emancipation of 711 slaves by the Sultan of Zanzibar is certainly a great result, and appears to be mainly the consequence of the course adopted by Mr. Seward.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 207.

*The Law Officers of the Crown to Lord Stanley.*—(*Received October* 24.)

*Temple, October* 22, 1867.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 27th August last, stating that with reference to the Report of the Law Officers of the 30th of October, 1866, upon the employment of slave-labour by Messrs. Fraser and Co. of Zanzibar, for the cultivation of their sugar plantations, he was directed by your Lordship to transmit to us a letter from Mr. Fraser, of that firm, requesting information upon certian points connected with the employment of slave-labour by British subjects, and also submitting, for the opinion of Her Majesty's Government, a contract drawn up in 1864, for the cultivation of their plantations, between his firm and the Sultan of Zanzibar, which contract has since been annulled; and Mr. Murray was pleased to request that we would take this letter and the two Memoranda which accompany it into our consideration, and report to your Lordship what answer should be returned to Mr. Fraser.

Mr. Murray was also pleased to remark that, in considering this question, your Lordship would be glad also to receive our opinion as to the circumstances or manner in which it would be legal for a British subject to make use of slave-labour; a question of vast importance when it is remembered that in many countries and ports in which Her Majesty's Consuls and British traders reside, the white population depend almost entirely upon the services of slaves as porters, domestic servants, and labourers of all kinds.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That, in our opinion, the contract between Messrs. Fraser and the Sultan of Zanzibar is not by the law of this country an illegal or invalid contract, and we think that British subjects entering into contracts with natives who may hold slaves in Zanzibar, similar in tenor to the contract of Messrs. Fraser, will not infringe the law of this country.

To give a satisfactory or exhaustive answer to the general question proposed by your Lordship, viz., as to the circumstance or manner in which it would be legal for a British subject to make use of slave-labour, is a matter of considerable difficulty, especially as it unfortunately happens that in the case of Santos *v.* Illidge, in which the construction of the Slave Trade Consolidation Act, 5 Geo. IV, cap. 113, and the subsequent statute, 6 and 7 Vict., cap. 98, was much canvassed in the Court of Common Pleas, and afterwards in the Court of Error Exchequer Chamber, the unanimous judgment of the first Court, consisting of three Judges, was overruled by four Judges against two in the Court of Error; Mr. Justice Blackburn and Mr. Baron Bramwell, who were in the majority, not agreeing with each other entirely in the grounds upon which they pronounced their judgments of reversal, and two Judges giving no reasons for their judgment.

In our opinion the statutes prohibiting dealing in slaves must clearly be construed as penal statutes, and in order to prevent a British subject from availing himself of the services of slaves out of Her Majesty's dominions, in countries where slave-holding is not forbidden by territorial law, an offence clearly within the words and meaning of the statutes must be made out.

We think that there is nothing to prevent a British subject out of Her Majesty's dominions employing a slave as his servant or labourer, so long as such employment does not involve a dealing or trading in purchase, sale, barter, or *transfer*, carrying away, removing, &c., of such slave. *Such employment* is not, we think, forbidden by the 5 Geo. IV, nor by any other statute.

The *purchase* of slaves by a British subject, within or without Her Majesty's dominions, even in a country where the sale is sanctioned by the territorial law, is, however, we apprehend, clearly forbidden by British law to any of Her Majesty's subjects. Mr. Baron Bramwell, indeed, expressed an opinion that the statute 5 Geo. IV, cap. 113, "did not prohibit the purchase of slaves in the Brazils by British subjects, the slaves being to be kept and used there" (Santos *v.* Illidge, 8 Com. Bench, new series, page 871). But this prohibition was certainly imposed by 6 and 7 Vict., cap. 98.

The *purchase* of a slave in a foreign country by a British subject being thus prohibited, an important question for consideration is, whether a *transfer* by a native to a British subject of slaves, *e.g.*, for a term of years, or for the lives of the slaves, to be employed in the foreign country in which the slaves are, is such a "*transfer*" as is contemplated by the Acts. We are disposed to think that it would be such a transfer, and that contracts for supplying slave-labour, where particular slaves are made over to the British subject for particular terms or periods, to be under the control of the latter and in his possession, are forbidden by the statute.

Where the contract, as in the case of the Sultan of Zanzibar and Messrs. Fraser, provides that the former is to find a certain number of labourers to be employed for the benefit or partial benefit of the latter, there would, we think, be no "transfer" within the Acts, and such contract does not, we think, violate the Acts.

With regard to the answer to be returned to Mr. Fraser, we would venture to submit that your Lordship may properly decline to express any opinion as to whether a particular form of contract or particular modes of employment of slaves would, or would not, be illegal. It is obvious that the statutes against slave-dealing, even if their construction were clear, are peculiarly open and liable to evasion, and there are many contracts which might be entered into for the employment of slaves, which upon their face might not appear to violate British law, the carrying out of which, however, might involve the British subject in an infringement of the statutes.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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# Nicaragua.

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## No. 208.

*The Queen's Advocate to Lord Stanley.*—*(Received February 22.)*

My Lord, *Doctors' Commons, February* 22, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that, with reference to my Report of the 19th July, on the subject of the proceedings of the Government of Nicaragua with regard to Messrs. Vaughan's grants, he was directed by your Lordship to transmit to me therewith a further despatch from Her Majesty's Acting Consul-General at San José, reporting the official approval by the Republic of a Contract made by their Commissioner with Mr. Vaughan, jun., as to the right of cutting and exporting timber from Great River on Mosquito shore; and Mr. Hammond was pleased to request that I would take this paper into consideration in connection with the former correspondence, also inclosed, and inform your Lordship whether I consider that a protest should be entered against this proceeding of the Nicaraguan Government.

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In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That I am of opinion that Mr. Wallis should be instructed to enter a protest against this grant of the Nicaraguan Commissioner to Mr. Vaughan, to the effect that Her Majesty will treat the same as null and void, and as an infringement of the rights of the Mosquito Indians secured to them under the Treaty of Monagua.

Mr. Wallis ought to give publicity to this protest.

I have, &c.

(Signed) ROBERT PHILLIMORE.

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CONFIDENTIAL.

# REPORTS

FROM

# THE LAW OFFICERS

OF

# THE CROWN.

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CONFIDENTIAL.

# LAW OFFICERS' REPORTS: 1868.

## Africa (South).

### No. 1.

*The Queen's Advocate to Lord Stanley.*—(*Received October* 29.)

*Temple, October* 29, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed to transmit to me a letter from the Colonial Office inclosing copies of a despatch from the Governor of the Cape of Good Hope, and a Proclamation by the President of the Trans-Vaal Republic, together with a copy of the Convention of 1852, under which the Boers who settled beyond the River Vaal were recognized as a separate Government. Three confidential despatches from Her Majesty's Commissioner at the Cape dated the 2nd July and the 3rd and 18th August last, illustrative of the present state of the Slave question in the Trans-Vaal Republic, were also inclosed; and Mr. Hammond was pleased to request that I would furnish your Lordship with my opinion as to the legality of the proposed annexation, and as to the attitude which Her Majesty's Government would be at liberty to assume with regard to it.

I am also honoured with Mr. Hammond's letter of the 21st October, transmitting a further letter from the Colonial Office dated the 17th October inclosing a copy of a despatch from the Lieutenant-Governor of Natal relating to this case.

In obedience to your Lordship's commands I have the honour to report—

That the Proclamation alleged to have been recently issued by the President of the Trans-Vaal Republic cannot, of itself, according to the acknowledged law and usage of nations, be regarded as founding a title on the part of that Republic to the territories described in that Proclamation, which were not proclaimed to be the Republic in 1858. What was the nature of the Proclamation in 1858 I am not informed, but I assume that no question is raised at the present time in regard to that Proclamation.

With regard to the recent Proclamation, it can only be regarded as a notification on the part of the Trans-Vaal Republic of its intention to appropriate to its own purposes the territory described in it. It is not, however, competent for that Republic to appropriate territory by mere Proclamation. Its title to any further territory than was proclaimed the Republic in 1858, assuming the Republic at that time to have been rightfully proclaimed, must depend upon the fact whether the Republic is in rightful possession of such territory either by settlement in the case of unocupied land, or by cession or conquest in the case of territory already inhabited. I consider that the terms of the Convention of 1852 would preclude Her Majesty's Government from disputing any title which the Trans-Vaal Republic may have acquired to land on the north side of the River Vaal, either by Treaty with the Native Chiefs or by conquest, and that it leaves the Republic free to extend itself indefinitely by *settlement* in the interior country to the *north of the River Vaal,* where no nation has previously established itself. But I do not consider that the Republic can set up in the year 1868 a title by *discovery* alone to any part of the interior country, which would entitle it, according to international usage, to exclude by mere proclamation any other nation from making settlements in it.

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I presume that at the time when the Convention of 1852 was signed, the sources of the Vaal River had been explored, so that the territory described in the Convention as "*the country to the north of the Vaal River*" had known geographical limits to the eastward (for instance, the "Mont aux Sources" in about 30° east longitude,) and that Her Majesty's Government did not intend to recognize any title on the part of that Republic to territory on the eastern side of the Drakenberg or Quathlamba range of mountains beyond the sources of the Vaal,—such, for instance, as seems to be now set up by the Volksraad of the Republic in respect of the territory in which the River Umzuti takes its rise. What may be the precise grounds upon which the Republic lays claim to the territory "in which that river has its origin" does not appear; but if it rests upon settlement alone, made before October 1867, such settlement would be an encroachment on British right, as it is admitted by the Volksraad that the mouth of the Umzuti River was under British sovereignty prior to October 1867, and it is an acknowledged rule of public law that the possession of a line of sea-coast, and of the mouths of the rivers on such line of coast, gives to the nation in possession of them a right to exclude all other nations from the interior country watered by such rivers. In fact it would appear that, as the abandonment of the mouth of the River Umzuti by the British Government would have left the mouth of the river and the interior country free for the citizens of the Republic to settle in, the non-abandonment of that river by the British is an insuperable obstacle to the Republic acquiring rightful possession either of the mouth of the river, or of the interior country through which it flows.

I think that Her Majesty's Government may properly notify to the Republic that if the proceedings of the Volksraad have been correctly reported in the "Staats-Courant" of the Trans-Vaal, they are founded on a misapprehension as to the British Government having declared the mouth of the River Umzuti in Delagoa Bay to be free, and that Her Majesty's Government is also at liberty to declare that it will not recognize any part of the territory watered by that river to be a possession of the Republic. The question of slavery as regards the Convention is rather more difficult, as the Republic would probably deny the *fact* that slavery is either permitted or practised by the emigrant farmers in violation of the Convention. At the same time, if your Lordship is satisfied that the Republic does in fact permit its citizens to capture or to purchase native Africans and to hold them in bondage in the manner reported to the Colonial authorities, there can be no doubt that a fundamental Article of the Convention has been violated by the Republic.

Under these circumstances I am of opinion that Great Britain will be at liberty to hold herself discharged from all further observance of her engagements towards the Republic under the Convention, as each Article of the Convention has the force of a condition, and the Republic will have failed to fulfil a most important condition on its part, the non-observance of which strikes at the root of the compact between the two Governments.

I have, &c.
(Signed) TRAVERS TWISS.

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## Argentine Republic.

### No. 2.

*The Queen's Advocate to Lord Stanley.*—*(Received January 27.)*

*Temple, January* 25, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 21st instant, stating that he was directed to transmit to me a despatch and its inclosures from Her Majesty's Minister at Buenos Ayres on the subject of claims preferred by the owners, master, and other parties concerned, arising out of the destruction by fire of the British vessel "Prince Albert," when aground and abandoned while on her voyage up the Paraná, in tow of a Buenos Ayres war-steamer; and

Mr. Egerton was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion as to the instructions which should be addressed to Her Majesty's Minister in this matter.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Minister at Buenos Ayres may be properly instructed to support officially the claim of the master, passengers, and crew of the barque "Prince Albert," for compensation at the hands of the Argentine Government, for the pillage of their property by the troops of the Argentine Government, and also the claim of the owners of the vessel and her cargo, for their subsequent destruction, which was clearly consequent upon the misconduct of the troops.

Admitting that there may be circumstances under which, in accordance with the opinion of the Procureur Fiscal, a Government may not be responsible for injuries caused by troops in mutiny, or in a state of desertion, or defeat, I am clearly of opinion that the circumstances of the present case are not such as to relieve the Argentine Government from responsibility. The "Prince Albert" was navigating Argentine waters under an express contract with the Argentine Government, that she should be towed by steam wherever that Government should require. In pursuance of that contract she was being towed by the Argentine war-steamer "Chacabuca," when the troops on board that vessel seized and sacked the "Prince Albert," and killed or wounded certain of her passengers and crew.

I am of opinion that no plea of incapacity on the part of the Commander to restrain his troops can relieve the Argentine Government from their imperative duty to give efficient protection to the "Prince Albert" whilst she was performing her contract within their jurisdiction.

With regard to the subsequent loss of the vessel and her cargo, the Procureur Fiscal admits that it was the legitimate consequence of the violence of the troops; and I agree with him that all the subsequent damage which resulted to the barque and her cargo may be fairly attributed to the original misconduct of the troops; but, under any circumstances, as she was towed upon the bank by the "Chacabuca," and left there, after which her cargo caught fire, and she was scuttled, her loss, if not attributable exclusively to the misconduct of the troops, would be attributable partly to that misconduct, and partly to the default or neglect of the "Chacabuca," and in either case the Argentine Government may be justly required to indemnify the owners for a total loss.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 3.

*The Queen's Advocate to Lord Stanley.*—*(Received June 12.)*

*Temple, June* 12, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit to me the accompanying despatch with its inclosures from Her Majesty's Chargé d'Affaires at Buenos Ayres, relative to a correspondence which has passed between Her Majesty's Legation at that place, and Mr. F. T. Rickard, the Manager of the Hilario Silver Mines and Smelting Works, relative to his alleged illegal arrest for debt, and to the outrage committed by the authorities of the Province of San Juan in December 1866; and Mr. Egerton was pleased to request that I would take these papers into my consideration, and favour your Lordship with my opinion as to what instruction should be sent to Mr. Gould with regard to the course which he should pursue in this case.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That I am of opinion that it will be necessary for your Lordship to determine whether Mr. F. T. Rickard has or has not disentitled himself to receive British protection by accepting a Military Commission from the President of the Argentine Republic, as I consider the view which Mr. Gould has taken of the questions at issue between Mr. Rickards and the Government of San Juan, to be a sound view, and that there are no justifiable grounds for your Lordship's intervention in his affairs. Mr. Rickard appears to have suffered from a harsh application of the Bankruptcy Law of the country to his particular case. That law may have been enforced against him

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vindictively on the part of his creditors, and he may have been exposed to great and undue suffering during his imprisonment at San Juan, in consequence of the crowded state of the public prison, owing to the disturbed state of the country at the time; but I do not think that he has been unfairly treated by the Tribunals of the country, so as to be entitled to claim your Lordship's intervention with the Argentine Government, with a view to procure either that substantial justice should be done to him, or compensation made to him for a wrongful administration of the law.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 4.

*The Law Officers of the Crown to Lord Stanley.—(Received August* 17.)

My Lord, *Temple, August* 15, 1868.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us therewith a despatch from Her Majesty's Chargé d'Affaires at Buenos Ayres, reporting the circumstances under which a fraudulent bankrupt, who had absconded from England with a large sum of money, was protected by the Argentine Tribunals against the claims upon his property preferred by the representatives of the interested parties in England, on the ground that the decision of the English Court cannot be accepted in that country as *primâ facie* evidence of bankruptcy, since the procedure of those Courts differs from that of the Argentine Republic.

Mr. Murray was pleased to request that we would take this subject into our consideration, and favour your Lordship with our opinion whether Her Majesty's Government can properly take any, and what, steps in this matter.

In obedience to the commands of your Lordship we have taken this subject into consideration and have the honour to report—

That it appears from the despatch of Mr. Gould, that the claim of Mr. Gath's creditors to be put into possession of the money deposited by him in a Bank at Buenos Ayres, is founded upon a Decree of an English Court adjudging Mr. Gath to be a bankrupt, and that the Argentine Tribunals have declined to give any legal effect in Buenos Ayres to that Decree. We consider that it is within the competence of a foreign Court to refuse to give weight to a Decree of an English Court of bankruptcy, and as Mr. Gath's creditors have been heard before the Argentine Tribunals, and the rejection of their demand is not alleged by them to be in violation of any Argentine Law, we do not see upon the facts disclosed, how your Lordship can interfere diplomatically in this case.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 5.

*The Queen's Advocate to Lord Stanley.—(Received August* 17.)

My Lord, *Temple, August* 15, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th ultimo, stating that with reference to a Report of Her Majesty's Advocate-General of October 19, 1865, he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Buenos Ayres, communicating the views of Senhor Amaral, the late Under-Secretary of State at Rio de Janeiro, and now the Brazilian Special Envoy to the Argentine and Uruguayan Republics, with regard to the right of foreign ships-of-war and of foreign merchant-ships to frequent at all times the River Plate and its confluents; and Mr. Hammond was pleased to request that I would take the same into my consideration, and favour your Lordship with such observations as I may have to make thereupon.

A copy of the Treaty of 1853, between Her Majesty and the Argentine Confederation, and of the Marquis de Moustier's Memorandum, with your Lordship's reply to the Prince de la Tour d'Auvergne on this subject, which are alluded to in Mr. Gould's despatch, were also forwarded therewith for my information.

In obedience to your Lordship's commands I have taken these papers into consideration and have the honour to report—

That the principles of Public Law which are applicable to the navigation of the great rivers of the American Continent, would appear to be as well settled as those which apply to the great rivers of Europe, nor are there any peculiar circumstances, as far as I am aware, which distinguish the River Plate and its confluents from the Mississippi and its confluents, or the Amazon from the St. Lawrence, so as to render the principles of territorial right, which the United States of North America have recognized at different times in concert with Spain and France and Great Britain, with reference to the great rivers of North America inapplicable to those of South America. There may exist as to parts of the channel of certain rivers, anomalous claims, as for instance the claim, if it is still asserted by Paraguay, to exclude all nations from the use of the channel of the River Paraguay, where that river separates the Republic of Paraguay from El Gran Chaco, but such claims as regards frontier rivers, rest on a right of *possession*, and are plainly distinguishable from claims founded on the right of *empire* over rivers, as appurtenant to the territories through which they flow. It is in virtue of this latter right, I apprehend, that the Argentine Confederation has entered into the Treaty engagements of 1853, under which the navigation of the Rivers Paraná and Uraguay, whenever those rivers may belong to the Confederation, have been declared to be free to the merchant-vessels of all nations. This freedom of navigation however is, under Article VI of the Treaty, expressly limited, on occasion of war between the Riverain States, to merchant-vessels not laden with munitions of war, but subject to that exception the Confederation has declared that, "if it should happen that war should break out between any of the States, Republics, or Provinces of the River Plate or its confluents, the navigation of the Rivers Paraná and Uruguay shall remain free to the merchant flag of all nations." This Article of the Treaty, would seem to preclude the Confederation, if it should be itself engaged in war with any of the Riverain States from closing the navigation of the Paraná and Uruguay Rivers against neutral trade with the exception of contraband of war; on the other hand, if a war should break out between any of the Riverain States in which the Confederation itself should not be a party, the Argentine waters would be neutral territory and as such would not be subject to the exercise of any right of war on the part of the belligerents.

That Brazil and Paraguay are amongst the States of the River Plate and its confluents contemplated in the Treaty may, I think, be conclusively inferred from the provisions of Article VII of the Treaty, under which special provision has been made for those States to become parties to the Treaty, "in case they should be disposed to apply its principles to the ports of the Rivers Paraná, Paraguay, and Uruguay over which they may respectively possess fluvial rights."

Brazil, however, has not acceded to the Treaty of 1853, and it appears from Mr. Gould's despatch that the Special Envoy of Brazil at Buenos Ayres is disposed to maintain that the Argentine Confederation in entering into Treaty engagements which negative the right of the Riverain States, if war should break out between them, to blockade the River Paraná, and Uruguay has made concessions to foreign States which are beyond its power, "No single State," he is represented to assert, "can by Treaty or otherwise alienate rights it only holds in common with all the other Riverain States."

This position of public law, if Senhor Amaral means to assert that the Confederation could not by the Treaty of 1853 renounce a belligerent right, because it held it in common with all the other Riverain States is, I apprehend, not tenable, inasmuch as the practice of nations does not forbid a State to renounce by Treaty its exercise of any belligerent right, and the Powers assembled at the Congress of Paris in 1856 did not hesitate to alienate belligerent rights which they held in common with all other maritime Powers, although several of such latter Powers were not Parties to the Declaration of the Congress. But, as regards the Treaty of 1853, the fact would appear to be different from what the Brazilian Envoy has supposed, as the provisions of that Treaty apply only to rivers which are under the exclusive jurisdiction of the Argentine Confederation, and upon which, unlike the high seas, the other Riverain States, unless they should be carrying on war against the Confederation itself, in which case the inland waters of the Confederation would be enemy's territory, would have no title to enforce any right of war against neutral commerce.

It would have been competent for the Argentine Confederation, if it had been engaged in war single-handed with Paraguay, to have closed the navigation of its

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rivers against the merchant flag of all nations by right of its *sovereignty*, if it had not bound itself by Treaty to allow the navigation of those rivers to remain free in case of such a contingency. Brazil, on the other hand, if she had been engaged single-handed in war with Paraguay, would have had no title to interfere with the commerce of neutrals in Argentine waters under colour of belligerent right; and as the ally of the Confederation of the present occasion, Brazil can only exercise such rights against neutral commerce within the territory of the Confederation, which the Confederation is itself entitled to exercise.

Senhor Amaral, however, seems to entertain a notion that certain principles of *maritime right* may properly be applied to the conduct of fluvial warfare on great rivers, whilst others should be excluded, and suggests that the free exercise of the right of blockade without the restraints which the practice of nations has imposed upon it when exercised on the high seas cannot be denied to any of the Riverain States, if it is carrying on war in the River Plate and its confluents.

"International law," he observes, "having been principally based on the practice of the nations of Europe, the internal waters of which are only of limited extent, and have consequently but rarely, if ever, been the scene of naval operations of any magnitude, does not lay down rules for the guidance of belligerents engaged in fluvial warfare, such as may at any moment break out between the different States bordering on the rivers which intersect this part of the American Continent.

"He, therefore, concludes that as the existing maritime rights are not adapted to the conditions in which fluvial warfare has to be carried on in the River Plate and its affluents, and the free exercise of belligerents cannot be withheld from any nation, the Riverain States can hardly be expected to adhere to them, and that, therefore, on the first favourable occasion these rights should be modified so as to meet the peculiar local circumstances, but not without the full and previous concurrence and consent of those States, which are naturally the most interested in the matter,"

Mr. Gould, in discussing these and other remarks of his Excellency the Brazilian Envoy, observes that "the right of blockade would seem to be virtually admitted by the Riverain States among themselves, inasmuch as the arrangement at present existing among the Riverain States is (if he correctly understands it) to the effect that merchant-vessels are freely allowed to proceed as far as they can, and ships of war only so far as each State permits them to proceed." But I apprehend that such an arrangement involves only the admission of the *sovereignty* of each State over its territorial waters, not the exercise of any right arising from a state of war. It is competent, for instance, for any Riverain State, in right of its sovereignty over its territorial waters, to exclude foreign vessels of war from them at all times, whilst it freely admits the merchant-vessels of all nations, just as it is competent for a maritime State to exclude from its ports and harbours foreign ships of war, whilst it freely admits vessels of commerce. The conclusion, therefore, which Mr. Gould is disposed to draw from the existing arrangements does not appear to me to be well founded. Her Majesty's Government has, I think, wisely held that the admission of Her Majesty's ships of war to the rivers which are the subject of the Treaty engagements of 1853 has been a matter of *comity* on the part of the Argentine Confederation, and although in time of peace foreign vessels of war may have been allowed without objection to ascend the Plate and its affluents to give occasional protection to foreign settlers, the admission of such vessels to those rivers cannot, in my opinion, be claimed as a matter of *right* in case of war breaking out between the Riverain States as being within the *spirit* of the Treaty.

With regard to the River Paraguay there does not appear to be any grounds for doubt, as regards the wording of the Treaty of 1853, that the Treaty does not apply to that river. The Treaty provides only for the free navigation of the Rivers Paraná and Uruguay wherever they belong to the Confederation. The concessions, therefore, which the Confederation has made by the Treaty of 1853 cannot fairly be construed to apply to any portions of the River Paraguay. It is competent, however, for the Confederation to allow the merchant-ships of all nations as well as their vessels of war, to navigate any portion of the River Paraguay over which it may possess rights of sovereignty.

The belligerent rights, I apprehend, which the various Riverain States are entitled to exercise against neutrals upon any part of the affluents of the River Plate depend altogether upon the fact whether such port belongs to an enemy or to a neutral Power.

The circumstance that the warfare is naval does not import any principle of maritime right into the question; for, as regards the high seas, all nations have a right to use them as an open battle-field, whereas no belligerent State can exercise any right of war in a river which belongs to a neutral Power.

The question of warfare on great rivers is thus essentially a territorial question. If both banks of a river belong to a neutral Power the entire channel is neutral territory; if one bank only belongs to a neutral Power, a belligerent is entitled to exercise rights of war within that portion of the river over which his enemy possesses territorial rights. The belligerent may, in such a case, besiege or blockade the ports of his enemy and forbid neutrals to navigate those parts of the river which belong to the enemy, and which he has occupied, but he cannot exercise any right of war against a neutral beyond those parts of the river which belong to his enemy. When Senhor Amaral, therefore, contends that the free exercise of belligerent right cannot be withheld from any nation, it must not be lost sight of that the locality to which he would apply the exercise of that right is an inland river, and that if the free exercise of belligerent right against neutrals throughout the waters of such a river is to be conceded by a General Treaty to every Riverain State it will be reasonable for the European Powers to expect reciprocity, and such reciprocity would entitle France or Great Britain, if either of those Powers should be at war with Brazil, to ascend the affluents of the Plate and to wage a naval warfare against Brazil in the interior of the South American Continent. It is probable that Senhor Amaral may not have maturely considered all the bearings of the question which he has raised in his conversation with Mr. Gould.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 6.

*The Law Officers of the Crown to Lord Stanley.—(Received September 9.)*

*Temple, September* 8, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th June last, stating that, with reference to our Report of the 18th of January, 1867, on the subject of the claim of Mr. Stewart, on the Argentine Government, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Chargé d'Affaires at Buenos Ayres, inclosing copy of a note addressed by Mr. Buckley Mathew to the Minister for Foreign Affairs, protesting against the demand made on Mr. Stewart for the payment of duties on his "yerba," together with the reply of the Argentine Government, and to request that we would take the same into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

The previous correspondence was likewise inclosed for convenience of reference.

We are also in receipt of your Lordship's further commands, contained in Mr. Hammond's letter of the 17th June, inclosing Memorandum and its inclosures, relative to the same matter.

In obedience to your Lordship's commands, we have the honour to report—

That it appears to us that the proceedings taken by the Argentine Government against Mr. Stewart, by laying an embargo on his "yerba," in 1865, on the ground that the Paraguayan Government was really interested in it, cannot be considered as having been taken *malâ fide*, or without reasonable suspicion justifying the course adopted.

However, the Appeal Court has held that Mr. Stewart has sufficiently made out that he was the true owner, and has ordered the "yerba" to be given up to him. The immediate complaint now made by Mr. Stewart is, that upon application for the "yerba," the Custom-house refuses to allow it to be given up without payment of the duties *now* in force, Mr. Stewart claiming that it should be delivered upon payment of the duties which, if the "yerba" had been dispatched in 1865, would *then* have been payable. The duty claimed is at a higher per-centage on a higher fiscal valuation of the "yerba" than those in force in 1865, and the difference in favour of the Custom-house very considerable; but, on the other hand, the increase in the value of "yerba" in the market is, as we understand, very large, and probably Mr. Stewart will realize, after payment of duties, a far larger profit on the "yerba" than if he had sold it in 1865, paying the lower duty.

Strictly speaking, we think the question to be considered is, whether, after paying the charges demanded, Mr. Stewart has or has not been a loser by the detention of the "yerba" under the embargo; and, though we think that your Lordship might instruct Her Majesty's Representative again strongly to urge upon the Argentine Authorities the injustice of their enriching their exchequer by what turns out to have been the wrongful detainer of the "yerba"; still, if they continue to maintain the right of the Custom-house authorities to demand the higher rate, it should be paid under protest to

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obtain the despatch of the "yerba," notice being given to the Argentine Government that Her Majesty's Government will reserve to themselves the right to claim compensation hereafter for all damages sustained by Mr. Stewart, by reason of the detention of his goods.

We have, &c.
(Signed) JOHN B. KARSLAKE.
TRAVERS TWISS.

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## Brazil.

### No. 7.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 10.)

My Lord,
*Temple, December* 8, 1868.

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 27th ultimo, stating that Her Majesty's Government having determined to propose to Parliament to repeal the Act 8 and 9 Vict., cap. 122, which was framed in 1845, for the suppression of the Brazilian Slave Trade, he was directed to transmit to us the accompanying draft of a Bill which has been prepared for giving effect to the determination of Her Majesty's Government in this matter; and Mr. Egerton was to request that we would take the same into consideration, and furnish your Lordship with our opinion whether the draft Bill is right and proper.

In obedience to your Lordship's commands we have the honour to report—

That we have considered the provisions of the draft Bill, and, subject to a slight alteration, are of opinion that it is proper for giving effect to the determination of Her Majesty's Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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## Central America.

### No. 8.

*The Law Officers of the Crown to Lord Stanley.*.—(*Received February* 29.)

My Lord,
*Temple, February* 28, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that with reference to my Report of the 19th of November last, and to previous Reports on the subject of the claim of Captain Harris against the Government of Guatemala, for damage done to his property at San Geromino, he was directed by your Lordship to transmit to me a letter from Captain Harris, relative to the question of the restrictions to be placed upon the production of evidence by the Guatemalan Government againt the accuracy of the items forming his claim, and submitting his views as to the conditions under which he considers that Government should be bound, and Mr. Hammond was pleased to request that I would take Captain Harris' letter into my consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken Captain Harris' letter into my consideration, and have the honour to report—

That it appears from the correspondence of the Guatemalan Minister of Foreign Affairs with Her Majesty's Chargé d'Affaires, that the Guatemalan Government dispute both the alleged value of the stores in the estate of San Geromino at the time when the estate was pillaged, as well as the alleged amount of the damage inflicted by the troops; and that, whilst they dispute the former on the ground of its being out of all proportion to the extent of the estate, they dispute the latter upon the information of Mr. William Knoth, who, according to the Foreign Minister's despatch of July 13, 1865, inclosed in Mr. Fraser's despatch of 5th August, 1865, "resided in San Geromino at the time when the entry of the troops into the estate occurred, his father having been manager of the estate." The Minister goes on to say, "Mr. Knoth's information is in confirmation of the view that the claims are exaggerated, and he has also supplied some original documents, which show that the losses were not what the declarations affirm them to have been, and that the plantation was not left in a ruined state, as has been supposed, by claiming on account of this circumstance the excessive sum of 36,000 dollars." It is the evidence of this person which Captain Harris has been anxious to exclude, but as it is perhaps the most important part of the evidence upon which the Guatemalan Government will rely, as showing grounds for reducing the amount of compensation claimed, I do not think that the Guatemalan Government would accede to any condition calculated to exclude it, nor do I think that Captain Harris has made out a case to warrant your Lordship in insisting upon the acceptance of any such condition. The proposed alteration of the seventh condition would accordingly be objectionable, if the latter part would exclude Mr. Knoth's evidence, but I see no objection to its being adopted without the last paragraph; it would run thus—"That no evidence be received against any of the items of the claim, except it can be proved to be that of a person or persons actually acquainted with the condition of the estate before it was pillaged by the troops." The concluding paragraph would for other reasons not be admissible, as it might prevent the Guatemalan Government producing evidence from parties who visited the estate *before*, and not *after* it was pillaged, to show that the stores alleged to have been destroyed were not on the estate before it was pillaged.

With regard to the ninth condition, I am unable to understand what Captain Harris means by the term "*bonâ fide* evidence." I observe in Mr. Matthews' letter of April 26th, 1863, that he states that "the original papers lodged in the Consulate are not to be found," but that "there are legally certified copies;" and I also observe that the Minister of Foreign Affairs, in his despatch above alluded to, remarks that the "declarations are for the most part legally liable to objection." If Captain Harris means that one of the conditions proper to be insisted upon should be that no legal objection should be taken to the declarations on the ground of their not being original documents, I think such a condition may be properly approved by your Lordship.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 9.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 16.)

My Lord,
*Temple, March* 15, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence with Mr. Forrest, on the subject of the claim of his client, Mr. Delvaille, on the Government of Honduras, on account of the non-payment of a debt due to him from a subject of that Republic in 1844.

Mr. Hammond was also pleased to inclose a draft of the answer which your Lordship proposes should be returned to Mr. Forrest's letter of the 28th ultimo, and to request that I would take the same into my consideration, and favour your Lordship at my early convenience with my opinion thereupon.

The previous papers referred to in the correspondence were likewise forwarded therewith for convenience of reference.

In obedience to your Lordship's commands I have taken the draft of the answer which your Lordship proposes should be returned to Mr. Forrest's letter into consideration, and have the honour to report—

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That the proposed answer, with the slight alteration which I have made in the draft, may be properly returned to Mr. Forrest's letter of the 28th February last.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 10.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 3.)

*Temple, April* 3, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th ultimo, stating that, with reference to my letter of the 16th March last, he was directed by your Lordship to transmit to me the accompanying letter which had been received from Mr. Samuel Forrest in reply to the one addressed to him on the 17th ultimo, on the subject of the claim of his client, Mr. Delvaille, on the Government of Honduras; and Mr. Hammond was pleased to request that I would take this paper into my consideration, and favour your Lordship with my opinion as to the answer which should be returned to that gentleman.

The former papers relating to this case were likewise forwarded therewith for convenience of reference.

In obedience to your Lordship's commands I have taken this paper into consideration, and have the honour to report—

That I think your Lordship may properly give some assistance to Mr. Delvaille. It appears from the Memorandum of the Foreign Office, February 18, 1868, respecting the origin of the debt due from the Republic of Honduras to Mr. Delvaille, that the Honduras Government had, prior to the Convention of November 28, 1859, agreed to pay it off by annual instalments, and had taken some steps towards fulfilling this agreement before the Convention was signed. Mr. Delvaille's claim would thus appear to come within the scope of the latter part of Article V of that Convention, under which "the Republic of Honduras agrees to carry into effect any agreements for the satisfaction of British claims already made, but not yet carried into effect." I consider therefore that your Lordship may properly direct Her Majesty's Chargé d'Affaires at Honduras to call the attention of the Government of that Republic to its omission to give effect to the provisions of Article V of the Convention, as respects its agreement made prior to that Convention, for the satisfaction of Mr. Delvaille's claim.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 11.

*The Queen's Advocate to Lord Stanley.*—(*Received May* 4.)

*Temple, May* 4, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that, with reference to my Report of October 3, 1867, on the subject of the claim of Captain Harris against the Government of Guatemala for alleged damage done to the San Geromino Estate, he was directed by your Lordship to transmit to me therewith, together with the previous correspondence, a further letter from Captain Harris, stating the conditions under which the claimants are now prepared to submit their case to a Commission; and that, in requesting me to favour your Lordship with my opinion thereupon, Mr. Hammond was to state to me that, if Captain Harris' terms are considered by me satisfactory, your Lordship proposes to forward all the correspondence to Her Majesty's Chargé d'Affaires in Central America, with instructions to proceed in the matter.

In obedience to your Lordship's commands I have the honour to report—

That I consider the conditions under which the claimants are now prepared to submit their case to a Commission are satisfactory, and that your Lordship may properly forward the correspondence to Her Majesty's Chargé d'Affaires in Central America, with instructions to proceed forthwith in the matter.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 12.

*The Queen's Advocate to Lord Stanley.*—(*Received May* 15.)

*Temple, May* 15, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that, with reference to my Report of the 4th instant on the subject of the claim of Captain Harris against the Government of Guatemala for damage done to his property at San Geronimo, he was directed by your Lordship to transmit to me the accompanying letter which had been received from that gentleman requesting to be informed whether Her Majesty's Government are willing to receive and forward to Her Majesty's Chargé d'Affaires in Central America a legally certified copy of the attestations of several witnesses with respect to that case; and Mr. Hammond was pleased to request that I would take Captain Harris' letter into my consideration and inform your Lordship whether his request should be complied with.

The former papers were forwarded therewith for convenience of reference.

In obedience to your Lordship's commands I have taken Captain Harris' letter into consideration, and have the honour to Report—

That I see no objection to Her Majesty's Government taking charge of the documents which Captain Harris is desirous to have forwarded to Mr. Corbett, if the object is to secure their safe deposit in the British Consulate; but if Captain Harris means, in requesting to be allowed to hand them over to Her Majesty's Government for the purpose of being forwarded *officially* to Mr. Corbett, that Her Majesty's Government, by receiving them for that purpose, will have accepted them officially as evidence, which Mr. Corbett will be authorized to require the referees to admit under the conditions of reference, I cannot safely advise your Lordship to assent to Captain Harris' request without further information as to the circumstances under which the original documents are not forthcoming, and the copies came to be made.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 13.

*The Queen's Advocate to Lord Stanley.*—(*Received July* 15.)

*Temple, July* 14, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that, in accordance with the opinion contained in my Report of the 15th May last, Captain Harris has been called upon to furnish explanations with regard to the document relating to his claim upon the Government of Guatemala on account of his property at San Geranimo, which he requested might be forwarded to Mr. Corbett; and that Mr. Hammond was directed to transmit to me the accompanying letter which has been received from that gentleman in reply; and he was pleased to request that I would take the same into consideration and furnish your Lordship with my opinion as to whether Captain Harris' request may now be acceded to.

In obedience to your Lordship's commands I have the honour to Report—

That the explanation at present offered is not satisfactory, if it is intended that Her Majesty's Minister should be authorized to require the referees to admit the copies, inasmuch, as from the letter of Captain Harris, it would appear that the copies were made some time *after* the original documents were carried of from Her Majesty's Consulate, at Guatemala, and he does not explain how copies could be made under such circumstances. It is possible that the papers are *duplicate* copies of some original papers in the custody of the Guatemalan authorities, as Captain Harris states that they are duly stamped and certified by the proper authorities.

I think it would be desirable to require this difficulty to be cleared up, and at the same time that your Lordship should be informed what is the precise *nature* of the document which Captain Harris stipulates is "to be restored to the claimants when the purpose for which it is put forward has been carried out."

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 14.

*The Queen's Advocate to Lord Stanley.—(Received August 8.)*

My Lord,

*Temple, August* 8, 1867.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that, with reference to my Report of the 14th ultimo, he was directed by your Lordship to transmit to me, with the previous papers, a letter from Captain Harris, containing further explanations with regard to the document relating to his claim on Guatemala, which he is anxious should be officially forwarded to Mr. Corbett; and Mr. Hammond was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion as to the propriety of acceding to Captain Harris' request.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That your Lordship may, I think, with propriety, accede to Captain Harris' request that the Foreign Office should take charge of the document in question, with a view to its being forwarded to Mr. Corbett for the purposes of the Commission.

As the document purports to be an official copy under the seal of the Guatemalan Government of the depositions of eye-witnesses of the sacking of the San Geronimo Estate, made immediately after that, went before the Guatemalan authorities, Captain Harris will fairly be entitled to claim, that it should be received in evidence by the Commissioners, if the original depositions, which he presumes to have been retained by the Guatemalan Government, should not be forthcoming.

I venture to suggest that it may be prudent for Captain Harris to have a notarial copy made of the document, to be retained in this country, in case the document, which may prove to be the only existing record of the depositions, should be lost or be abstracted after its arrival in Venezuela.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 15.

*The Queen's Advocate to Lord Stanley.—(Received August* 14.)

My Lord,

*Temple, August* 13, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that, with reference to my Report of the 4th of May last, relative to the conditions under which the claim of Captain Harris against the Government of Guatemala for alleged damage to the San Geronimo Estate, might be submitted to a Commission, he was directed by your Lordship to transmit to me the accompanying despatch and its inclosures, from Her Majesty's Chargé d'Affaires in Central America, on the subject of the advisability of appointing a referee by whom disputed questions could be decided; and Mr. Hammond was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into my consideration, and have the honour to report—

That under the circumstances stated in the despatch of Her Majesty's Chargé d'Affaires, it would be highly advisable that a referee should be appointed, to whose decision all questions upon which the Commissioners may not be able to agree, may be referred.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 16.

*The Queen's Advocate to Lord Stanley.—(Received September* 8.)

My Lord,

*Temple, September* 7, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that with reference to my Report of the 8th ultimo, he was directed by your Lordship to transmit to me the accompanying letter from Captain

Harris, inclosing the certified copy of the attestations of the several witnesses, of the sacking and destruction of the estate of San Geromino in Guatemala; and Mr. Hammond was pleased to request that I would read the document in question, and favour your Lordship with any remarks I may have to offer thereupon.

In obedience to your Lordship's commands I have read the document in question, and have the honour to report—

That it does not appear to me to answer precisely the description given of it by Captain Harris, which, as I gather from my report to your Lordship, was to the effect that it was an official copy, under the seal of the Guatemalan Government, of the depositions of eye-witnesses of the sacking of the San Geromino Estate, made immediately after that event before the Guatemalan authorities.

The document, if I mistake not, purports to be a faithful copy made in 1852, by Francisco Quivos, of a book, in which were recorded copies of certain documents, including the depositions of witnesses present at the sacking of the San Geromino Estate, or who visited the estate shortly before or after that event, which copies had been collated with the original documents on 8th October, 1838, by Ramon Vasconcellos, in the presence of two witnesses whose names were subscribed to it, as well as his own. The document is not properly described as being under the seal of the Guatemalan Government, unless thereby is meant that it is copied on official paper stamped with the arms of that Government, and that the signature of Francisco Quiros is certified by the Guatemalan Secretary of Foreign Affairs to be authentic, and entitled to full credit both within and without the Republic.

Ramon Vasconcellos is described in the course of the earlier proceedings as "Escribano National," as well as Francisco Quivos, and one or other of them seems to have attested the original proceedings before the Guatemalan authorities.

Under these circumstances I consider the authenticity of the document to be unimpeachable; and that if the original depositions are lost or are not forthcoming after an option has been given to the Guatemalan Government to produce them, the document ought to be received by the arbitrators as of equal authority with the original depositions.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 17.

*The Queen's Advocate to Lord Stanley.—(Received September 8.)*

*Temple, September* , 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that, with reference to my Reports of the 13th May and 13th August, he was directed to transmit to me the accompanying despatches from Mr. Corbett, inclosing correspondence with the Guatemalan Government respecting the constitution of a Commission to examine the San Geronimo claim, and a letter from Captain Harris commenting on the Guatemalan Minister's answer, and adverting also to an objection raised by him in a previous letter to the appointment of any other person but Mr. Corbett himself as umpire; and Mr. Hammond was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion as to the course which should be pursued under the circumstances therein set forth.

In obedience to your Lordship's commands I have the honour to report—

That the present proposal of the Guatemalan Government, as I gather from the despatch of Don Pedro de Aycinena is essentially different from the first proposal, which led to your Lordship entertaining the question of referring Captain Harris' claim to arbitration.

The first proposal, as appears from the note of Don Pedro of 6th July, 1868, addressed to Mr. Corbett, was that a Commission of the Guatemalan Government should be appointed to investigate the matter in conjunction with a representative of the claimants, who should be able to resolve upon a compensation to which the claimants could have a fair right. Your Lordship very properly considered that this proposal meant that the Commissioner of the Guatemalan Government and the representative of the claimant should decide, after the examination of documents, upon the amount of compensation to be paid to Captain Harris, and your Lordship assented to the proposal under certain specified conditions. It was, I think, a very reasonable

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suggestion on the part of Don Pedro de Aycinena upon those conditions being communicated to him, as he considered that there might be irreconcilable difference of opinion between the Guatemalan Commissioner and Mr. Hague, who had been nominated to act for Captain Harris, to propose that an umpire or referee should be nominated, to whose decision all differences between the Commissioners should be referred.

Is appears, however, now, from Don Pedro's last note to Mr. Corbett, that the Guatemalan Government prefers that two *impartial* arbitrators should be appointed to decide the question "in the shortest time possible," "a third person also being appointed to decide in case the Commissioners should not agree," and that it has no objection to any of the foreign Representatives at Guatemala being appointed to act as arbitrators, whilst Mr. Hague "should be at liberty to make before the Commissioners all the suggestions which, in his opinion, bear on the subject."

Probably after the intimation which has been given to Mr. Corbett, that the Guatemalan Government consider that the nomination of Mr. Hague to act for Captain Harris will be fatal to any chance of agreement between the Commissioners, it would not be desirable for your Lordship to press the appointment of a *Representative* Commission with a referee, and that an impartial Commission with an umpire in case of differences would be likely to lead to as fair, and perhaps a more expeditious settlement of the question than the original scheme. Such a Commission as is now proposed by the Guatemalan Government would probably better meet Captain Harris' view "of the impossibility of impartiality in any Central American."

I should not consider it advisable for Mr. Corbett to act in any way as arbiter, as your Lordship will probably have occasion for his services as Her Majesty's Representative during or after the arbitration.

With regard to Captain Harris' suggestion, that the original scheme should be carried out "without the appointment of an umpire on the decision of the Commissioners," it would simply be impracticable, and can lead to no satisfactory result after the view which the Guatemalan Government has expressed of the improbability of their Commissioner coming to any agreement with Mr. Hague.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 18.

*The Law Officers of the Crown to Lord Stanley.*—(*Received October* 23.)

*Temple, October* 23, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th October instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires in Central America, requesting instructions as to the course which he should pursue with reference to a proposed marriage between two British subjects, the one resident within the territory of Guatemala, and the other residing in Costa Rica.

Mr. Hammond was also pleased to inclose copy of the Commission issued to Mr. Corbett and the draft of an instruction in which your Lordship has explained the limits of the district within which it is competent for him to celebrate marriages; and to request that we would take these papers into our consideration and favour your Lordship with an opinion, at our early convenience, as to the instructions which should be addressed to Mr. Corbett in this matter.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That we think that residence of one of the parties to an intended marriage in Guatemala, and of the other in Costa Rica, would not be a sufficient residence of both the parties in the district of the Consul within the meaning of the Act 12 and 13 Vict., cap. 68.

The different Commissions issued to Mr. Corbett are silent as to the solemnization of marriages. The Warrant referred to in the letter from the Foreign Office to Mr. Corbett of the 31st July is not before us.

The draft instruction sent to us is, we gather, construed by Mr. Corbett as meaning that the several different countries to which he has been appointed Consul-General are to be considered as *one district* for the purpose of the solemnization of marriages under the Act, so that one person residing in one of the countries and the other residing

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## CENTRAL AMERICA.

## No. 21.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December* 31.)

*Temple, December* 31, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, on which I have had the honour of addressing to your Lordship a Report of this day's date in regard to the protest of certain inhabitants of Grey Town against the illegal seizure and sale by the Nicaraguan authorities of certain property belonging to the Central American Transit Company.* I have now the honour of addressing to your Lordship, on the subject of the Memorial of a numerous body of inhabitants of the same town, complaining of the frequent violation of the Treaty of Managua, a further Report—

That the Memorial which has been submitted on the part of certain inhabitants of Grey Town to the consideration of Her Majesty's Government would appear to proceed upon an erroneous view that the British Government is still entitled to exercise a kind of Protectorate over Grey Town, and in consideration of the immunities enjoyed by its inhabitants before it passed under the sovereignty of the Republic to insist upon a Municipal Constitution being granted to the town, more especially in order to secure to it the condition "of a really free port."

That Her Majesty's Government would have a right to insist that the stipulations of Article VII of the Treaty of 1860 shall be religiously observed by the Nicaraguan Government is beyond all doubt; but I am of opinion that it cannot of right interfere with the internal government of the town in the manner suggested in the eight first Articles of the Memorial. With regard to the 9th, 10th, and 11th Articles, which concern the payment of the Mosquito subsidy, the Nicaraguan Government would appear to have been guilty of a breach of Article IV of the Treaty of 1860 in not levying the duty indicated in that Article for the payment of the subsidy, and it would seem that the payment of the subsidy has been improperly thrown upon the Municipal Treasury of the town, and so far Her Majesty's Government would be entitled of right to bring the complaint of the memorialists to the attention of the Nicaraguan Government. With regard to the other Articles of the Memorial, they are open to the same observations as the earlier Articles, that it is beyond the province of Her Majesty's Government to interfere in the manner suggested.

In addressing the above observations to your Lordship, upon "the conditions" which the memorialists are desirous that Her Majesty's Government should impose upon the Nicaraguan Government, as necessary, in their view, to secure the object of making Grey Town "really a free port," I may add that the Memorial discloses a system of administrative abuses in Grey Town, which is not reconcilable with the obligations of the Republic towards Her Majesty's Government, and which, if properly brought under the consideration of Her Majesty's Government, may entitle it to make a diplomatic representation on the subject to the Nicaraguan Government.

I have, &c.
(Signed) TRAVERS TWISS.

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* Mr. Green, No. 6, November 10, 1868.

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### No. 21*.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December* 31.)

*Temple, December* 31, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed by your Lordship to transmit to me the accompanying despatches from Her Majesty's Consul at Grey Town,* the first of which incloses a protest of the inhabitants of that place against the illegal seizure and sale by the Nicaraguan authorities of certain property belonging to the Central American Transit Company; and the second a Memorial of the same persons to Her Majesty's Government, complaining of the frequent violations of the Treaty of Managua, of which a copy was also sent; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands, I have the honour to report—

That, before I can advise your Lordship as to the view which Her Majesty's Government may properly take of the protest of the inhabitants of Grey Town inclosed in the first despatch of Her Majesty's Consul, it will be necessary that Her Majesty's Consul should procure further and fuller information as to the nature of the proceedings before the Court of Commerce of Grenada. It would appear from the protest of the agent of the Company, that such information can be readily procured by him on applying to the Judge of the Court of Commerce, and the inquiries of Her Majesty's Consul may be properly directed to ascertain in the first place the nature of the suit, and whether the Commercial Court of Grenada had jurisdiction to entertain it; whether the Company had notice of the suit, so that they might either appear under protest to the jurisdiction of the Court, or have an opportunity to defend themselves if the Court was competent to entertain the suit; and what was the nature of the Judgment under which the property of the Company was seized and sold at Grey Town. The proceedings in execution of the Judgment would certainly appear to have been conducted with undue harshness and some degree of oppression, and it may prove that they were in substance illegal, although the jurisdiction of the Commercial Court was well founded, and that the Company may be entitled to damages on that account. But the more important question is that which regards the jurisdiction of the Commercial Court upon which the subsequent proceedings at Grey Town were founded, whether the exercise of its jurisdiction can be sustained with due regard to the provisions of the Treaty of 1860.

I have, &c.
(Signed) TRAVERS TWISS.

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* Mr. Green, Nos. 5 and 6, November 2 and 6, 1868.

in another of them, for one calendar month before marriage may, for the purposes of marriage, be considered as having "had their usual places of abode within the district of such Consul." But we think that the union of several Consulates into one district is not contemplated or authorized by the Act (the 19th section of which we may remark is extremely ill-drawn and difficult to construe); and we think that Mr. Corbett should be instructed that it is not competent for him to solemnize or sanction the marriage of the two persons referred to after a month's residence by the one in Guatemala and the other in Costa Rica.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

### No. 19.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December* 29.)

*Temple, December* 28, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed to transmit to me the accompanying despatch and its inclosures from Her Majesty's Consul at Panamá relative to an attempt which appears to have been made by the Executive authority at that place to double the commercial taxes for the month of October; and Mr. Hammond was pleased to request that I would take these papers into consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to roport—

That, assuming that British subjects at Panamá are by Treaty* exempted from contributing to forced loans and war taxes, I am of opinion the imposition of the additional tax in the manner proposed would be an evasion of the Treaty and a violation of its spirit. The provision in the Decree of the 20th October, 1868, exempting from the operations of the additional tax, those who contributed to the loan of 6,000 dollars on the 8th of that month, as also those who, on having knowledge of the Decree, may voluntarily lend a similar amount, make it evident that the additional tax is an extraordinary tax and will be equivalent in its operation to a forced loan.

I have, &c.
(Signed) TRAVERS TWISS.

### No. 20.

*Queen's Advocate's Report, December* 30, 1868.

### No. 21.

*Queen's Advocate's Report, December* 31, 1868.

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* See Article XVI.

# Chile.

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## No. 22.

*The Law Officers of the Crown to Lord Stanley.*—*(Received January* 4.)

*Temple, January* 4, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th of December, 1867, stating that with reference to our Report of the 27th of September last on the case of the "Tornado," he was directed by your Lordship to transmit to us therewith a further letter from Messrs. Isaac, Campbell, and Co., dated the 3rd December ultimo, on the subject, and to request that we would take this paper into our consideration and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this paper into our consideration, and have the honour to report—

That in their letter of the 3rd December Messrs. Isaac, Campbell, and Co., complain generally "that they have been fifteen months and still are the victims of delays and procrastinations which would alone constitute a denial of justice, warranting, if ever such denial did warrant, the prompt and decisive intervention of Her Majesty's Government."

Their specific complaints appear to be that the Junta is composed of the very same persons who tried and condemned the "Tornado" and her crew, that the officer who presides is not qualified by sufficient experience and ability, and that he and his colleagues are not disinterested.

The writer quotes your Lordship's despatch of the 8th February, 1867, to Sir J. Crampton (No. 123, Blue Book), in support of his argument that a "trial" before the persons who condemned the vessel as a prize is a mockery.

Your Lordship's despatch to Sir J. Crampton, 12th August, 1867, meets this objection, and it is obvious that the submission of the case to the Junta, composed (with one exception) of the individuals who affected to act judicially on a former occasion, though, as your Lordship says, unfortunate, cannot now be made ground for complaint.

The other specific objection of Messrs. Isaac, Campbell, and Co., is founded, as we understand, upon the admission before the Junta of the original Auditors' report. The use of this document is expressly decreed by the 4th and last article of the "Informe," and this is also noticed in your Lordship's despatch of the 12th August. Messrs. Isaac, Campbell, and Co., have the right to be heard against the truth of the statements contained in this document, and against the propriety of admitting many of the statements contained in it, if true, as ground upon which to base a decision.

The use, therefore, of this document does not, we think, form any ground of complaint.

We think that Messrs. Isaac, Campbell, and Co's. letter may be answered by saying that your Lordship cannot, upon the statements contained in it, come to the conclusion that the constitution of the existing Prize Court at Cadiz is at variance with the ordinary requisites of International Law, or that, tested by those of Spanish Law, it is illegal.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 23.

*The Law Officers of the Crown to Lord Stanley.*—*(Received January* 4.)

*Temple January* 4, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th of December last, stating that he was directed by your Lordship, to transmit to us a despatch and its inclosures from Her Majesty's Chargé d'Affaires at Santiago (No. 93), respecting a debate that had taken place in the Chilean Chamber of Deputies, on a charge made against the Government of remissness in not obtaining from foreign markets the ships-of-war requisite for a successful prosecution of the war with Spain.

Mr. Hammond was also pleased to state that Mr. Thomson observes that in such a discussion, allusion would not fail to be made to every vessel which the Chilean Government had endeavoured to procure, and he considers that one of the ships thus refered to was the "Tornado."

Mr. Hammond was therefore to request, with reference to our Report of the 18th of November, and to the previous correspondence which had taken place respecting the case of the "Tornado," that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to any steps which should be taken thereon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we agree with Mr. Thomson in thinking that there is the strongest probability that the "Tornado" is one of the ships referred to in the documents before us.

We do not, however, consider it necessary that any steps should be taken in consequence of the receipt of this intelligence.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 24.

*The Law Officers of the Crown to Lord Stanley.*—*(Received January* 27.)

*Temple, January* 27, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that with reference to our Report of the 31st ultimo, on the application of the Spanish and Chilean Ministers for licenses to withdraw from this country certain Spanish and Chilean ships-of-war now held in deposit under the provisions of the "Foreign Enlistment Act," he was directed by your Lordship to transmit to us therewith two further notes and translations of them received from those Ministers, specifying the conditions under which they respectively agree to accept and act upon such licences.

That we should notice that it forms part of these conditions that the value of the Spanish vessels being far greatar than that of the Chilean vessels, the Chilean Government are to be allowed to provide further vessels equivalent in value to the difference, and to remove them from this country, without obstacle.

And Mr. Hammond was pleased to request that we would take these papers into our consideration, and at our earliest convenience report to your Lordship our opinion as to whether the proposals of the two Ministers are admissible, and if so, in what form, so far as Her Majesty's Government are concerned, they should be accepted and carried out.

That in the meanwhile the licences prayed for are in course of preparation, but, when signed by the Queen, they would be forwarded to the Foreign Office, to be held over until the other arrangements suggested by the two Ministers are accepted by Her Majesty's Government, whereupon the licenses will be made over to them to be delivered to the parties engaged in completing the vessels for sea.

That it would not escape our notice that eventually further licences may be required to enable the Chilean Government to purchase and despatch other vessels to

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the value of the balance in favour of Spain in the transaction as regards the four vessels for which licences are now in preparation.

The former papers were also forwarded therewith for convenience of reference.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That we see no reason why the licences to the builders to complete the armed vessels of the Spanish and Chilean Governments respectively should not be signed by Her Majesty, and held over until the exact terms of arrangement between those Governments and Her Majesty's Government are completely arranged.

We think, however, that it is inexpedient that Her Majesty's Government should come under terms with the Spanish and Chilean Ministers, that Chile shall hereafter be allowed to build vessels-of-war, or to obtain arms, &c., in this country, so as to give them an equal advantage to that which the Spanish Government is about to obtain by taking away their armed vessels, which are vastly superior in value to the Chilean ships.

The consent of the Spanish Minister, given as part of the consideration for the present arrangement, might well justify Her Majesty hereafter in allowing vessels-of-war to be equipped for the Chilean service, even during the existence of the present or of future hostilities between Spain and Chile, without being open to any charge of breach of neutrality; but we think nothing should be done which could have the effect of fettering, at any future time, the discretion of the Crown as to the propriety of permitting vessels to be hereafter built or equipped in this country for the Chilean Government, and that Her Majesty's Government should not come under any engagement with the Spanish Government, as to giving notice (according to Article 5 of Count de Vistahermosa's despatch) to the Minister of the Queen of Spain, as to what the Chilean Government may do hereafter in fitting out vessels in pursuance of the arrangement.

It is obvious that if such an engagement were undertaken, and disputes arose as to the value of the equipments which the Chileans desired to obtain in this country, Her Majesty's Government might be placed in an embarrassing position with regard to the two disputants; possibly also, future legislation might interfere with any such engagement.

We submit that your Lordship should state to both Ministers that Her Majesty's Government can come under no *engagement* or *promise* as to what the Chilean Government may be allowed to do hereafter. That so far as Her Majesty's Government are concerned, the licences to remove the ships must not be clogged with any conditions; but that upon a statement by the Spanish Minister that it is the *desire* of his Government that in consideration of the far greater value of the Spanish ships, and the assent on the part of the Chilean Government to their removal, that the latter Governuent should be hereafter empowered to build other ships, &c., in this country, so as to obtain a full equivalent in value, to the extent to which the Spanish vessels exceed the Chilean, Her Majesty's Government will consider it open to them hereafter to determine whether Her Majesty shall be advised to permit the building of other vessels for Chile; but that no promise or engagement on the part of Her Majesty's Government that this will be done can be given, or relied upon in any way as implied from the granting of the licences by virtue of which the vessels now lying in the Thames will be allowed to depart.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 25.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 22.)

*Temple, February* 22, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us therewith a copy of the letter which, in consequence of the observations contained in the Law Officers' Report of the 27th ultimo, your Lordship addressed to the Spanish and Chilean Ministers respecting the release of certain vessels detained under the

provisions of the Foreign Enlistment Act, together with translations of the answers received from those Ministers; and to request that we would report to your Lordship at our earliest convenience our opinion whether, on the statements made on those letters, the licences for the completion and departure of the two Spanish and two Chilean vessels may now be forwarded to the respective Ministers, accompanied by a letter stating that, on the faith of the assurances given by them, Her Majesty has been pleased to grant the licences.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we are of opinion that, upon the statements made by the Spanish and Chilean Ministers in their answers to your Lordship's letter, the licences for the completion of the two Spanish and two Chilean vessels, and for their departure from British waters, may properly be delivered over to the Ministers respectively, to be placed in the hands of the builders of the several vessels, accompanied by such letters as suggested, or the licences might be delivered direct to the builders themselves, after letters written to the Ministers stating that this course will be adopted on the faith of the assurances contained in their letters. This latter will, we think, be the preferable course.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 26.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 7.)

*Temple, March* 7, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 6th instant, stating that with reference to our Report of the 22nd ultimo he was directed by your Lordship to transmit to us therewith a note which had been addressed to your Lordship by the Peruvian Chargé d'Affaires at this Court, protesting in the name of Peru, as the ally of Chile in the war with Spain, against the withdrawal from the waters of the United Kingdom of the two corvettes belonging to Chile, and the two armour-plated frigates belonging to Spain.

Mr. Egerton was also to forward to us the draft of answer which your Lordship proposes to return to Colonel Almonte's communication, and was pleased to request that we would take the same into our consideration, and favour your Lordsnip at our earliest convenience with our opinion thereupon.

In obedience to your Lordship's commands we have taken the draft answer into consideration, and have the honour to report—

That we have made some alterations which appear to us to be desirable in the 3rd and 4th pages of the draft. From our recollection of the terms of the licences, they were such as to prevent proceedings against the builders, in the event of their having infringed the Foreign Enlistment Act by furnishing or equipping the vessels in question. Probably if it had occurred to Her Majesty's Government that Peru was, as is alleged, in alliance with Chile in her war with Spain, the consent of the Peruvian Government would have been required before the arrangement was made; but under the circumstances it appears to us that Peru really cannot properly complain of what has been done in good faith, and at the request of her ally.

Unless some special reason, of which we are not aware, renders it expedient to insert in the letter to Lieutenant-Colonel Almonte the last paragraph of the draft, which we have placed within brackets, we would suggest that it had better be omitted.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 27.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 23.)

My Lord, *Temple, March* 23, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that with reference to our Report of the 7th of this month, on the objection raised by Colonel Almonte, the Peruvian Chargé d'Affaires, to the departure of the Spanish and Chilean iron-clads, he was directed by your Lordship to transmit to us therewith a letter, dated the 16th instant, which had been received from the Peruvian Minister repeating those objections, and requesting that the operation of the licences may be suspended for such time as may be required to enable him to receive instructions from his Government on the subject.

Mr. Hammond was at the same time to inclose to us all the correspondence respecting the release of those vessels.

Mr. Hammond was also pleased to state that your Lordship directed him to request that we would report to you at our earliest convenience our opinion whether, assuming that these vessels are still all or any of them within British waters, it would be proper to comply with the request of the Peruvian Minister, and suspend for a time the operation of the licences, considering that Peru is, with Chile a co-belligerent in war with Spain, and that her assent to the arrangement between the Spanish and Chilean Governments, under which the licences were granted, was not formally notified to Her Majesty's Government, though naturally assumed to exist from the application having been made by Chile, her ally, with the knowledge as it seems, to a certain extent, of the Peruvian Chargé d'Affaires, who appears to have deferred raising any objection to the grant of the licences till they were actually issued.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That the communications made by Spain and Chile to your Lordship would clearly lead to the inference that the arrangements made by Chile were so made on behalf of herself and her allies, and were so understood by the Representative of Spain (letter from Señor Errazuriz, 6th January, 1868, and Count de Vistahermosa of the same date), and Chile and Spain both agreed that their respective vessels should neither attack nor be attacked during the voyage to their respective ports, and that the parties interested should respectively be bound to give the necessary safe-conducts; an agreement by which, if entered into by Chile and Spain, we think that Peru as the ally of Chile would be bound.

We think that under the circumstances, even if these vessels, or any of them, are still within British waters, your Lordship should not comply with the request of the Peruvian Minister, or recede from the arrangement which, upon the representations made to your Lordship, has been sanctioned and acted upon by Her Majesty's Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 28.

*The Law Officers of the Crown to Lord Stanley.*—(*Received July* 21.)

My Lord, *Temple, July* 21, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th of June, 1868, stating that with reference to our Report of the 22nd February, and to our previous Reports on the subject of the conditions under which the Spanish and Chilean iron-clads detained in this country should be allowed to depart, he was directed by your Lordship to transmit to us, together with the previous correspondence, a letter from the Chilean Minister at this Court, requesting the authority of Her Majesty's Government to enable the Chilean Government to order the construction in some dockyard of the United Kingdom of an iron-clad vessel for the service of Chile; and to request that we would take the same into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to the Chilean Minister.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That we think that the Chilean Minister should be informed that Her Majesty's Government will raise no objection to the construction in this country of an iron-clad vessel for the service of Chile in strict accordance with the arrangement made with Spain on the occasion of the other armed vessels being allowed to depart.

We think, however, that the Chilean Minister should be informed that it must be distinctly understood that Her Majesty's Government must reserve absolutely the power of determining hereafter whether the vessel, when built and equipped, shall be allowed to depart from this country. This is, we think, essential; as until the period arrives at which the request for permission to remove the vessel is made, it is uncertain whether Chile may not be at war, and if at war, with what country she may be engaged in hostilities, or whether any unforeseen or unexpected state of circumstances may have arisen which will render it improper that the permission should be conceded. No formal licence to build is required, and no such licence should be granted; and under no circumstances should any licence be granted which will preclude Her Majesty's Government from preventing the vessel *at any time* from leaving this country, and from seizing her, if the attempt is made to remove her without express permission given for that purpose.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 29.

*The Law Officers of the Crown to Lord Stanley.*—(*Received July* 29.)

*Temple, July* 29, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 27th of July instant, stating that with reference to our Report of the 22nd of February last, on the subject of the release of the Spanish and Chilean vessels which were detained in this country under the provisions of the Foreign Enlistment Act, he was directed by your Lordship to transmit to us the accompanying correspondence as marked in the margin,* with the Spanish Minister at this Court, and between the Foreign Office and the Admiralty, relative to a request which has been made by that Minister that the Spanish frigate "Victoria" may be allowed to anchor at Plymouth for the purpose of embarking guns and ammunition; and to request that we would take the same into our consideration, and favour your Lordship at our earliest convenience with our opinion as to whether this request may be complied with.

The previous correspondence was sent therewith for convenience of reference.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That it appears that the permission asked for by the Count Vistahermosa on the 1st July was for permission for the "Victoria" to lie in Plymouth harbour for the purpose of *completing her armament* and getting ready for her voyage. The letter of your Lordship to the Admiralty of the 14th July, and the letter from the Admiralty of the 15th July, 1868, treats this as a request merely to be allowed to anchor at Plymouth until she is ready to put to sea. The letter from Señor Tomas Achaf to the Secretary of the Admiralty of the 25th July states, "I have asked for and obtained the permission for the frigate 'Victoria' to come in harbour at Plymouth, and for facilities to be given for embarkation of guns, carriages, and ammunition constructed for said frigate by Sir William Armstrong and Co.;" and he further states that "as the authorities of the dockyard have not received yet any instructions on this subject I beg leave to solicit your Lordship may be pleased in giving the necessary orders, so that the said frigate 'Victoria' lying at present at Plymouth may proceed with the said embarkation." We do not apprehend that Señor Tomas Achaf rightly construes the permission that has

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* Count Vistahermosa, July 1; to Admiralty, July 14; Admiralty, July 15; to Count Vistahermosa, July 16; Admiralty, July 25, 1868.

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been accorded to the Spanish Government, and we have thought it right to call your Lordship's attention to this.

If it be a fact that Spain is still at war, we submit that no such permission as that which is asked for should be conceded. Any person, who, without Her Majesty's permission, were to add to the guns of the vessel or to her equipment for war would render himself liable to punishment under 59 Geo. III, cap. 69, sec. 8 (Foreign Enlistment Act).

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 30.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 4.)

*Temple, August* 4, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 31st July ultimo, stating that with reference to our Report of the 21st ultimo, he was directed by your Lordship to transmit to us, together with the previous papers,* the accompanying letter from the Chilean Minister at this Court,† in reply to one which, in accordance with our opinion, was addressed to him on the subject of the construction in this country of an iron-clad vessel for the Chilean Government; and to request that we would take Señor Blest Gana's letter into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That we still think that Her Majesty's Government should make no such promise, nor come under any such obligation, as that under which the Chilean Minister desires to place it. We believe that it was expressly pointed out that while Spain agreed to raise no objection to the increase of the Chilean navy by war vessels being built and equipped in this country (within the limitation expressed in the memorandum signed by the Spanish and Chilean Ministers), your Lordship declined on the part of Her Majesty's Government to give any pledge that such vessels should be allowed to be equipped here, or to leave these shores, or to be bound in any way as party to the arrangement between Spain and Chile. And we think that Her Majesty's Government should still keep itself entirely free to act in reference to this matter as it may seem to it right if vessels should be built here for Chile, and if a request should be made hereafter that such vessels may be armed or allowed to depart.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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* Señor Blest Gana, June 17; to Señor Blest Gana, June 30 and July 24; Circular of January 22, 1866.

† Señor Blest Gana, July 28, 1868.

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### No. 31.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 11.)

*Temple, February* 8, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, forwarding an Ordinance of the Hong Kong Government respecting piracy, and to request that we would take this paper into consideration and furnish your Lordship with our opinion thereupon.

A former letter from the Colonial Office on the same subject in which Ordinance No. 9 of 1866 was inclosed, was also transmitted for our information.

In obedience to your Lordship's commands we have taken this case into consideration, and have the honour to report—

That we see no objection to the alterations proposed to be made in the Ordinance of 1866, by the new Ordinance now submitted to us.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 32.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 16.)

*Temple, March* 16, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th of February, 1868, stating that, with reference to the Law Officers' Report of the 15th of January, 1867, he was directed by your Lordship to transmit to us the accompanying letter which your Lordship had received from the Colonial Office, inclosing a despatch which the Duke of Buckingham and Chandos had received from the Governor of Hong Kong, in regard to the question of the extent of British jurisdiction in the waters adjacent to that Colony.

Mr. Hammond was also pleased to say that we should perceive that the Duke of Buckingham considers that after the opinion expressed in the above-mentioned Report of the Law Officers it is not necessary to discuss this question any further.

That the question, however, still remains as to the jurisdiction over Lamma Island, and considering the vicinity of that island to Hong Kong, and its comparative size, which renders it an easy and secure asylum for thieves and persons of lawless character, his Grace thinks it desirable that some step should be taken to give to the Government of Hong Kong all the legal jurisdiction over the island which Her Majesty is competent to give.

Mr. Hammond was further pleased to state that we should perceive that the Duke of Buckingham has accordingly caused a Draft Order in Council to be prepared for the above purpose, and which, if approved by your Lordship, his Grace proposes to have passed.

Mr. Hammond was therefore to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the answer which your Lordship should return to the Colonial Office in regard to the proposed Order in Council.

For our convenience Mr. Hammond was pleased to transmit to us the previous correspondence which has passed on the question of British jurisdiction in Hong Kong waters.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That it appears to us that, with the slight alterations we have made, the Draft

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Order in Council, settled by us, and to which we have attached our initials, will effect what we understand to be the desired object.

The first alteration is only to make the recital of the Order of 9th March, 1865, more correct. The other alteration in the Order is made for the purpose of avoiding any reference to ships or vessels, over offences committed on which, when within territorial waters, there may be now jurisdiction in the Hong Kong Court, which might be interfered with. We have used the word "Colony" in lieu of "Island" in this part of the Order so as to make it consistent with the recital, in which the term Colony is used. We do not understand that it is desired to give jurisdiction over offenders in extra-territorial waters within the six miles, and therefore the words "place or land not being mainland" seem to be most appropriate.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 33.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 8.)

My Lord, *Temple, April* 8, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th February last, stating that he was directed by your Lordship to transmit to me two letters which your Lordship has received from the Secretary of State for the Colonies, inclosing copies of a correspondence which has passed between the Governor of Hong and Her Majesty's Consul at Canton, in regard to the seizure by a Chinese cruizer of a junk outward bound from Hong Kong; and Mr. Hammond was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion thereupon.

I am also honoured with Mr. Hammond's letter of the 31st ultimo, transmitting a copy of a letter from the Board of Trade, giving the views of that Department on the proceedings of the Chinese authorities in capturing a junk outward bound from Hong Kong, for an alleged breach of Customs law.

In obedience to your Lordship's commands I have the honour to report—

That it does not exactly appear in what particular waters the Chinese junk was seized by the Chinese Customs cruizer. Sir R. Macdonnell, in his despatch of the 14th November, 1867, states that it was considerably within three miles from the shore of Hong Kong, and in another part of the same despatch he says that the junk was anchored nearer to the Chinese than the English shore. It would appear, therefore, from the comparison of these statements, that the junk must have been anchored somewhere in the narrow sea which separates the Island of Hong Kong from the Chinese mainland, in respect of which the Law Officers have reported to your Lordship, on a previous occasion, that the *medium filum aquæ* must be taken to be the divisional line between British and Chinese territorial jurisdiction. I consider that any Chinese junk anchored on the Chinese side of the mid-channel would be amenable to Chinese jurisdiction in all matters of Chinese Customs regulations, and that the Governor of Hong Kong could not properly demand that any such junk, seized at such anchorage by the Chinese authorities, should be given up to him on the ground that her seizure was unlawful.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 34.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 9.)

My Lord, *Temple, April* 9, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us a Notification which has been received from Her Majesty's Minister in China, and which was issued by him in the course of last year, respecting the penalties to which British subjects would expose themselves by a violation of any of the existing Treaty stipulations between Great Britain and China; and to request that we would take this notification into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That it appears to us that this is not a Regulation which should continue in force, and that Her Majesty should be advised to disapprove of it.

We think that if Regulations are made under Article 85 of the China and Japan Order for the observance of the stipulations of Treaties, they should be framed in such a manner as to indicate clearly what is to be done or avoided, and that the specific penalty to be enforced for the breach of each Regulation should be considered when the Regulations themselves are framed, and should be prescribed by the Regulations. When an offence may be continuing, the Regulation itself should prescribe whether daily fines during the continuance of the offence are or are not to be inflicted. It is not right, we think, that British subjects infringing stipulations, however minute, of numerous Treaties, of the very terms of which they may be ignorant, should be subjected to the extreme penalties mentioned in Article 85, at the discretion of the Consular officers, under a Regulation framed in such general terms as those which are to be found in this Regulation.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 35.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 15.)

My Lord, *Temple, April* 13, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th January, stating that, with reference to our Report of the 6th October, he was directed by your Lordship to transmit to us a letter from the Board of Trade, together with a despatch and its inclosures from Her Majesty's Minister at Peking, relative to the Pilotage Regulations which have recently been issued by the Chinese Government, with the concurrence of the foreign Representatives at Peking; and to request that we would take these papers into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the circumstances under which these Pilotage Regulations were issued are stated by Sir R. Alcock in his despatch of the 6th September, 1867, confirming his statements contained in previous despatches.

They emanated in the first instance from the Chinese Government, were accepted by the Diplomatic authorities of the different nationalities, and were declared binding by the different Governments on their subjects. Sir R. Alcock himself accepted the Regulations, and published them as being urgent, and this publication was approved of by your Lordship in the despatch (of which the draft is sent to us) of the 18th October last. It appears to us that these are Regulations which it was within the scope of Sir R. Alcock's power to publish, and make binding upon British subjects. Upon the Regulations themselves the Law Officers expressed their opinion in October last, pointing out some objections to them, to which upon their face they seemed open. Since then the objection raised by the Shanghae Chamber of Commerce, and the letter of the Insurance Companies, refusing to co-operate with the proposed Board, have been sent home, and the Board of Trade has written an elaborate Report upon the *policy* of maintaining a system of compulsory pilotage, which, in general, that Board condemns. We need hardly say that opinions differ widely upon the expediency of keeping up compulsory pilotage in this country, but it seems to us beyond our province to discuss this question now.

Sir R. Alcock thinks that Regulations providing for compulsory pilotage, to some extent at all events, are necessary in China; and probably his views upon this subject, in the conflict of opinions, are most worthy of consideration. We would remark that the 15th Rule makes it in terms obligatory on all ships and steamers arriving at or departing from ports at which there are pilots, to employ pilots coming in or going out. This is a Regulation which seems to be strongly objected to, for it is considered that, even if compulsory pilotage be enforced as a general rule, there ought to be numerous exceptions and exemptions in favour of particular classes of vessels and otherwise; and it seems to be contemplated that exemptions shall be made by bye-laws and general rules to supplement the "Chinese Pilotage Regulations," and which may provide for peculiar cases at different ports. No complete Code of bye-laws or rules has, however, been adopted, and it certainly appears to us very doubtful how far bye-laws limiting the express Regulations can properly be made. The 9th of the Regulations, which gives power to make bye-laws and rules necessary for the better ordering of pilotage matters at the different ports, to be drawn up by the harbour-masters, does not, we think, warrant a bye-law wholly inconsistent with the provisions of the 15th Rule.

It does appear to us that, having regard to the objections of the Chambers of Commerce and Insurance Companies, some of which objections appear reasonable, and to the remarks of the Board of Trade on the details of the Rules, it would be advisable, if possible, to make alterations and concessions with a view to meet objections, and to make the Regulations work smoothly, and to the satisfaction of persons engaged in or connected with commerce in China, and when a satisfactory solution of the difficulty has been arrived at, to publish a new Code of Regulations in an improved form. At present the refusal of the Agents of the Insurance Companies to co-operate in any way seems fatal to the due establishment of the Board under Rule III. The *policy* of allowing the Chinese Government to act as they have done in framing these Regulations, under the circumstances detailed by Sir R. Alcock, a matter which is adverted to and commented upon by the Board of Trade, is a question upon which we think it beyond our province to express an opinion.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 36.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 18.)

*Temple, April* 16, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th ultimo, stating that he was directed by your Lordship to transmit to us the papers as per list inclosed, which relate to the embezzlement of certain funds by Mr. Treasure Jones, an officer of Her Majesty's Consulate at Shanghae. That the legal proceedings which were taken against Mr. Jones did not result in his conviction, and that the Treasury recommend that he should be again put upon his trial.

Mr. Hammond was pleased to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the course which should be pursued in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we are of opinion, that having regard to all the circumstances disclosed in these papers, Mr. Jones should be again put upon his trial for the offences with which he was charged, and upon the trial for which the jury came to no verdict, on the ground, as there is reason to believe, that *one* of their number did not think the evidence satisfactory that there was an intention to defraud.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 37.

*Law Officers' Report, May* 18, 1868.

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## No. 38.

*Law Officers' Report, June* 8, 1868.

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## No. 39.

*The Law Officers of the Crown to Lord Stanley.*—(*Received June* 8.)

*Temple, June* 8, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th May ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Sir R. Alcock (No. 27), relative to the exercise of judicial functions by junior officers in charge of Consulates or Vice-Consulates in China, during the absence of the Consul or Vice-Consul; and to request that we would inform your Lordship whether, under the Order in Council, a copy of which Mr. Hammond was pleased to annex for our convenience, the *locum tenens* of a Consulate or Vice-Consulate, whatever his official rank, can exercise judicial functions.

Mr. Hammond was pleased to add, that Her Majesty's Sign Manual would be forthwith sent out to the four Vice-Consuls mentioned in the despatch, who are acting at places where there is no resident Consul.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the solution of this question depends on the 25th section of the Order in Council, and that the only persons who can exercise the judicial functions therein mentioned are Consuls-General, Consuls, or Vice-Consuls holding a Commission as such from Her Majesty (other than those excepted), or any person acting temporarily as and for a Consul-General, Consul, or Vice-Consul holding Her Majesty's Commission as such, and so acting temporarily with the approval of a Secretary of State, or of Her Majesty's Minister in China or Japan respectively, and that such judicial functions can only be exercised by him in the Court called a Provincial Court held in his district. We are of opinion that a person acting temporarily for a duly commissioned Consul or Vice-Consul in the performance of the duties of his office during his absence could not, without the approval of a Secretary of State or of Her Majesty's Minister in China or Japan, exercise judicial functions, and it would be expedient that such person should be specially authorized to exercise such functions.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 40.

*The Law Officers of the Crown to Lord Stanley.*—(*Received July* 30.)

*Temple, July* 29, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th June ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Sir R. Alcock (No. 69), suggesting certain modifications in the Regulations to be issued with regard to the distinguishing mark to be adopted by British subjects of Chinese origin, and to request that we would take that paper into our consideration, and favour your Lordship with our opinion on Sir R. Alcock's suggestions.

The former papers relating to the subject were inclosed for convenience of reference.

In obedience to your Lordship's commands we have taken the matter into our consideration, and have the honour to report—

That the despatch of Sir R. Alcock gives reasons which seem to us to be practically conclusive against a regulation enjoining the cropping of the queue, or allowing the hair to grow long in front, as a distinguishing mark of British subjects of Chinese origin.

But the words proposed to be used in the notification and which are inserted in red ink in the draft sent to us, viz., "some form or adaptation of *European* costume, that shall suffice to distinguish them readily from the native population," appear to us to be somewhat vague; and we would suggest that if the Notification were to prescribe that the persons in question "shall discard the Chinese costume, and adopt some other

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dress or costume whereby they may readily be distinguished from the native population," it would probably better meet the cases to be provided for.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 41.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 1.)

*Temple, July* 30, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th ultimo, stating that with reference to our Report of the 8th February last, he was directed to transmit to us a letter from the Colonial Office, forwarding a despatch from the Governor of Hong Kong, in which he states his intention to introduce an Ordinance empowering the Colonial authorities to co-operate in the measures which the Chinese Government have recently adopted for the suppression of piracy; and Mr. Hammond was pleased to request that we would take this paper into consideration, and furnish your Lordship with our opinion of the course which the Governor proposes to pursue.

The previous papers were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That we can only remark generally upon the despatch of the Governor of Hong Kong, that it is probably within his power to introduce an Ordinance having for its purpose to enforce by penalties laws which will, to use the Governor's words, "enable the Government to keep abreast of the Chinese authorities in the movement which they are about to initiate;" but, without knowing more specifically the nature of the proposed Ordinance, we can make no further remark at present on the Governor's communication.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 42.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 8.)

*Temple, August* 7, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 31st July ultimo, stating that he was directed by your Lordship to inclose a draft of an agreement which it is proposed to make with a member of the Metropolitan Police Force, who has been selected to proceed to Peking, to form part of the escort to Her Majesty's Legation; and to request that we would take this draft of agreement into our consideration, and favour your Lordship with our opinion as to whether it is right and proper to be executed.

Copies of the agreements concluded with the men of the Peking and Japan Legation escorts, which formed the subject of the Law Officers' Reports of the 25th January, 1864, and the 31st of January, 1867, were also inclosed, as well as the Order in Council of March 1865.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to the proposed agreement with Mr. Herring.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 43.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 8.)

*Temple, August* 7, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th July ultimo, stating that with reference to our Report of the 8th June he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in China (No. 82), inclosing a Notification, which, after reference to Sir Edmund Hornby, he had forwarded to certain Consular Officers in China, authorizing them to exercise judicial functions pending the arrival of the Commissions for which application had been made; and he was to request that we would take these papers into our consideration, and favour your Lordship with our opinion thereupon; and he was to add that the Commissions applied for by Sir Rutherford Alcock for the Consular Officers named in his despatch have already been forwarded to him.

For our convenience the previous correspondence on this subject was therewith transmitted.

In obedience to your Lordship's commands we have the honour to report—

That we understand the facts of this case to be, that there was no Consul-General, Consul, or Vice-Consul, holding a commission as such from Her Majesty, who in his Consular district held a Court styled Her Britannic Majesty's Court at (for instance), Whampoa or Taku. If this be so, we do not think that a person acting temporarily for a Consul, &c., so commissioned, could hold any other Court than that held by such Consul; and that such person could not, therefore, hold or form a Court styled Her Britannic Majesty's Court at, for instance, Whampoa, except under a commission from Her Majesty.

In this view the temporary appointments made with the approval of Her Majesty's Minister in China, to hold a new Provincial Court, or, as Sir E. Hornby expresses it, *creating* a Vice-Consular Court, are in our opinion invalid.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 44.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 18.)

*Temple, August* 18, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th June last, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at Canton, dated the 4th April last, and a letter from the Colonial Office, dated the 22nd June, relative to the proceedings of two Chinese Customs cruizers in the Hong Kong waters; and to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the course that should be pursued with reference to that affair.

We are also favoured with a further letter from Mr. Hammond of the 14th August instant, stating that with reference to his letter of the 25th June, he was directed by your Lordship to transmit a despatch on the subject from Sir Rutherford Alcock (No. 111), and a letter from the Colonial Office dated the 13th instant.

In obedience to your Lordship's commands we have the honour to report—

That so far as any legal question is involved in this case, we have no difficulty in stating that a breach of international law was committed by the armed Chinese Customs cruizers. For this we think that Her Majesty's Government are entitled to ask for reparation, as well as for a full recognition of and expression of regret for the wrong that has been done.

Whether as a question of expediency and policy your Lordship will rest contented with what has been done by the Viceroy, or whether further steps shall be taken as suggested by the Governor of Hong Kong and Sir R. Alcock, with whose views his Grace the Secretary of State for the Colonies to a considerable extent concurs, it is, we conceive, entirely beyond our province to advise.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 45.

*The Law Officers of the Crown to Lord Stanley.—(Received August* 28.)

My Lord, *Temple, August* 27, 1867.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th August instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir Rutherford Alcock (No. 138), forwarding a copy of a Notification issued by him of the closing of the Straw Shoe Channel of the Yang-tze River to steamers; and to request that we would take this paper into our consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the Regulation appears to be made under the power conferred by the 85th section of the Order in Council relating to China, dated the 9th March, 1866, and so far as it imposes a penalty for the infraction of the prohibition not exceeding 500 dollars (section 86), it appears to us to be properly made.

But the latter part of the regulation, or second regulation, is, as we think, not warranted by the terms of the Order; for, in addition to the fine of 100 taels, "payment of full compensation for all injury done to native shipping" is to be made.

This, it is to be observed, is a penalty imposed, even in cases where the collision may be caused wholly by the fault of the native vessel (except so far as the British steamer may be in fault for being in the channel at all), and it is obvious that the "full compensation" may amount to considerably more than 500 dollars.

If, then, we are right in assuming that this is a Regulation professedly made under the section referred to of the Order in Council, we think that Her Majesty's disapproval of this last Regulation should be notified to Her Majesty's Minister in China.

There appear to us to be other objections to this Regulation, as it does not state who is to pay the compensation, whether captain, owner, or charterer of the vessel, nor to whom it is to be paid. These, however, are objections which could be remedied, and are, therefore, not so important as that which we have before pointed out.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 46.

*The Law Officers of the Crown to Lord Stanley.—(Received September* 5.)

My Lord, *Temple, August* 28, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that, with reference to our Report of the 30th July, he was directed to transmit to us a letter from the Colonial Office forwarding an Ordinance issued by the Governor of Hong Kong to facilitate co-operation with the Chinese authorities in the suppression of piracy; and Mr. Hammond was pleased to request that we would take these papers into consideration, and furnish your Lordship with a Report thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, though the Ordinance is, as the Governor states, based on a policy entirely exceptional and experimental, it seems probable that it is justified by the circumstances which have induced the Legislative Council to pass it as a temporary measure. The power vested in the Governor of framing his Orders in Council will, of course, be exercised with great care; and we would suggest that the operation of the Orders, as far as Chinese vessels are concerned, should be confined to such vessels as may come within British waters, carrying munitions of war or stinkpots, in contravention of Chinese laws and regulations, and that Orders framed by the Governor should not come into operation until a certain time to be named in such Order, so that masters of vessels coming within British waters may have the opportunity of knowing what Orders affecting them are in force, and what penalties they incur if they infringe such orders.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 47.

*The Law Officers of the Crown to Lord Stanley.—(Received September* 5.)

My Lord, *Temple, August* 28, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th August instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir Edward Hornby, Chief Judge of the Supreme Court of China and Japan (No. 20), forwarding a correspondence with the Chaplain of Her Majesty's Legation at Yokohama relative to the solemnization of marriages under the Consular Marriage Act; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we think that, under the provisions of the 4th Geo. IV, cap. 91, the presence of Her Majesty's Minister is not required to give validity to a marriage solemnized by a Minister of the Church in the chapel or house of the Ambassador or Minister; and that such marriage would be valid even though the Ambassador or Minister were temporarily absent.

With regard to the provisions of the Consular Marriage Act, we think that a person coming from England is required to complete the statutory residence before a marriage under the provisions of that Act ought to be solemnized. It is true that, under section 13, the absence of proper residence could not be proved in order to invalidate such a marriage, but the provisions as to residence ought nevertheless to be observed.

We think that a Minister of the Church of England would not be justified in marrying any British subject except according to the provisions of the above statutes.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 48.

*The Law Officers of the Crown to Lord Stanley.—(Received September* 8.)

My Lord, *Temple, August* 31, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that with reference to our Report of the 9th April, recommending that a Notification issued by Sir R. Alcock respecting the penalties to which British subjects would be liable for breaches of the Treaty stipulations between Great Britain and China should be rescinded, he was directed by your Lordship to transmit to us a despatch from Sir Edmund Hornby, Chief Judge of the Supreme Court for China and Japan, on the subject; and Mr. Hammond was to request that we would take this paper into consideration and furnish your Lordship with a Report thereupon. A copy of the Notification issued by Sir R. Alcock was also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That it appears from Sir E. Hornby's letter that he doubted whether the Regulation as to penalties, which has been disapproved by Her Majesty, would receive her approval. That Regulation has now been rescinded, and Sir E. Hornby points out difficulties which he thinks will attend the making of regulations and attaching specific penalties for the infringement of them, and the making of regulations providing for enforcement of penalties for breaches of regulations which have already been passed, but for the breach of which no penalties have been provided. The objection to a *general* regulation as to penalties has already been pointed out by us in our former Report, and we cannot suggest any *general* regulation which it would be just and proper to enact. Numerous regulations are, as we understand, in force relating to pilotage and other matters, the breach of which, or of some of which, it is thought desirable to punish by penalty; but we think it is not right that the whole discretion as to the extent or amount of penalty should be vested in the Consular Officer, to whom would be left also the power to determine whether an additional penalty of 25 dollars a-day is, or is not, to be imposed. When Treaties themselves prescribe penalties for their violation, the cases fall within the 84th section, and

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no further regulation is required. In other cases it appears to us that if penalties are to be imposed, Her Majesty's Minister in China should exercise a judgment as to the proper penalty, within limits, and should not leave it to the discretion of a Consular Officer to punish a trivial breach of Regulations or Treaty by the maximum penalty allowed by Article 86. Probably, on further consideration, Her Majesty's Minister and Sir E. Hornby may find the difficulty of making the necessary regulations less than the latter anticipates.

We have, &c.
(Signed) JOHN B. KARSLAKE.
TRAVERS TWISS.

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### No. 49.

*The Law Officers of the Crown to Lord Stanley.—(Received September 8.)*

My Lord, *Temple, September* 7, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th February last, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in China (No. 176), forwarding copies of a correspondence which he had held with the Chief Judge of the Supreme Court at Shanghae, and with the Consul at Ningpo, on the subject of the issue by the Chief Superintendent of Trade of sailing letters to unregistered vessels owned by British subjects.

That the accompanying Memoranda, which had been prepared in the Foreign Office, would show us under what circumstances the practice of issuing such letters was adopted; and the correspondence which is summarized in those Memoranda was annexed for our consideration.

Mr. Hammond was also pleased to request that we would take the whole subject into our consideration, and favour your Lordship with our opinion as to the instructions that should be given to Sir Rutherford Alcock in the matter.

In obedience to your Lordship's commands we have taken the subject into our consideration, and have the honour to report—

That the difficulties which have suggested themselves to Sir Rutherford Alcock and Sir Edmund Hornby with reference to sailing letters appear to be twofold: first, as to whether sailing letters can be legally issued, and next whether, if they can be issued, the Superintendent of Trade, not being the Governor, can issue them.

With regard to the first point, we do not feel pressed by the difficulty raised by Sir Edmund Hornby. It appears to us that a "sailing letter" issued in the form sent to us (whatever may be its legal operation) does not in any way represent that the vessel is a British vessel within the "Merchant Shipping Act," or entitled to any privileges which municipal law accords to a British vessel registered according to that Act. In fact, the terms of the sailing letter are at variance with the idea that the vessel has any such privileges, and in effect it amounts only to a *certificate*; that the vessel named in it is the property of a British subject, and should be treated as British-owned, and be entitled to British protection to the extent pointed out by the sailing letter.

We think also that the Superintendent of Trade may, if he has the authority of the Home Government to do so as part of his duty, issue these sailing letters. In practice they seem to have been very useful, and we think that under the circumstances there is no sufficient reason for discontinuing their issue, care being taken that they are only given to British owners.

If your Lordship should think right to act upon the view above expressed by us, your Lordship will probably think it inexpedient to give any orders, at all events at present, as to the registry of vessels by the Consuls, as suggested by Sir R. Alcock.

We have, &c.
(Signed) JOHN B. KARSLAKE.
TRAVERS TWISS.

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### No. 50.

*The Law Officers of the Crown to Lord Stanley.—(Received September 8.)*

My Lord, *Temple, September* 7, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th August ultimo, stating that with reference to our Report of the 29th November last on the question of the rendition to the Governor of Macao of Portuguese deserters escaping to Hong Kong, he was directed by your Lordship to transmit to us a letter from the Colonial Office, forwarding a despatch from the Governor of Hong Kong on the subject; and to request that we would take these papers into our consideration, and favour your Lordship with our opinion thereupon.

The former correspondence was inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That we observe that his Grace the Duke of Buckingham agrees with Sir R. Macdonnell that an Ordinance should be passed enabling the Governor of Hong Kong to arrest and deliver over to the Portuguese Government persons charged with heinous crimes, not of a political character (such persons not being deserters), to come into operation on the passing of an Ordinance of reciprocal intent by the Government of Macao.

It may be deserving of consideration whether it would not be right that Her Majesty's Government should be assured that it is within the competency of the *Macao* Government to pass such an Ordinance, or whether the *Portuguese* Government should pass it, in order that it may have binding effect.

It will be necessary, at all events, that the details of each Ordinance should be settled before the Hong Kong Legislature passes the proposed Ordinance, for the scheme for the rendition of criminals by the Macao authorities should be substantially co-extensive with that which is to be made by the Hong Kong authorities, and the crimes for which extradition is to be provided should be settled beforehand.

It will, we think, be very expedient that the draft of the proposed Ordinance should be submitted to the Home Government for consideration before it is passed.

We have, &c.
(Signed) JOHN B. KARSLAKE.
TRAVERS TWISS.

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### No. 51.

*The Law Officers of the Crown to Lord Stanley.—(Received September 14.)*

My Lord, *Temple, September* 12, 1868.

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 8th instant, stating that with reference to our Report of the 28th ultimo, he was directed to transmit to us the papers noted in the margin,* relating to the rendition to the Chinese Government of pirates captured by Her Majesty's cruizers; and Mr. Egerton was to request that we would take these papers into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That it appears to us, that under the circumstances brought to our attention, your Lordship may properly express concurrence in the instructions which his Grace the Duke of Buckingham and Chandos proposes to give to Sir R. Macdonnell, as stated in Mr. Elliot's letter of the 20th ultimo.

I have, &c.
(Signed) JOHN B. KARSLAKE.
TRAVERS TWISS.

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* Sir R. Alcock, No. 122; Colonial Office, August 28; Admiralty, September 3, 1868.

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## No. 52.

*The Law Officers of the Crown to Lord Stanley.—(Received October 23.)*

*Temple, October* 23, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 29th July, stating that he was directed to transmit to us a despatch from Sir Edmund Hornby (No. 18), inclosing a correspondence between himself and Her Majesty's Consul at Shanghae, in regard to the means to be adopted for legalizing the formation of Joint Stock Companies in China and Japan; and Mr. Egerton was pleased to request that we would take these papers into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion the Joint Stock Companies Acts cannot be effectually made applicable to Companies and Associations formed in China, Japan, or elsewhere, where Her Majesty has jurisdiction by Treaty or sufferance only, and not territorial dominion.

It is true that by an Order in Council, carefully embodying such parts of the Companies Acts as might be thought expedient, a law might probably be framed which would be binding on British subjects in countries where Her Majesty had jurisdiction by Treaty, &c., only; but, as it appears to us, such a law would not be binding on foreigners dealing with a Company formed under such a law, whether such foreigners were natives of the country in which jurisdiction is conferred upon Her Majesty, or subjects of other foreign countries.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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## No. 53.

*Law Officers' Report, October* 31, 1868.

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## No. 54.

*The Law Officers of the Crown to Lord Stanley.—(Received November 4.)*

*Temple, October* 31, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 15th of September last, stating that our Report of the 12th instant, on the question of the rendition of Chinese pirates captured by British cruizers had been received, but that he was directed by your Lordship to refer the matter again to us, and to point out to us that we had not stated our opinion as to the Admiralty letter of the 3rd instant, which was inclosed in his letter of the 8th instant to us. That your Lordship would wish to have our Report upon it, and especially on the suggestion of the Lords of the Admiralty that all prisoners taken by British cruizers, wherever captured, should be taken to Hong Kong,—a suggestion which should be considered in connection with the proposed instructions to the Governor of Hong Kong for trying in that Colony, and by English law, all Chinese pirates captured by British cruizers, and brought to Hong Kong.

The papers inclosed in Mr. Murray's letter of the 8th September were therewith returned.

We were also honoured with a further letter from Mr. Murray of the 17th of September last, stating that he was directed by your Lordship to transmit to us a copy of a Supplementary Treaty between Her Majesty and the Emperor of China, signed 8th October, 1843.

In obedience to your Lordship's commands we have the honour to report—

That we are unable to find any Article of the General Regulations annexed to the Treaty of 1843, relating *in terms* to the surrender or rendition of Chinese subjects captured by Her Majesty's cruizers within Chinese jurisdiction. Possibly the general words to be found in Article 13 of "Regulations," as explained by "Correspondence which took place at Nanking after the concluding of the Peace," are referred to; and we learn, from the letter from the Secretary of the Admiralty of the 18th January, 1867, that the Law Officers in 1855 reported, that by an Article of the General Regulations annexed to the Treaty of 1843, "it was necessary that Chinese subjects committing piracy within Chinese jurisdiction should be handed over to the Chinese Tribunals; but Chinese or other persons committing piracy on the high seas, or within British jurisdiction, should be tried by a competent British Court." But it must be remembered that since 1855 the Supplemental Treaty of Hoonum Chae, of 8th October, 1843, (6 Hertslet, 262), and the General Regulations before referred to, were repealed and abrogated by the Treaty of Tien-tsin of 26th June, 1858 (11 Hertslet, 86), ratified in October 1860.

It certainly appears to us that whatever may have been the construction of the earlier Treaty and Regulations as to the proper place for trial of Chinese pirates captured in Chinese waters, the language of the new Treaty does not require that Chinese subjects captured as pirates in Chinese waters by British cruizers shall be surrendered up, in order that they may be tried by the Chinese Courts. These offenders would, *primâ facie*, be justiciable as pirates in any competent Court, and might therefore be tried at Hong Kong in the competent Court there; and we think we were right in advising your Lordship, under these circumstances, that the draft despatch of his Grace the Secretary of State for the Colonies might properly be approved.

With regard to the suggestion of the Lords of the Admiralty as to the assistance which the Chinese ought to afford in the trial and production of evidence, and in taking charge of prisoners before trial, we think that Her Majesty's Minister at Peking might be instructed to ascertain if there would be any disposition on the part of the Chinese Government so far to co-operate with Her Majesty's Government, thus giving effect to the terms of Article LIII of the Tien-tsin Treaty. With regard to the further suggestion as to the Chinese authorities carrying out sentences of imprisonment, or death, awarded by the Colonial Tribunals, we consider that the execution of any such sentences ought not to be delegated to Chinese authorities, even if they were disposed to undertake such office.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

### No. 55.

*The Law Officers of the Crown to Lord Stanley.—(Received December 9.)*

My Lord, *Temple, December* 8, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th day of July last, stating that with reference to the Reports of the Law Officers of the 16th April and 12th June, 1867, he was directed by your Lordship to transmit to us a despatch with its inclosures from Her Majesty's Minister in China, in regard to the question of the Regulations proposed to be established for the government of the French Settlement at Shanghae; and Mr. Hammond was also pleased to transmit to us the former correspondence upon the same subject, as marked in the margin,* and to request that we would take these papers into our consideration and favour your Lordship with our opinion as to the course which should be pursued in the matter as it stands.

In obedience to your Lordship's commands we have the honour to report—

That the amended Regulation for the administration of the French Concession at Shanghae, which is approved of by Her Majesty's Minister at Peking, may in our opinion be properly assented to; but inasmuch as the approval of it by the Prussian Consul-General has been made subject to the acceptance of it by his Government at home, and the proposed Land Regulations for the Settlement on the northern bank of the Yang-King-Pau River do not appear to have been as yet approved by the respective Governments of Prussia and the United States, it will be proper for Her Majesty's Minister at Peking to refrain from taking any step to give the amended Regulation the obligatory force of Regulations under Her Majesty's Order in Council for China and Japan, until the Prussian Government has accepted it, and the proposed Land Regulations for the Settlement on the northern bank of the Yang-King-Pau have been approved by the respective Governments of Prussia and the United States, and also accepted on the part of the Government of France, so as to allow of reciprocity as regards the two Settlements.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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* Two volumes; Mr. Adams, April 15; to Earl Cowley, No. 156, April 22; to Sir R. Alcock, No. 67, April 22; to Sir F. Bruce, No. 92, April 2; Earl Cowley, No. 336, May 24; to Sir R. Alcock, No. 103, June 14; to Earl Cowley, No. 333, June 14; Earl Cowley, No. 391, June 12; Sir F. Bruce, No. 154, June 11, 1867; Mr. Fane, No. 394, July 29; Sir R. Alcock, No. 37, March 7; to Sir R. Alcock, No. 75, May 15, 1868.

## Colombia, United States of.

### No. 56.

*The Queen's Advocate to Lord Stanley.—(Received January 9.)*

*Temple, January* 9, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed to transmit to me a letter and its inclosures from Mr. McKenna, stating the circumstances under which he has been induced to make a loan of 20,000*l.* to the United States of Columbia, and the manner in which the Government of that country appear to have failed to fulfil their engagements towards Mr. McKenna; and Mr. Hammond was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion thereupon.

Two despatches from Her Majesty's Chargé d'Affaires at Bogotá, on the subject of Mr. McKenna's negotiations with the Columbian Government, were also inclosed for my information.

In obedience to your Lordship's commands I have the honour to report—

That it appears from the letter of Mr. Consul Stacey, addressed to Mr. McKenna, and forwarded to your Lordship in Mr. McKenna's letter, that the question of the payment of the bills drawn by Mr. McKenna depend upon a decision requested from the Supreme Court at Bogotá, to which it has been referred. Your Lordship cannot properly entertain the request of Mr. McKenna that you would be pleased to instruct Her Majesty's Chargé d'Affaires at Bogotá to support Mr. McKenna's agent in obtaining a settlement of his claim, until the result of the decision of the Supreme Court has been communicated to your Lordship. There can, however, be no objection to your Lordship instructing Mr. Bunch to extend, meanwhile, to Mr. McKenna's agent the same good offices and protection which he afforded to Mr. McKenna during his residence at Bogotá.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 57.

*The Queen's Advocate to Lord Stanley.—(Received April 6.)*

*Temple, April* 4, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Bogotá, on the subject of a claim put forward by Messrs. Stiebel Brothers, of London, against the Government of Columbia, on account of the appropriation by the authorities of the State of Antiogina, of a quantity of lead which Messrs. Stiebel had sent there for mining purposes; and to request that I would take the case into consideration, and furnish your Lordship with my opinion whether the circumstances of it are such as to call for the intervention of Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That the circumstances of this case will justify your Lordship in directing Her Majesty's Chargé d'Affaires at Bogotá to press upon the attention of the Government of Colombia the propriety of making compensation to Messrs. Stiebel Brothers for the loss of their property by its seizure for the public service of the State of Antiogina.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 58.

*The Queen's Advocate to Lord Stanley.—(Received July 7.)*

My Lord, *Temple, July* 7, 1868.

I AM honcured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to me therewith, a despatch from Her Majesty's Chargé d'Affaires at Bogotá, submitting the claim of Mr. Robert A. Joy upon the Colombian Government, on account of the seizure by one of their authorities of a quantity of salt belonging to him; and Mr. Hammond was pleased to request that I would take this case into my consideration, and favour your Lordship with my opinion thereupon, and as to any steps which Her Majesty's Government should take with regard to it.

In obedience to your Lordships commands I have taken this case into my consideration, and have the honour to report—

That I consider the Government of the Union is responsible to foreign Powers for any illegal acts of the Judge of a State Court, which have been pronounced criminal and fraudulent by a Superior Court of the same State, and that the circumstance of the Judge having been set at liberty under the terms of a general amnesty in 1860, does not affect in any way the claim of Mr. Joy for indemnification from the Federal Government for the illegal act of the Judge.

I infer from Mr. Bunch's despatch that there was no appeal open to Mr. Joy to the Supreme Court of the Union from the decision of the Judge of the State Court of Carthagena, but the absence of such right of appeal will not relieve the Federal Government from responsibility towards a foreign Power, whose subject has been wronged by an iniquitous sentence of that Court.

Assuming, therefore, that Mr. Bunch has formed a correct judgment, from the voluminous papers which he says he has carefully examined, that the behaviour of Mr. Judge Salazar is entirely without defence, I think your Lordship may authorize him to bring before the Federal Government the claim of Mr. Joy for indemnification.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 59.

*The Queen's Advocate to the Earl of Clarendon.—(Received December 29.)*

My Lord, *Temple, December* 28, 1868.

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to me the accompanying despatch and its inclosures from Her Majesty's Chargé d'Affaires at Bogotá, relative to a claim put forward by Mr. Percy Brandon, the agent in that city of Messrs. Fuihling and Geschen of London, against the Colombian Government, on account of the detention, in September 1860, of a trading-steamer belonging to those gentlemen by the authorities at Conejo; and to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That under the circumstances of this case, as explained in the despatch of Her Majesty's Chargé d'Affaires, your Lordship will not be justified in claiming from the Government of Colombia any compensation for the owners of the steamer "Patrono" on account of its detention by the authorities at Conejo, which appears to have been a necessity of war.

The statement in Mr. E. Brandon's letter of 12th October, 1868, to Her Majesty's Chargé d'Affaires, that the original detention of the steamer was "by order of the State Government, and not by the general one of the country," is in direct contradiction to the declaration of the master of the steamer made before the British Vice-Consul at Barranquilla the day after his arrival at that port, on which day (22nd December, 1860), he noted his protest, and explicitly declared therein that the steamer had been detained "by order of the General Government of New Granada."

I have, &c.
(Signed) TRAVERS TWISS.

## France.

### No. 60.

*The Law Officers of the Crown to Lord Stanley.—(Received January 13.)*

*Temple, January* 11, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence with Messrs. Ingledew and Juce, attorneys, of Cardiff,* who complain that the British Vice-Consul at Caen had declined to comply with their request to serve a notice of action upon a person resident in that place. The notice in question was also inclosed; and Mr. Murray was pleased to request that we would favour your Lordship with our opinion whether it is optional or whether it is the proper duty of a Consular officer to comply with such a request.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that it is not the proper duty of a Consular officer to comply with such a request as that contained in Messrs. Ingledew and Juce's letter. The gentleman who acts as Vice-Consul might, if he thought proper, undertake the duty of finding a person to serve such a notice as that which was sent to the Vice-Consul at Caen. The complaint, however, of Messrs. Ingledew and Juce seems the more unfounded, as Mr. Inglis expressly states "that he knows of no one who would undertake to serve the writ in question;" and we presume that Messrs. Ingledew and Juce hardly contemplated that the Vice-Consul would take upon himself the duty of process-server.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 61.

*The Law Officers of the Crown to Lord Stanley.—(Received July 4.)*

*Temple, July* 4, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying Memorial from Madame Offermann representing the circumstances under which her niece, Mrs. Hayward, was found a lunatic by a judgment of the Commissioners of Lunacy, consequent upon proceedings instituted by her husband.

That Mrs. Hayward, it apears, has effected her escape from the private asylum in which she had been placed in this country, and is now under the protection of Madame Offermann, in Paris, who requests the intervention of the Secretary of State of the Foreign Department, in order to obtain for Mrs. Hayward's solicitors in Paris, facilities for getting the lunacy superseded by means of a medical examination in Paris as to the real state of Mrs. Hayward's mind.

Mr. Hammond was pleased to request that we would take this case into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to Madame Offermann's application.

In obedience to your Lordship's commands we have taken this case into our consideration, and have the honour to report—

That an application is made to your Lordship in this case that you would intervene with the French authorities in order that they may direct a judicial inquiry to be instituted before a French tribunal, upon a question which has been properly raised in this country before the Lords Justices of Appeal for their decision, that question being whether a Commission of Lunacy which was issued by the Court of Chancery in 1863 against Mrs. Hayward, the niece of Madame Offermann, shall be superseded.

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* Messrs. Ingledew and Juce, December 27; to Messrs. Ingledew and Juce, December 31, 1867; Messrs. Ingledew and Juce, January 2, 1868.

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Your Lordship's attention has been invited by Madame Offermann to the case of Mr. Dyce Sombre as a somewhat similar case, but no real analogy exists between the two cases. In the case of Mr. Dyce Sombre, the British Ambassador had applied to the French authorities for the extradition of Mr. Dyce Sombre, as a British subject who had been found lunatic by an English Court, and had escaped to France; and as that demand was not within the provisions of any Treaty, and compliance with it was purely a matter of comity, the French authorities thought it right to direct a medical examination to be made into the mental condition of Mr. Dyce Sombre before the Prefect of Police in Paris, and as the medical men made a report in favour of his sanity, declined to surrender him. It appears from Madame Offermann's statement, that her niece has undergone a medical examination in Paris, which establishes her sanity, and that the affidavits of her medical men have been brought before the Court of Chancery with a view to obtain a supersedeas of the lunacy; but by the practice of that Court a person in contempt (as Mrs. Hayward is) cannot be heard on the petition for a supersedeas until she has come within the jurisdiction and purged the contempt.

It appears that Mrs. Hayward's Counsel has now suggested that some means should be taken to bring about a judicial inquiry in France into the state of mind of Mrs. Hayward, and to obtain a Judicial Decree as to her sanity, so that an application may be made to the Court of Chancery to give effect to the French judgment by way of *exequatur*, and pronounce her sane without requiring her personal attendance in England. But it is not shown that any judicial inquiry could be taken in France upon which a decree of sanity could be pronounced, or that such decree, if pronounced, would induced the Court of Chancery to supersede the lunacy without requiring Mrs. Hayward's personal attendance in England, and we think that Madame Offermann should be informed that, unless your Lordship can be satisfied that such a proceeding can be had in France, and that such a decree would have the supposed effect in the Court of Chancery, it would be useless to ask the French Government to interfere.

This judicial proceeding is what Madame Offermann seems to desire, though the *prayer* of her Memorial only asks that your Lordship will move the French authorities, in order to obtain from them the proper instructions, to have Mrs. Hayward medically examined so that her mental state may be clearly ascertained. This, it is said, has already been done, and no instructions for such a purpose are needed.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 62.

*The Queen's Advocate to Lord Stanley.*—(*Received July* 24.)

*Temple, July* 24, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence respecting the case of a steamer named the "Boulogne," registered as a British ship by her owner M. Sauceau, a naturalized British subject, and subsequently registered by him as a French ship.

That I should perceive from the inclosed papers the circumstances under which the British mortgagees upon the ship sought to establish in France her nationality as a British vessel, and the prompt steps taken by the French authorities to give effect to their wishes, which were frustrated by the accident of the "Boulogne" breaking down on her voyage from Rouen to Bordeaux, and being compelled to put into Falmouth, where she was handed over to the British Admiralty Court by Mr. Bewley, the representative of the mortgagees, who was on board. That the French authorities on receiving this information have expressed their desire for the return of the French certificate and the permit of the French Custom-house at Bordeaux; and Mr. Murray was pleased to request that I would favour your Lordship, at my earliest convenience. with my opinion whether the wishes of the French Government should be complied with, and, if so, how this is to be done.

In obedience to your Lordship's commands I have the honour to report—

That, on inquiry at the Registry of the High Court of Admiralty, it appears that the steamer "Boulogne" has been arrested in a cause of mortgage at the suit of Messrs. Walpole, Webb, and Bewley, of Dublin, shipbuilders. The mortgage is in the form prescribed by the "Merchant Shipping Act," and describes the vessel as having been built at Dublin in 1867, Dublin being also her port of registry. The mortgage was registered at the Custom-house, Dublin, on the 3rd February, 1868, and the vessel has been arrested as a British ship.

The suit was instituted on the 16th instant, and no appearance on the part of M. Sauceau, or any one else, has at present been entered in the registry, but the owner is within time to appear.

The interests of the mortgagees, as the case at present stands, are thus perfectly safe in the hands of the Court, and they will require no further assistance from your Lordship.

With regard to the request of the French authorities that the French certificate and the permit of the French Custom-house should be at once returned to them, I do not think that your Lordship has the power at present to comply with that request. It does not appear from the letter of the Director of Customs at Bordeaux (No. 13 in Lord Lyons' No. 230, Commercial) under what formalities, and upon the production of what papers the steamer was registered as a French vessel. It is not improbable that M. Sauceau may have entertained the idea of sailing his vessel under either an English or French character, according as he might charter her for English or French purposes, notwithstanding the provisions of 17 and 18 Vict., cap. 104, sec. 102, which enacts that, if the master or owner of a British ship carries, or permits to be carried any papers or documents with intent to conceal her British character from any person entitled by British law to inquire into the same, or to assume a foreign character, such ship shall be forfeited to the Crown, and the master, if privy to the commission of the offence, shall be guilty of a misdemeanour.

Under the circumstances of the case, which is clearly tainted with fraud, and would be a highly mischievous precedent if not followed by summary punishment, I think it will be proper for your Lordship to communicate with the officers of Her Majesty's Customs, and to request them to institute the necessary inquiries under 17 and 18 Vict., cap. 104, sec. 102, with a view to ascertain whether there has not been an attempt to conceal the British character of the steamer contrary to the statute.

I have, &c.
(Signed) TRAVERS SWISS.

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## No. 63.

*The Law Officers of the Crown to Lord Stanley.*—(*Received July* 30.)

*Temple, July* 29, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 18th instant, stating that, with reference to our Report of the 4th instant, on the subject of Madame Offermann's application in the matter of Mrs. Hayward's lunacy, the purport of which has been communicated to Madame Offermann, he was directed by your Lordship to transmit to us the accompanying letter from M. Mourilyan, who appears to be acting for Madame Offermann in this case, stating that, whilst he cannot pretend to assert that any judicial inquiry could be taken in France, upon which a judgment of sanity would be pronounced, that would induce the Court of Chancery to supersede the lunacy, without requiring Mrs. Hayward's personal attendance in England, if such attendance was insisted on by the adverse party, his client is still desirous of your Lordship's assistance with a view to obtain such an inquiry by competent French authorities into the state of Mrs. Hayward's mind as might afford sufficient ground (according to the applicant's view of the case) for an appeal to the Court of Chancery for a safe-conduct to this country (such as was granted, though under different circumstances, in Mr. Dyce Sombre's case) in order to enable Mrs. Hayward to establish her sanity; Mr. Egerton was pleased to request that we would take this case again into our consideration, and favour your Lordship with our opinion as to what assistance, if any, should be afforded by Her Majesty's Government to Madame Offermann in this matter. The previous papers were therewith annexed for convenience of reference.

In obedience to your Lordship's commands we have taken these papers again into our consideration, and have the honour to report—

That M. Mourilyan's letter puts this case before your Lordship in an entirely new

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light. It appears, or may be gathered from his statement, that the Lords Justices on the hearing of Mrs. Hayward's case, although the certificates or opinions of the medical men in France were before the Court testifying to the sanity of Mrs. Hayward, refused to give any direction that the lady might come within the jurisdiction without being interfered with by her husband or the Committee,—a direction which the Court had, of course, adequate jurisdiction to give. Mrs. Hayward, therefore, having had "safe-conduct" refused by the Court, declined to come to England and assert her sanity, dreading, as it is said, the malice of her husband, and "having too vivid a recollection of the horrors of the asylum from which she escaped," to return to England without the protection of a "safe-conduct," which would enable her, if found to be insane by the English Tribunal, to escape from the country, and live out of the jurisdiction. Mrs. Hayward's case, M. Mourilyan admits, is not in all points analogous to that of Mr. Dyce Sombre. In point of fact, the cases are widely dissimilar. We believe that we are right in stating that in that case Her Majesty's Minister at Paris, at the instance of one of the Committees of the lunatic, requested the surrender of Mr. Dyce Sombre's person into custody; and it was not upon the request of Her Majesty's Government, but *mero motu suo*, that the French authorities instituted a medical inquiry, the result of which being favourable to the alleged lunatic, the Lord Chancellor permitted him to come within the jurisdiction of the Court, under an order that if he did so, he should not be molested by the Committee, even though the Court held that his sanity was not established.

The marked difference between the case of Mrs. Hayward and that of Mr. Dyce Sombre is therefore obvious. It appears to us that this is a case in which your Lordship cannot interfere as prayed, unless at least it can be shown by Mrs. Hayward's legal advisers that a favourable certificate of medical men in France given in some proceedings taken at the instance of the French Government would, in her case, probably induce the Lord Justices to give her a "safe-conduct," and that the French Government would, under such circumstances, direct an inquiry of a quasi-judicial character by such medical men.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 64.

*The Law Officers of the Crown to Lord Stanley.—(Received August* 14.)

*Temple, August* 13, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit to us the accompanying despatch and its inclosures from Her Majesty's Ambassador at Paris, relating to the matter of Mrs. Hayward's lunacy; and to request that we would take the papers into consideration, together with those which were referred to us in his letter of the 8th instant.

In obedience to your Lordship's commands we have the honour to report—

That we had already written our report on the papers forwarded to us yesterday in this case before we had the honour of receiving Mr. Hammond's letter forwarding Lord Lyon's letter and its inclosures.

We would suggest that Lord Lyons should be informed of the correspondence that has already taken place with your Lordship in this matter, and of the opinion expressed by the Law Officers thereon; and that Lord Lyons should be instructed not to interfere in any way except under the direction of Her Majesty's Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
W. BALIOL BRETT.
TRAVERS TWISS.

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## No. 65.

*The Law Officers of the Crown to Lord Stanley.—(Received August* 14.)

*Temple, August* 13, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that upon the receipt of our report of the 29th ultimo, as to the course which should be pursued by Her Majesty's Government in the matter of Mrs. Hayward's lunacy, a communication in accordance therewith was addressed to M. Mourilyan, and that he (Mr. Hammond) was directed by your Lordship to transmit to us the accompanying reply which had been received from that gentleman, stating the circumstances under which he again asks for your Lordship's assistance, with a view of obtaining an inquiry by competent French authorities into the present state of Mrs. Hayward's mind.

Mr. Hammond was pleased to request that we would again take this case into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to M. Mourilyan.

The previous papers were annexed therewith for convenience of reference.

In obedience to your Lordship's commands we have again taken this case into consideration, and have the honour to report—

That we think that an answer may properly be returned to M. Mourilyan, stating that your Lordship is not averse from making an application to the French Government for the purpose of forwarding Mrs. Hayward's objects, but that before any such application can be properly made, your Lordship must be furnished with some legal opinion entitled to weight, that an official medical inquiry, if instituted in consequence of your Lordship's application, would probably be recognized by the Court of Chancery in England, and acted upon by that Court as a ground for giving Mrs. Hayward the privileges or relief which she is desirous of obtaining. Unless some such opinion is laid before your Lordship, it would, we think, hardly be right to ask to have proceedings instituted in France which would serve no useful purpose whatever in this country.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 66.

*The Queen's Advocate to Lord Stanley.—(Received September* 15.)

*Temple, September* 14, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 29th July last, stating that he was directed to transmit to me the accompanying papers having reference to the claim of certain British subjects upon the French Government arising out of the recent occupation by the French of certain rivers and districts on the West Coast of Africa.

That the claims in question, which amount to 1,849*l.* 11*s.* 11*d.* are for losses alleged to have been sustained in the Nunez River Territory in consequence of the bombardment by the French of a town in which they were residing for trading purposes; and Mr. Egerton was pleased to request that I would take these claims, the particulars of which will be found in the inclosures accompanying the Colonial Office letters of the 27th of July, 1867, into consideration, and report to your Lordship my opinion whether Her Majesty's Government will be justified in urging their payment by the French Government.

In obedience to your Lordship's commands I have the honour to report—

That it appears from the "information" made by the claimants before the Governor of Sierra Leone on 25th June, 1867, that, on the 16th May, 1867, "Lieutenant Cousien, the French Commandant residing in the town of Bokeh, on the Rio Nunez, without giving previous notice to the claimants, who were engaged in trade there, caused fire to be opened upon the town, whereby they were forced to quit the town in order to the preservation of their lives, leaving all their goods and property in the town; and in attempting to return during the night they were prevented from doing so upon pain of being shot; and that on returning to the town on the following morning they found that their stores had been broken into and *various* goods as enumerated found missing." It does not, however, appear upon the face of this information that the stores of the claimants had been injured by the fire of the French, or their goods plundered by the French, although I should have been of opinion that if they had been driven out without previous warning by the fire of the French and prevented *by them*—which I presume is the meaning of this part of the information—from returning to protect their property "on pain of being shot," they would have had a reasonable claim for compensation from the French Government.

But there are notable variations in the second and more extended declaration made by the claimants on 26th June, 1868, before the Acting Police Magistrate of Sierra Leone, which may be worthy of your Lordship's attention. Having stated that the French Commandant, "who was then residing at Bokeh Factory for the protection of French interests, without a word of warning to any of them, and without their having the slightest intimation or means of knowledge that anything unusual was about to take place, about 4 o'clock in the afternoon opened fire with cannon from the French Fort upon the houses contained in the factory," the claimants proceed to say, that "being so alarmed they ran down to the river side and got into their boats and went down the river about half a mile out of sight of the Bokeh Factory, where they passed the night." There is a total silence in this part of their declaration as to their having made any attempt to return during the night, and having been prevented from doing so "on pain of being shot." On the other hand, they go on to enlarge their losses and their danger, saying that "in the morning early they returned to Bokeh Factory to look after their property, and upon their arrival they found that *all* their stores had been broken into and *every* article of value had been taken therefrom. That, being dreadfully alarmed and fearful of losing their lives if they continued longer, they left the said Bokeh Factory and returned immediately to Free Town in the settlement of Sierra Leone;" and they claim indemnification not only for the loss of their property, but the value to them of the trade which some of them had enjoyed for a long time.

They have not, however, sent in any money claim on account of the loss of their trade.

Under these circumstances I think it would be advisable, before any demand is made upon the French Government for payment of any money claim, that Lord Lyons should be instructed to lay before the French Minister of Foreign Affairs the substance of the statements made by the claimants. It appears from the correspondence that Lord Lyons has hitherto only communicated in very general terms to the Marquis de Moustier that claims had been advanced by British subjects for losses alleged to have been sustained by them in consequence of the bombardment of a town on the Rio Nunez by the French *naval forces*, whereas the destruction of the houses at Bokeh seems to have been the work of the guns of a fort on shore. The bombardment may be susceptible of some explanation, but upon the statement of the claimants it would appear to have been an unprovoked act of violence on the part of the naval officer in command of the fort, who may, however, have not been aware that any British interests were imperilled by his fire.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 67.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 16.)

*Temple, December* 16, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th of August last, stating that he was directed by your Lordship to transmit to us for our perusal the accompanying despatch from Her Majesty's Ambassador at Paris, inclosing a Report of the proceedings in an action which was brought in the "Tribunal de Première Instance de la Seine" by the United States of America against M. Arman and others on account of contracts entered into by the defendants to build ships-of-war for the so-called Confederate Navy.

In obedience to your Lordship's commands we have the honour to report—

That we have perused the above-mentioned Report, upon which it does not appear to us that any special observations are called for.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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### No. 68.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received December* 26.)

*Temple, December* 23, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th December instant, stating that he was directed by your Lordship to transmit to us therewith a letter from the Colonial Office inclosing copies of a correspondence received from the Governor of Hong Kong respecting a question which had arisen between him and the French Consul at that port with reference to a riot which had occurred on board the French Messageries steamer "Tigre," as to the right of the Consul to exclusive jurisdiction in dealing with the parties implicated in the disturbance on this, and to the general question whether British authorities can or cannot claim jurisdiction in cases of offences committed on board merchant-vessels at anchor in British waters; and Mr. Hammond was pleased to request that we would take the correspondence into our consideration, and that we would favour your Lordship with our opinion upon the question at issue.

In obedience to your Lordship's commands we have the honour to report—

That upon the general question submitted to us by your Lordship, whether British authorities can or cannot claim jurisdiction in cases of offences committed on board of foreign merchant-vessels at anchor in British waters, we apprehend that there can be no doubt, and that of *strict right* British authorities may claim such jurisdiction. We think, however, that it may deserve your Lordship's attention that France is not the only maritime Power which, either on independent views of convenience or under Treaty arrangements with other Powers, waives its jurisdiction over foreign merchant-vessels within its ports, in matters which concern the *internal order* of such vessels, in favour of the respective Consuls, except in cases where persons who do not form part of the officers and crew of such a vessel, take part in creating disorder, or where such disorder tends to disturb the peace of the port.

It is plain that this jurisdiction, if carried to the limits of extreme right and unrestrained in its exercise by considerations of comity or convenience, might become vexatious and irritating to foreign Powers. The appeal of the French Consul for "reciprocity" suggests, as not altogether unworthy of your Lordship's consideration, whether or not it might be desirable to regulate the exercise of this jurisdiction by Conventions such as have been entered into by the United States with most of the maritime Powers?

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Greece.

### No. 69.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 25.)

*Temple, April* 24. 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence with Mr. Erskine* respecting the case of an Ionian named Constantine Albano, who has applied to the Greek Government, under the circumstances therein set forth, for the grant of a pension.

That I should perceive from M. Delyanni's note of the 24th ultimo, inclosed in Mr. Erskine's last despatch, that he denies the right of Her Majesty's Government to interfere in such cases on behalf of Ionians who may have recourse to their good

* Mr. Erskine, No. 15; to Mr. Erskine, No. 14; Mr. Erskine, No. 44, 1868.

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offices in seeking to obtain the benefit of the stipulations of the Treaty of the 29th of March, 1864.

A copy of this Treaty was therewith inclosed; and Mr. Hammond was pleased to request that I would take these papers into consideration and report to your Lordship my opinion with regard to this matter.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the claim of Constantine Albano against the Hellenic Government does not appear to me to rest on grounds which would found a *right* of intervention on the part of Her Majesty's Government in his behalf, under the provisions of the Treaty of 1865, unless an engagement on the part of the Ionian Government, antecedent to the Treaty, to grant him a pension upon the termination of his official services was constituted by the Ionian Act No. 3 of 1857, to which he refers in his Memorial as one of the Acts in virtue of which his pension has become due to him.

If the Ionian Act above-mentioned has not created any engagement on the part of the Ionian Government to allow Mr. Albano a pension upon the termination of his services, then I think his claim is not within the letter of the Treaty of 1865.

But as the Hellenic Minister for Foreign Affairs, in his letter of $\frac{12}{24}$th March, 1868, states that Mr. Albano's office as Registrar of the Supreme Court of Corfu has been suppressed in consequence of the assimilation of the judicial system of the two countries, I consider that it was within the *spirit* of the Treaty for Her Majesty's Minister to use *his good offices* in favour of Mr. Albano, inasmuch as the allowances which ought to be granted to individuals actually in the service of the Ionian Government at the time when the Treaty was concluded, and who would lose their respective employments in consequence of the union of the Ionian Islands to Greece, were thought to be a *proper subject* for diplomatic negotiation and Treaty settlement between the two Powers.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 70.

*Queen's Advocate's Report, June* 15, 1868.

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## No. 71.

*The Queen's Advocate to Lord Stanley.—(Received August* 31.)

*Temple, August* 29, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, with reference to my predecessor's Report of the 14th of May last year, respecting the case of Mr. Weale, he was directed by your Lordship to transmit to me, together with the previous papers, a further despatch from Mr. Erskine, from which it appears that Mr. Weale wishes to prefer a claim for compensation against the Greek Government; and Mr. Hammond was pleased to request that I would take this case into consideration and report my opinion as to the instructions which it would be proper to address to Mr. Erskine on the subject.

In obedience to the commands of your Lordship I have taken these papers into consideration, and have the honour to report—

That I consider that the grounds upon which Mr. Weale claims that Her Majesty's Government should hold the Hellenic Government responsible to him for damages are untenable. Mr. Weale is represented by Her Majesty's Minister to consider that he is entitled to compensation from the Hellenic Government on account of their having released from prison, before trial, the party who was charged with being Mr. Weale's principal aggressor. But it appears from the Report of the Advocate Fiscal, that, according to the Hellenic Law, which had come into operation in the Ionian Islands subsequent to the committal of Ionà to prison, the authorities would not have been justified in detaining him any longer in prison, and that when he subsequently failed to present himself for trial, he was condemned to ten years' exile. So far, then, as the criminal preceedings are concerned, I consider that Mr. Weale has had the same measure of justice dealt out to him which would have been dealt out to a subject of His Hellenic Majesty, and I see no reasonable ground for complaining of the tardiness shown in bringing the accused parties to trial after the explanation given by the Advocate Fiscal of the necessary delay, incidental to the change of law and legal procedure, and more especially the introduction of trial by jury, consequent on the annexation of the Ionian Islands to the Kingdom of Greece.

It appears further that, by Hellenic Law, Mr. Weale would have been entitled to bring a civil action for damages against Ionà in addition to any penalties to which Ionà might have been condemned in the course of the criminal proceedings against him, and that, although Ionà may have died since his condemnation, a civil action will lie against his heirs or representatives. I think that Mr. Weale is entitled to the good offices of Her Majesty's Minister, so far as he may require aid in procuring from the Greek Government official proof of the death of Ionà as suggested by Dr. Luigi, in order that he may address his demand for compensation to the proper quarter; but I think that the Hellenic Government cannot be expected to do more than to give every facility to Mr. Weale, so as to enable him to have the full benefit of the Hellenic Law.

With regard to Mr. Weale's expenses in carrying on the criminal proceedings, I think your Lordship may properly direct some inquiry to be made into the nature of his alleged expenses with a view to ascertain whether the duty of prosecuting the accused parties for the criminal offence was thrown upon Mr. Weale, or was borne by the Greek authorities. Although Mr. Weale would not, in my opinion, be entitled to the aid of Her Majesty's Government in bringing a civil suit for damages, the expenses of conducting a criminal proceeding, if there was no public prosecutor at Corfu, may perhaps entitle him to more favourable consideration; but care should be taken, I venture to suggest, if your Lordship should think it right to direct any inquiry to be made on the subject of expenses, that it should be confined to the expenses of the criminal proceedings, strictly speaking, and not include any other expenses which should be properly the subject of a suit for damages against the heirs or representatives of Ionà.

I have, &c.
(Signed) TRAVERS TWISS.

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## Hans Towns.

### No. 73.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 30.)

*Temple, March* 30, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 18th instant, stating that he was directed by your Lordship to transmit to me a letter from a naturalized citizen of Hamburgh, Mr. Fawcus, in which he requests to be informed whether his son can claim exemption from service in the North German army, and whether, under the circumstances detailed in his letter, his son is entitled to British protection; and Mr. Egerton was pleased to request that I would take this document into my consideration, and favour your Lordship with my opinion as to the answer which should be given to Mr. Fawcus' application.

In obedience to your Lordship's commands I have taken this document into consideration, and have the honour to report—

That the son of Mr. Fawcus, although born in England, having emigrated as a minor with his father when the latter took up his residence and became naturalized at Hamburgh, must be taken to be entitled to the acquired nationality of his father during his minority, and whilst resident at Hamburgh, and accordingly to be subject to all the public duties attaching to a naturalized citizen of Hamburgh, and amongst others to the liability to serve in common with other citizens of Hamburgh in the North German army.

Under these circumstances it would not be proper for your Lordship to claim for the son of Mr. Fawcus, whilst resident at Hamburgh, any exemption from the military conscription to which citizens of Hamburgh may be liable under the law of the North German Confederation.

I have, &c.
(Signed) TRAVERS TWISS.

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## Italy.

### No. 74.

*The Queen's Advocate to Lord Stanley.*—(*Received January* 16.)

*Temple, January* 15, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that, by direction of your Lordship, he transmitted to me the accompanying despatch from Her Majesty's Minister at Florence, inclosing a copy of a despatch from Her Majesty's Minister at Florence, inclosing a copy of a despatch from Mr. Consul-General Bonham, stating the circumstances under which the Duchess of San Germano had applied to him for a certificate declaring her to be a British subject, in order to avoid payment of the forced loan to which Italians are liable but from which British subjects are by Treaty exempt.

Mr. Hammond was pleased to request that I would take this despatch into my consideration, and favour your Lordship with my opinion as to the answer which should be returned to Sir Augustus Paget.

A copy of the Treaty between this country and Italy, containing the stipulation under which British subjects claim the exemption in question, was inclosed.

In obedience to your Lordship's commands I have taken this despatch into consideration, and have the honour to report—

That Sir Augustus Paget may be properly instructed to decline the application of the Duchess of San Germano that she should be furnished with a certificate that she is a British subject and entitled to the privileges attached to that character under the Treaty of 1863.

However desirous the Duchess may be to renounce the character of an Italian subject which she acquired upon her marriage with the Duke, her *status* in that respect within the dominions of the Kingdom of Italy will not be affected by the desertion of her husband, even if his absence should be prolonged indefinitely; and I am clearly of opinion that the exemption from forced loans which is secured by Article XV of the Treaty of 1863, to the subjects of each of the Contracting Parties in the dominions and possessions of the other, is confined to persons who are not subjects of the country within which the loan is to be enforced.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 75.

*The Queen's Advocate to Lord Stanley.*—(*Received September* 15.)

*Temple, September* 14, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 10th instant, stating that he was directed by your Lordship to transmit to me a despatch, and its inclosures, which your Lordship has received from Her Majesty's Chargé d'Affaires at Florence, respecting complaints made by and on behalf of Messrs. Laidlaw and Sons, of Glasgow, against the Municipality of Caltanisetta in Sicily, in consequence of the forcible removal of certain gas-pipes by order of the Syndic of that place, on the ground that the water supply of the public fountains had been rendered unfit for drinking by the infiltration of deleterious matter from the gas-pipes laid down by Messrs. Laidlaw, who had obtained a concession for the lighting of the town. That a claim for compensation having been raised by Messrs. Laidlaw on account of the proceedings of the Syndic, the firm, as it would appear, decline to institute proceedings for the prosecution of their claim before the local Tribunals, maintaining their right to seek redress through the direct intervention of Her Majesty's Legation.

That Her Majesty's Minister at Florence being at issue, as I should perceive, with Messrs. Laidlaw on their view of the case, Mr. Egerton was to request that I would furnish your Lordship with any observation I might have to make upon the subject, and especially with reference to Sir A. Paget's view of the case.

In obedience to your Lordship's commands I have the honour to report—

That it appears that the Municipality of Caltanisetta, under a view which it took, improperly as Messrs. Laidlaw assert, of its duty of providing for the preservation of the public health, has destroyed certain gas-mains in that town, the property of Messrs. Laidlaw, having previously given to the engineer of the gas-works notice to remove them.

I am of opinion that the course which Messrs. Laidlaw must pursue to obtain indemnification for any loss which they may have sustained by the act of the Municipality has been properly pointed out to them by Sir Augustus Paget, and that their claims for compensation must be brought before a Court of Law. If unwarrantable delay should be interposed by the local Tribunals which Messrs. Laidlaw seem to anticipate, such delay may be a proper subject for representation to the Italian Government; but the probability of any such delay will not warrant Messrs. Laidlaw in declining to have recourse to the ordinary Tribunals.

I have, &c.
(Signed) TRAVERS TWISS.

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# Japan.

## No. 76.

*The Law Officers of the Crown to Lord Stanley.—(Received Febrary 29.)*

My Lord, *Temple, February* 29, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that he was directed by your Lordship to transmit to us a despatch which your Lordship had received from Her Majesty's Minister in Japan, submitting, for the approval of Her Majesty's Government, a set of Regulations which, on the opening of the port of Hiogo and city of Osaka to foreign trade, he deemed it necessary to draw up for the peace, order, and good government of British subjects in that Consular district; and Mr. Hammond was pleased to request that we would take these papers into our consideration and favour your Lordship, at our earliest convenience with our opinion in regard to the set of Regulations.

Mr. Hammond was also to transmit to us a printed copy of a Notification published by Sir H. Parkes, announcing the opening of Hiogo and Osaka.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That we think that there is no objection to the set of Regulations framed by Her Majesty's Minister in Japan under the 85th (and 90th) clauses of the Order in Council of the 9th March, 1865.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 77.

*The Attorney- and Solicitor-General to Lord Stanley.—(Received April 9.)*

My Lord, *Temple, April* 9, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us therewith a copy of a letter from Mr Locock, Secretary of Her Majesty's Legation in Japan, stating the advice which he had given to the Commander of Her Majesty's military forces at Yokohama with reference to the protection of that town from the effects of the civil strife now prevailing in Japan, if the operations of the contending forces of the Mikado and Tycoon should be extended to the neighbourhood of that place, which is the chief Settlement under Treaty of the British community in Japan; and to request that we would take the matter into our consideration and report to your Lordship, if possible, before Friday next, our opinion as to the extent to which Colonel Sankey would be justified in acting on Mr. Locock's advice, and, if not, to what extent Her Majesty's forces would be warranted in proceeding for the protection of the lives and properties of British subjects.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That the actual position of the British in Japan appears to be that they have a Settlement at Yokohama recognized by Treaty, for the protection of which naval and military forces are maintained, and if this Settlement were threatened by either or both of the belligerent parties, we think that use of force might be justified for protection of lives and property, and for the maintenance of British rights within the Settlement.

It would, however, we think, be difficult, *strictly speaking*, to justify the occupation of the native town of Yokohama, and holding it against the Tycoon's troops in case they want to occupy it for strategic purposes, simply because disaster may occur in the British Settlement by permitting the native town to be occupied by armed forces.

Possibly, however, expediency, rather than strict law, should in such events as those that are anticipated regulate the action of the British authorities in Japan, and in this view your Lordship may think it right to leave something to the discretion of the authorities; at the same time pointing out that the steps that are taken in defence of the British Settlement should be those only which the exigencies of the case manifestly render necessary, and that it should be notified to both belligerents that these are taken only for preservation of life and property, and not for the purpose of aiding either side in the existing contention.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.

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## No. 78.

*The Attorney- and Solicitor-General to Lord Stanley.—(Received April 9.)*

*Temple, April* 9, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th of April instant, stating that he was directed by your Lordship to transmit to us therewith a despatch from Sir Harry Parkes, respecting the enforcement of neutrality on the part of British subjects in the civil contest now prevailing in Japan.

Mr. Hammond was also pleased to state that your Lordship apprehended that the Order in Council confers upon Sir Harry Parkes full power in this respect, and that he will probably have published an Order under it; but that your Lordship would be glad if we could furnish you for transmission to Sir H. Parkes, by the mail of Friday next, with the draft of such an Order as we may deem sufficient for the purpose, and within his powers to issue.

Mr. Hammond was further pleased to state that it may assist us in framing such a draft to have before us a copy of an Ordinance to the same effect promulgated in China in the year 1855, when the Taeping rebellion was in progress.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That we have prepared, and send herewith, a draft Notification and Regulation, which we think Sir Harry Parkes may properly issue.

It seems desirable not to admit in terms that war exists between two recognized belligerents, and we have framed the first part of this draft as a Notification of the terms of the 81st section of the Order in Council of March 1865, which renders any British subject levying war, or taking part in any operation of war against the Tycoon of Japan, or aiding in war, insurrection, or rebellion, guilty of misdemeanour.

The second part of the draft is framed under section 85 of the same Order, as a regulation for the peace, order, and good government of British subjects; and it nearly follows the terms of section 82 of the Order, by which any one taking part in any operation of war in the service of the Emperor of China, is guilty of a misdemeanour. The regulation, however, can only properly make an infringement of its terms an offence punishable under section 86 of the same Order.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.

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### Inclosure in No. 78.

*Draft Notification and Regulation.*

WHEREAS contentions are existing, and are being carried on, by armed forces in Japan. Now, I, Sir Harry S. Parkes, Her Majesty's Minister in Japan, do hereby *notify* to all British subjects in Japan, that by the 81st section of the Order of Her Majesty the Queen in Council, for the government of Her Majesty's subjects in China and Japan, dated the 9th day of March, 1865, it is provided and declared, that if any British subject in Japan, while Her Majesty is at peace with the Tycoon in Japan, levies war, or takes part in any operation of war against the Tycoon of Japan, or aids or abets any person in carrying on war, insurrection, or rebellion against the Tycoon of

Japan, every person so offending shall be deemed guilty of a misdemeanour; and on conviction thereof, shall be liable (in the discretion of the Court before which he is convicted), to be punished by imprisonment for any term not exceeding two years with or without hard labour, and with or without a fine, not exceeding 5,000 dollars, or by a fine not exceeding 5,000 dollars without imprisonment; and in addition to such punishment every such conviction shall of itself, and without further proceedings, make the person convicted liable to deportation. And the Court before which he is convicted, may order that he be deported from Japan to such place as the Court may direct. And I, Her Majesty's said Minister in Japan, by virtue of the 85th and 90th sections of the said Order, and of every other power, enabling me in that behalf, do hereby make the following *Regulation* for the peace, order, and good government of British subjects in Japan.

If any British subject, without the license of Her Majesty (proof whereof shall be on the party accused), shall take part in, or aid, or assist, in any hostile operation in the service, or on behalf of the Tycoon of Japan against any persons engaged in carrying on hostile operations against the Tycoon of Japan, he shall be deemed guilty of an offence against this Regulation, and on conviction thereof shall be liable (in the discretion of the Court before which he is convicted), to be punished for each offence with imprisonment for any term not exceeding three months, with or without hard labour, and with or without a fine not exceeding 500 dollars.

Given, &c.

J. B. K.
W. B. B.

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## No. 79.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 24.)

*Temple, April* 24, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to acquaint us that, on considering the terms of the draft of Neutrality Regulation to be issued by Her Majesty's Minister in Japan, inclosed in our letter of the 9th instant, your Lordship thought it advisable to defer sending it to Japan, and rather to await further intelligence from Sir Harry Parkes.

That the grounds of this conclusion were that the draft, being based on the Order in Council of 1865, would have been inapplicable to the present state of things in Japan, which was inadvertently omitted to be explained to us in his letter of the 7th instant.

That when the Order in Council was issued, the Tycoon, with whom the Treaties had been made, was considered to be the *de facto* ruler of Japan; but a better acquaintance with the institutions of the country showed that the real sovereignty rested in the Mikado, although the administration was delegated by long habit to the Tycoon. This state of things was forcibly illustrated by the reluctance felt on the part of some of the influential nobles of Japan to acknowledge the validity of Treaty engagements with foreign Powers concluded with the Tycoon alone; and that it was only after the exertion of considerable moral pressure that the Mikado was induced to accept the Treaties as binding on himself.

That since that occurred a great change has taken place in Japan; the Mikado has asserted his authority, and the Tycoon has acknowledged his own subordinate position. But this, as was to be expected, could not assume a permanent character in such a state of society as prevails in Japan, where a large body of wealthy and influential nobles, jealous of the Tycoon's supremacy, have sought to depress him and to elevate the Mikado, who is unquestionably the lawful Sovereign of the whole country.

That both parties are now engaged in upholding by force of arms their respective pretensions, and that a civil war has commenced, or what may be more strictly designated warlike operations on the part of the Sovereign Mikado to subdue the rebel Tycoon.

That it was with the view of preventing British subjects taking part in such a contest, that Sir Harry Parkes contemplated the issue of a Proclamation of neutrality, and that the object of his letter of the 7th of April was to obtain our assistance for Sir Harry Parkes' guidance in framing such a Proclamation.

That it is clear, however, that the Order in Council contemplates the Tycoon as the Sovereign, in whose interest alone British neutrality was to be enforced; but, as Mr. Hammond had shown, the order is no longer applicable to the present state of things.

That eventually it is probable that the Mikado, who has adopted the Treaties as his own, will desire to supersede them by a more formal instrument, in which his name alone shall appear to the exclusion of that of the Tycoon; indeed, that he has already requested that the name of the Tycoon should be erased, and his own inserted in its stead.

But, in the meanwhile, that it is obvious that Her Majesty's Government cannot adopt the cause of the Tycoon as against the Mikado, while the Order in Council is a bar to rejecting that of the Tycoon in favour of that of the Mikado.

That, on the other hand, it would be premature, until the course of events is more clearly developed, to cancel the clauses of the Order which favour the cause of the Tycoon.

That the immediate object is to prevent British subjects from engaging in civil strife in Japan; and that it may be deserving of consideration whether it might not be expedient to pass a special Order in Council, enacting that, "If any British subject in Japan, without license of Her Majesty, proof whereof shall lie on the party accused, shall take part in any naval or military operations, save and except any such operations in which Her Majesty's naval or military forces shall be engaged, arising out of questions connected with the internal policy of Japan, or shall aid or abet any persons engaged in any such operations, he shall be deemed, &c." (as in section 82 of Order in Council of 1865).

That if we should be of opinion that it would be expedient to pass an Order to this effect, your Lordship would be obliged to us to frame the draft of one.

But Mr. Hammond was to transmit to us a despatch and its inclosures, received on the 20th instant from Sir Harry Parkes, in which we should find copies of Proclamations of Neutrality issued by the foreign Representatives, and supplemented, in the case of the British Proclamation, by an instruction to Her Majesty's Consuls in Japan.

That this instruction and the British Proclamation are based, as we should perceive, by Sir Harry Parkes on the Foreign Enlistment Act; and Mr. Hammond was pleased to state that your Lordship would be glad to receive, if possible by Friday next, our opinion whether they are proper in terms and sufficient for the purpose in view, or whether they should be amended in any particulars or supported by such an Order in Council as that of which a sketch has been given.

Mr. Hammond also stated that your Lordship is anxious to send an answer to Sir Harry Parkes by the mail of Friday the 24th instant.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we entirely concur in the propriety of withholding the draft prepared by us in pursuance of former instructions in the absence of the information now afforded as to the position of the Tycoon at the time that the Treaty engagements were entered into, and as to the state of things now existing in Japan.

The Treaty already entered into with the Tycoon, and the Order in Council founded on such Treaty, give rise to some difficulties which we should have been anxious to consider more carefully than we have been able to do since the papers have been before us.

We think that it would be expedient to pass an Order in Council to provide for present emergencies, and we have prepared a draft Order accordingly. As Courts have existed for some time in Japan, and jurisdiction has been exercised there by Her Majesty, we think that Her Majesty may be considered as having jurisdiction by usage or sufferance within Japanese dominions; but it will be best to issue the new Order in Council, not referring specifically to the Tycoon or the Treaty with him.

We think that the jurisdiction exercised against British subjects should be confined to that given by the draft Order, viz., of punishing such subjects for offences within the terms of the draft Order.

We think it would be inexpedient to confer power to seize vessels destined for the belligerents in Japan, as such a power, if conferred, might give rise to difficulty. One belligerent will have the ordinary power of seizing an armed vessel destined for another belligerent; but we think that it will not be expedient to authorize seizure by British ships-of-war of such vessels.

We think that the instructions to Consuls should be modified by apprizing them of the terms of the new (proposed) Order in Council; and that by the Proclamation it should simply be notified that British subjects delivering armed ships, ammunition, or

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contraband of war to either of the belligerents will do so at their peril, and will not, if they act against law, be entitled to any protection from Her Majesty. All reference to existing Treaties should, we think, be omitted in any such Notification.

We think that if instructions are to be sent by this post it will be better to revoke the Circular already issued by Sir Harry Parkes to the Consuls, and that he should inform them that they are to act upon the proposed Order in Council (if sent out), or to await further instructions if it be thought proper to delay the sending out of any new Order until the next mail.

We think that the present official Notification is founded on a misconception as to the force of the Foreign Enlistment Act, so far as it affects British subjects in Japanese Dominions, and that it should, therefore, be suppressed.

We think that, in order to create an offence punishable by the British Courts in Japan, the offence should be created by Order in Council; and that the Consuls should not treat Acts, made criminal or punishable by Statutes of the Imperial Legislature, as offences with which they have power to deal.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### Inclosure in No. 79.

*Order in Council.*

VICTORIA R.

WHEREAS an Act of Parliament was passed in the session of the 6th and 7th years of Her Majesty's reign, cap. 94, "To remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual."

And whereas by the said Act it was enacted amongst other things that it was, and should be, lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had, or might at any time thereafter have, within any country or place out of Her Majesty's dominions in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory.

And whereas Her Majesty has had and now has by Treaty, usage, sufferance, and other lawful means, power, and jurisdiction within the Japanese dominions: And whereas Her Majesty has been pleased from time to time, and by and with the advice of Her Privy Council, by Orders in Council, to make provisions for the exercise of Her Majesty's said power and jurisdiction, and to ordain laws and ordinances for the peace, order, and good government of Her Majesty's subjects within the Japanese Dominions, and for the constitution of certain Courts for enforcing obedience to such laws and ordinances.

And whereas hostilities have unhappily commenced and are being carried on between the Mikado and other belligerents within the Japanese Dominions, and whereas Her Majesty is at peace with the Government of Japan, and whereas it has seemed to Her Majesty, by and with the advice of her Privy Council, to be expedient for the peace, order, and good government of Her Majesty's subjects being within the Japanese Dominions, and for maintaining a strict neutrality in such dominions during such hostilities as aforesaid, to make and ordain such rules and orders as hereinafter mentioned.

Now, therefore, Her Majesty's is pleased, by and with the advice of her Privy Council, to order, and it is hereby ordered as follows:—If any British subject shall, during such hostilities as aforesaid, without the license of Her Majesty (proof whereof shall lie on the party accused), take part in any operation of war in the service of the Mikado or of any power or person engaged in carrying on such hostilities as aforesaid, or shall aid or abet any or either of the Contending Parties in carrying on such hostilities as aforesaid by delivering or cause to be delivered to them or either of them any ship or vessel equipped, furnished, fitted out, or armed, with intent or in order that such ship or vessel should be employed in the military or naval service of either of the said Contending Parties, against the other of such Contending Parties, every person so offending shall be guilty of a misdemeanour, and on conviction thereof shall be liable (in the discretion of the Court before which he is convicted) to be punished by imprisonment for any term not exceeding two years with or without hard labour, and with or without a fine not exceeding 5,000 dollars, or by a fine not exceeding 5,000 dollars without imprisonment.

J. B. K.
W. B. B.
T. T.

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### No. 80.

*The Law Officers of the Crown to Lord Stanley.—(Received May* 13.)

*Temple, May* 12, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th ultimo, stating that he was directed by your Lordship to acquaint us, with reference to our Report of that day, that, as it had not been possible, before the departure of the mail, to obtain Her Majesty's sanction to the proposod Order in Council for the observance of neutrality by British subjects in Japan, your Lordship had only addressed to Sir Harry Parkes the instruction therewith sent for our information.

That the draft Order would be sent to the Council Office to be submitted to Her Majesty at the first Council.

Mr. Hammond was pleased to state that, with reference to the passage in our Report in which we state that we should have been anxious to give further consideration to the Treaty already entered into with the Tycoon, and the Order in Council founded on such Treaty, your Lordship directed him to say that your Lordship would be glad to receive any further observations on those matters which we may desire to lay before your Lordship.

In obedience to your Lordship's commands we have the honour to report—

That we have reconsidered the draft Order in Council which we submitted with our former Report, and are of opinion that, in existing circumstances, it will be expedient to pass such Order in the terms in which it is framed.

The state of things in Japan is certainly rendered very unsatisfactory and peculiar, in consequence of the error into which Her Majesty's Government were led by the claim of the Tycoon to the reigning power in Japan. The Order in Council of the 9th March, 1865, defines "Japan" as "the Dominions of the Tycoon of Japan," and the Consular officers are authorized to act, and we presume received their power to act, in Japan, upon the assumption that Her Majesty had jurisdiction in Japan by virtue of the Treaties with the Tycoon.

These Treaties now appear to be worthless, except so far as they may he adopted by the Mikado, who now turns out to be the true Sovereign of Japan. At this moment it will not be expedient to throw any doubt on the due appointment of Consular officers, or upon their rights and jurisdiction; but at the same time it will be well to use caution in conferring fresh jurisdiction upon them. We retain the opinion expressed by us before, that it was right for Sir H. Parkes to revoke his Proclamation, and modify the instructions to Consuls—as suggested in our former Report.

We would add that, if the belligerents do capture British vessels as prize or seize contraband of war, during the war, we think it quite right that the Consuls should insist that the ordinary rules of Prize Courts should, as far as possible be adopted, and that the cases should be watched by the Consuls on behalf of British owners.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 81.

*The Law Officers of the Crown to Lord Stanley.—(Received May* 13.)

*Temple, May* 12, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, with reference to his letter of the 23rd ultimo, he was directed to transmit to us a further despatch from Sir H. Parkes, with copies of papers respecting the observance by British subjects of neutrality in the contest now prevailing in Japan; and to request that we would take these papers into consideration, and report to your Lordship our opinion as to whether any further instructions should be sent to Sir H. Parkes in answer to the present despatch, in addition to those of which a copy was inclosed in Mr. Hammond's letter.

In obedience to your Lordship's commands we have the honour to report—

That the position of the British and of the other Europeans in Japan appears to be now so peculiar, and even critical, that it is difficult to give instructions to Sir H. Parkes, upon which he could safely act in the many emergencies that may arise, so as to be justified by law, and at the same time act most efficiently for the interests of Her Majesty's subjects in Japan. We think that it would be difficult to justify the suggested action of the Consuls or the officers of Her Majesty's Navy in co-operating, for the purpose of preventing delivery in Japanese waters of vessels of war purchased by the Mikado, the Tycoon, or the Daimios, from British subjects.

But as it appears from Sir H. Parkes' despatch, and the Memorandum of the Representatives of Treaty Powers, that the very safety of the British and other Europeans resident in Japan, and the protection which they can hope for from the men-of-war of their own countries, depend in a great measure upon the exercise of a power of preventing armed vessels from joining the navies of the belligerents, which might otherwise become so strong as to overawe the British and other European naval forces, it will probably be thought right by your Lordship to give a wide discretion to to Sir H. Parkes to act for the best in concert with the Representatives of other countries, even at the risk of doing acts which, in point of law, cannot be justified—even to the extent of seizing and detaining vessels of war, ordnance, &c., destined for either of the Contending Parties.

With regard to the request of the Governor of Kanagawa, that no persons of the tribes or clans of Sasshiu or Choshiu shall be allowed to have passages in British ships to Yokohama, we think that the Governor should be informed that the British Authorities in Japan will, as far as possible, insure neutrality on the part of British subjects, but that it will be beyond the power of the Authorities to prevent members of those clans from passing apparently for no hostile purpose from one port to another.

A Notification might be issued warning British subjects against transporting members of the clans referred to, to Yokohama; but we do not think it would be expedient to make an infringement of the Notification penal, especially as the Representatives of the other Powers are not disposed to prohibit the conveyance of Japanese in passenger ships of their countries.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 82.

*The Law Officers of the Crown to Lord Stanley.—(Received July* 13.)

My Lord,
*Temple, July* 13, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st of March last, stating that, with reference to our report of the 11th October, 1867, on the claim of Mr. H. E. Hoey against Her Majesty's Legation in Japan, arising out of the occupation of premises belonging to him at Yokohama, he was directed by your Lordship to transmit to us a letter from Mr. Hoey, re-stating his claim, on which he had obtained a legal opinion; and Mr. Hammond was pleased to request that we would take the paper into our consideration, and favour your Lordship with our opinion as to the answer that should be returned to it.

Mr. Hammond was also pleased, at the same time, to inclose for our information the papers submitted to us on a former occasion, together with two letters received from Mr. Hoey in the interval, with his answer to them.*

In obedience to your Lordship's commands we have the honour to report—

That we do not agree with the view of the legal authority consulted by Mr. Hoey in his construction of the lease. The document is no doubt very informal, but we think that the interpretation put upon it in the former opinion of the Law Officers is the correct one.

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* Mr. Hoey, April 16 and 20; Sir H. Parkes No. 111; to Mr. Hoey, October 17, 1867; Mr. Hoey, January 15 and 17; to Mr. Hoey, March 24, 1868.

Mr. Hoey should, we think, be informed that his letter has been referred to the Law Officers, who do not see any reason for coming to a different opinion from that which they previously expressed; and that Mr. Hoey's refusal to submit the claim for damages to arbitration appears to be unreasonable, inasmuch as that seems to be the proper and usual method of adjusting a dispute as to the reasonableness of the damages claimed for breach of the stipulation in the lease.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 83.

*The Law Officers of the Crown to Lord Stanley.—(Received July* 31.)

*Temple, July* 30, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that, with reference to our Reports of the 24th April and 12th of May, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in Japan inclosing a copy of a letter which he has received from Sir Edmund Hornby, giving his opinion in regard to the question of the neutrality of British Subjects during hostilities in Japan; and Mr. Hammond was pleased to request that we would take these papers into consideration and furnish your Lordship with our opinion thereupon.

We are also honoured with Mr. Hammond's letter of the 30th instant, transmitting further papers connected with this case.

In obedience to your Lordship's commands we have the honour to report—

That it seems to us to be unnecessary to make any lengthened comments on Sir E. Hornby's letter to Sir Harry Parkes, inasmuch as our former Reports of the 24th April and 12th May last, dealt with the matters referred to in Sir E. Hornby's letter and pointed out the objections to which we considered the instructions to the Consuls were open.

Your Lordship has, we find, acted on the latter Report in the despatch addressed to Sir H. Parkes on the 19th May, and we submit to your Lordship, that the best course will be for Sir H. Parkes to continue to act in concert with the Representatives of other Powers upon the instructions contained in that despatch, and which in our opinion, are the best that can be issued under existing circumstances. Sir H. Parkes' despatch of the 1st May, gives good reason to hope that the civil contest is almost terminated. The additional papers sent to us to-day, consist of a duplicate of Sir E. Hornby's letter to Sir H. Parkes.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 84.

*The Law Officers of the Crown to Lord Stanley.—(Received September* 5.)

*Temple, August* 28, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 3rd instant, stating that with reference to our Report of the 13th July, he was directed by your Lordship to transmit to us a despatch with its inclosures from Her Majesty's Minister in Japan, in regard to Mr. Hoey's claim; and to request that we would take these papers into consideration and furnish your Lordship with our opinion thereupon.

The previous papers were also inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That we think that as Mr. Hoey peremptorily declines the offer made to him of submitting his claim to arbitration, he must be left to carry out his threat of appealing to the House of Commons or to a Court of Law in support of his demand.

But in order to put Mr. Hoey in the wrong as far as possible, we think that Her

Majesty's Minister in Japan should, if the opportunity occur, direct a communication to be made to Mr. Hoey, again pointing out the propriety of submitting the matter in dispute to a competent and impartial arbitrator, by whom the questions upon which such a wide difference of opinion at present exists between Her Majesty's Minister and Mr. Hoey, may be speedily and satisfactorily adjusted, Her Majesty's Government having no desire to evade or postpone any just and fair claim which Mr. Hoey may advance, but being wholly unable to concur with him as to the principle upon which compensation claimed by him should be awarded, or as to the amount which he claims to be due.

We have, &c.  
(Signed) JOHN B. KARSLAKE.  
WM. BALIOL BRETT.  
TRAVERS TWISS.

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## No. 85.

*The Law Officers of the Crown to Lord Stanley.*—(*Received September* 14.)

My Lord, *Temple, September* 12, 1868.

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us despatches from Her Majesty's Minister in Japan, and from the Judge of the Supreme Court of Shanghae relative to the want of Vice-Admiralty jurisdiction in the Consular Courts in Japan; and Mr. Egerton was pleased to request that we would take these papers into consideration and furnish your Lordship with a report thereupon.

In obedience to your Lordship's commands we have the honour to report—

That in our judgment the opinion given by Sir E. Hornby against conferring generally Admiralty jurisdiction on the Consular Courts in Japan, and the reasons given by him for that opinion are well worthy of your Lordship's consideration, and lead us to think that it would not be expedient to confer that jurisdiction upon the Consular Courts. We think however that it may be worth while for Her Majesty's Minister in Japan, in consultation with Sir E. Hornby to consider whether a *limited* Admiralty jurisdiction may not be confided to some Court in Japan, to act in matters of immediate pressure, such as bottomry bonds and salvage claims.

We have, &c.  
(Signed) JOHN B. KARSLAKE.  
TRAVERS TWISS.

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## No. 86.

*The Law Officers of the Crown to Lord Stanley.*—(*Received November* 4.)

My Lord, *Temple, October* 31, 1868.

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 21st September last, stating that, with reference to his letter of the 9th of September, he was directed by your Lordship to transmit to us a despatch from Sir Harry Parkes, relative to the enforcement of neutrality of British subjects in Japan; and to request that we would take it into our consideratiou and favour your Lordship with our opinion thereupon.

Mr. Egerton further stated that he was especially to call our attention to the question of the transport of men and munitions belonging to belligerents by British vessels; and to inclose, for our information, a despatch bearing on the point which had been communicated to him by the United States' Minister at this Court.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That with reference to that part of Sir Harry Parkes' despatch which relates to the proclamation of neutrality, which we advised to be withdrawn because it was issued upon the assumption that the Foreign Enlistment Act applied to acts committed in Japan and made those acts punishable there, a construction which we thought untenable, we have in our Report of this date, in answer to Mr. Egerton's letter of the 9th September, inclosing Sir E. Hornby's letter, expressed our views upon this subject.

As to that part of Sir H. Parkes' letter which relates to the transport of men and

munitions belonging to belligerents in British vessels, and the despatch communicated to your Lordship by the United States' Minister at this Court, we think that Sir Harry Parkes came to a right conclusion, viz., that there was nothing in the Foreign Enlistment Act that empowered him to interfere with the masters of vessels, who had chartered such vessels, for the purpose of carrying from one port to another, munitions of war, or soldiers engaged by the Daimios to take part in the war.

We are not surprised to find that, notwithstanding the action of the United States' Minister at Yokohama in insisting upon the Mikado's troops being relanded from an American vessel which had been engaged for their transport, other American vessels have accepted similar engagements. Employment of neutral vessels for such purposes is not, we think, prohibited by international law, in the sense that, by not interfering to prevent such employment of its mercantile marine, a neutral Power would justly expose itself to be charged with a breach of neutrality, although such vessels while engaged in carrying troops or other contraband of war, on account of one belligerent, are liable to seizure and condemnation as prize by the other belligerent.

Where the employment of the neutral vessel is such as not to bring her owners or crew within the recent Order in Council, or the 92nd section of the Order of the 9th March, 1865, we do not think that she can be interfered with by British authorities in Japan, and we can only suggest that a further Order in Council to prohibit such employment of vessels under penalties, and with power to seize and detain the vessel, should be passed (if it be thought politic to restrict the employment of British vessels), or that Her Majesty's Minister in Japan should make such regulations under Section 85 of the Order in Council of the 9th March, 1865, as may meet the cases likely to occur, if he should consider that under the peculiar circumstances of the case such regulations are necessary for the "peace, order, and good government," of British subjects resident in, or resorting to, Japan, a view which it will probably be thought he may reasonably adopt, if the employment of British vessels in carrying troops or munitions of war, is likely to bring the British residents into collision with the Japanese and endanger their lives, or affect the security of their property in Japan.

We have, &c.  
(Signed) JOHN B. KARSLAKE.  
RICHARD BAGGALLAY.  
TRAVERS TWISS.

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## No. 87.

*The Law Officers of the Crown to Lord Stanley.*—(*Received November* 4.)

*Temple, October* 31, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 9th of September last, stating that, with reference to the Law Officers' Report of the 30th July, he was directed by your Lordship to transmit to us a despatch from Sir Edmund Hornby relative to the Notification respecting the civil war in Japan issued by Her Majesty's Minister in that country which, in accordance with the Law Officers' recommendation he was instructed to rescind; and to request that we would take this paper into our consideration, and furnish your Lordship with a Report thereupon.

The former correspondence relating to the subject was annexed for our information.*

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That the construction which the Chief Justice of Shanghae suggests may be given to the words "Her Majesty's dominions beyond the seas," in the Foreign Enlistment Act, namely, that they may be held to mean places where Her Majesty has either by Treaty or otherwise a power to exercise exclusive jurisdiction over British subjects is not, in our opinion, admissible. Such a construction would be at variance with the entire scheme of the Foreign Jurisdiction Act (6 and 7 Vict., cap. 94), under which Her Majesty's Courts in China and Japan have been empowered by Order in Council to exercise their jurisdiction, namely, as being in countries or places out of Her Majesty's dominions in which Her Majesty has indeed certain jurisdiction over her subjects, but in which she has no territorial dominion.

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* Sir H. Parkes, Nos. 29 and 40; to Sir H. Parkes, No. 61; Sir H. Parkes, No. 45; to Sir H. Parkes, Nos. 71, 72, and 73; Sir H. Parkes, No. 90; to Sir H. Parkes, No. 111, 1868.

With regard to the question of the Chief Justice, "whether or not Her Majesty's Law Officers consider the Foreign Enlistment Act to be binding on British subjects in China and Japan, that is, whether, supposing British subjects to infringe it in those countries, they would be liable and could be punished in accordance with its provisions;" we are of opinion that those provisions of the statute which have reference to acts committed by British subjects in foreign countries, E. 9, the provisions of section 2 apply to such acts if committed in China or Japan, but the mode of dealing with offenders is pointed out by sections 4 and 9, under the provisions of which alone could such offenders be tried. We think it clear that a British subject infringing the provisions of section 2 could not be tried by one of the Courts in China or Japan. To prevent misapprehension as to the scope and object of the Foreign Enlistment Act, we would further remark that that Act creates offences punishable in a particular manner and in particular Courts. Some of these offences may be committed out of Her Majesty's dominions by a British subject, and if so committed must be punished, if at all, strictly in the manner pointed out by the Act. Some acts become offensive under the statute only when committed within Her Majesty's dominions, *e.g.*, those mentioned in the 7th section, and, as regards these offences, the Act cannot, in our opinion, be read as applicable to countries where Her Majesty has jurisdiction only by Treaty, sufferance, or otherwise, over her own subjects, but which are in no sense part of Her Majesty's dominions.

With regard to the observation of the Chief Justice as to the practice of the Courts in China and Japan. that "they are daily acting upon British statutes, which are similarly confined in their wording to the Foreign Enlistment Act," we cannot offer any opinion whether such practice is correct or not without having the particular statutes before us, but if the practice in the Courts in those countries proceeds upon the interpretation which the Chief Justice conceives should be put upon the Foreign Enlistment Act, namely, that "it must be read, *quoad* British subjects, as having force wherever Her Majesty has exclusive jurisdiction over her subjects, whether she has the actual possession of the soil on which the act is done, or not, dominions being held to mean places where she held dominion"—we cannot concur in his view.

In our opinion, Imperial statutes confined expressly in their operation to England, Scotland, or Ireland, or to particular parts or localities in either of those countries, or to a particular class of persons,—for instance, factory owners,—in either of those countries, cannot properly be read in Japan as applicable to that country, or to a particular class in that country. We cannot consider that the 5th section of the Order in Council would, upon a proper interpretation of it, justify a Court in Japan in taking a British statute and modifying, altering, and moulding it according to its own views of what is convenient or right in Japan, and deciding a case on that basis. But where statutes of the United Kingdom declare what is the true definition of larceny, burglary, &c., or lay down what the general law applicable to a particular branch of evidence is to be, *e.g.*, that a wife may give evidence in her husband's favour, in such and similar cases, "circumstances admit" of jurisdiction being exercised in Japan in conformity with such laws or statutes.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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## No. 88.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 11.)

My Lord,
*Temple, December* 8, 1868.

WE are honoured with your Lordship's commands as signified in Mr. Hammond's letter of the 19th November ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in Japan, relative to the conveyance as a prisoner on board Her Majesty's ship "Rattler" of an Italian subject, arrested under the authority of the Italian Minister in Japan; and he was to request that we would furnish your Lordship with our opinion as to the legality of the proceedings reported in that despatch.

We are also honoured with your Lordship's commands signified in Mr. Murray's letter of the 2nd instant, stating that, with reference to Mr. Hammond's letter of the 19th ultimo, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in Japan, forwarding copies of further correspondence he has had with his Italian colleague, in regard to the conveyance as a prisoner on board Her Majesty's ship "Rattler" of an Italian subject named Dell' Oro, who had been arrested under the authority of the Italian Minister.

Mr. Murray was pleased to state that he was to request that we would take that despatch into our consideration, together with the previous papers then before us, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That it would appear from the letter from Sir Harry Parkes to your Lordship under date the 13th October, 1868, that the conveyance of M. Dell' Oro from Hakodate to Yokohama on board Her Majesty's ship "Rattler," which was contemplated when Sir Harry Parkes addressed his former letter dated the 18th September last, to your Lordship, did not take place, but that the brothers Dell' Oro arrived at Yokohama as passengers by a merchant-vessel, and were thereupon arrested upon a warrant of the Italian Consul and confined in the British Consular prison.

In our opinion, the contemplated conveyance of M. Dell' Oro in custody on board Her Majesty's ship could not have been legally justified.

If by virtue of Treaties with the Government of Japan, the Italian Government have powers over its own subjects in that country, the arrest of M. Dell' Oro by virtue of the warrant of the Italian Consul, and his imprisonment in the building used as the British Consular prison were probably legal; but the Italian Consul's warrant could not, we think, be of any validity on board a British man-of-war on the high seas, and could not therefore have justified the Captain of the man-of-war in detaining M. Dell' Oro, who had been guilty of no offence against English law.

We think that the answer returned by Sir Harry Parkes on the 11th October last, to the Italian Minister's question, may properly be approved of by your Lordship.

That answer appears to be well justified by the decision in the case of Regina *v.* Lesley, 29 Law Journal (Magistrates' Cases), page 97. In that case the master of an English merchant-ship lying in the Port of Valparaiso contracted with the Chilean Government to carry from Valparaiso to Liverpool certain prisoners sentenced according to Chilean law to transportation. The prisoners were brought on board by Chilean officers, and were conveyed to Liverpool; immediately on their landing they preferred an indictment against the Captain for assault and false imprisonment, and a question was reserved for the opinion of the Court of Criminal Appeal which held that, though the defendant might have justified the imprisonment, so long as the ship remained within the local jurisdiction of Chile, (for within that jurisdiction he might be deemed the agent of the Chilean Government), yet that as soon as the ship had passed out of Chilean waters, every person on board, whether foreign or English, was answerable to English law alone, against which no offence had been committed by the prosecutors, and the conviction was consequently affirmed.

We may add that the principle involved in the decision above referred to, appears to us to be as applicable to the case of a captain of a Queen's ship on the high seas, as to the master of a merchant-vessel. It is true that Mr. Justice Heath, in a case of Muro *v.* Kaye (4 Taunton's Reports, page 43), seems to have intimated that one nation may by comity, assist another nation in bringing its criminals to justice; but though this may be true in some cases, we do not think that the captain of Her Majesty's ship would have been legally justified by the comity of nations, in imprisoning Dell' Oro on board his ship and conveying him from one port of Japan to another.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

# Madagascar.

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## No. 89.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 4.)

*Temple, February* 3, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 2nd September, 1867, stating that he was directed to transmit to us the accompanying letter from the Colonial Office, dated the 28th August last, inclosing a despatch from the Governor of the Mauritius, and a report from the Procureur-Général of the Colony, in which the latter officer suggests certain amendments in the Order in Council respecting Consular jurisdiction in Madagascar. That this Order, which was drawn up under the advice of the Law Officers of the Crown, received Her Majesty's assent on the 24th of May last; and to request that we would favour your Lordship with our opinion upon the suggestions of the Procureur-Général, and as to the course which your Lordship should pursue therein. The previous papers were annexed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That we have considered the observations of the Procureur-Général of the Mauritius on the Order of Her Majesty in Council for the regulation of Consular jurisdiction in Madagascar.

Although it appears to us that the difficulties suggested by the Procureur in the event of a criminal from Madagascar being sent to Mauritius for trial for an offence not punishable in Mauritius, as it would be in Madagascar, are solved by the proviso to section 4 of the 6 and 7 Vict., cap. 94, still, having regard to the statement of the Procureur, that the Criminal Law of Mauritius differs from that of England, it would probably facilitate the administration of justice, if such an alteration as he suggests were made in the 22nd section of the Order in Council, so that no one should be liable to be committed or tried in Madagascar for anything that is not an offence according to the Law of Mauritius.

Before this alteration is made, however, the Consul should be asked whether any inconvenience would arise from its adoption, and it will be necessary to ascertain that all the crimes mentioned in section 16 of the Order, are crimes by the Law of Mauritius.

It seems probable that natives of the Mauritius would be the offenders most likely to be brought to trial in Madagascar, and this appears to be a good reason for adopting Laws with which they ought to be familiar. In consequence of the observation of the Procureur-Général we would remark that, in our opinion, the Zanzibar Rules are not *ultra vires*, but it will be as well, as the present Order in Council will require alteration, to state in the Order itself, by what Code of Laws criminals are to be judged.

The second suggestion of the Procureur-Général, may also we think, be conveniently adopted in substance, and an alteration made in Article 6 of the Order for the purpose of giving effect to it. The right of appeal to the Supreme Court might be limited to an appeal on a question of *law* only, and not of practice, the Supreme Court administering law, as we presume, according to the Civil and Commercial Codes of Mauritius, but by rules of *procedure* and practice of its own. There seems to be the more reason for adopting this alteration, as by Article 8 of the Order, decisions of the Consul are to be enforced, in like manner as a decision of the Supreme Court of Mauritius in a Civil Suit is enforced within the same, but it would be right we think, to ascertain the Consul's views on this alteration.

With regard to the third suggestion of the Procureur, namely, the introduction of a jurisdiction enabling the Consul to take proceedings in the case of lunatics, and to wind up the estate *on the footing of an intestate estate*, we think that there are many objections to this proposal, and that it should not be adopted.

The clerical and other alterations made by the Procureur should, we think, be adopted. Some of them are important, as it appears that the Court of the Mauritius is in the order, erroneously styled the "High," instead of the "Supreme," Court, and the style of the Magistrate to whom the warrant is to be addressed, and the description of

the prison to which commitments are to take place, should be amended as suggested by the Procureur.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 90.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 4.)

*Temple, February* 3, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 15th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Pakenham, (No. 21, August 24,) submitting a draft of the rules and regulations which he had framed for the use of the Consular Court in Madagascar, and which, as we should see by the accompanying letter, have been approved by the Secretary of State for the Colonies.

And Mr. Murray was pleased to request that we would take these rules into our consideration (together with the papers also annexed), and favour your Lordship with our opinion whether they are right and proper.

Mr. Murray at the same time, inclosed a further letter from the Colonial Office, asking what steps should be taken to enable the Supreme Court of the Mauritius to deal with any matters brought before them under the provisions of the Order in Council of May last, regulating Consular jurisdiction in Madagascar; and Mr. Murray was, therefore, to request that we would be good enough to favour your Lordship at our earliest convenience with our opinion upon the reference which was made to us on the 2nd September last, upon the question of certain amendments in the Order in Council in question, which had been suggested by the Procureur-Général of the Mauritius.

In obedience to your Lordship's commands we have taken these rules into consideration (together with the papers thereto annexed), and have the honour to report—

That the rules, generally, appear to us to be framed in accordance with the provisions of the Order in Council, but no doubt it will be found necessary from time to time, to frame further rules to meet cases as they occur.

We would refer to our Report relating to the amendments which it may be expedient to make in the Order in Council, which alterations, if made, may materially affect the rules by which the practice of the Consular Court should be regulated.

With reference to the letter referred to from the Colonial Office, we have the honour to include our Report on that letter, in a Report of this day's date on further papers on the same subject, referred to us on the 22nd of January, 1868.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 91.

*The Law Officers of the Crown to Lord Stanley.*—(*Received February* 4.)

*Temple, February* 3, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 25th ultimo, stating that, with reference to his letter of the 2nd September, 1867, and the 15th ultimo, relative to carrying into effect at the Mauritius the Order of Her Majesty in Council of 17th May, 1867, relative to Consular jurisdiction in Madagascar, he was directed by your Lordship to transmit to us a further letter from the Colonial Office dated the 22nd ultimo, on the same subject; and to request that we would consider its contents in connection with the papers now before us, upon which your Lordship desired our opinion.

In obedience to the directions of your Lordship we have the honour to report—

That it appears to us, that in order to give effect to the Order in Council in the Mauritius, an authenticated copy of such Order which, as passed, had, we presume, the blanks in clauses 35 and 36 filled up, should be formally communicated to the

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Governor of the Mauritius, with instructions that such Order shall in due form, and according to law and custom, be promulgated and published, so that it may become operative there.

Probably, until it has been determined whether any alteration shall be made in the Order in Council, it will be deemed better not to promulgate the existing Order, in which some informalities exist in the description of the Supreme Court and otherwise, and in which alterations are suggested, and that the Consul in Madagascar should not further act under the Order by sending criminals to Mauritius, or in entertaining causes in which an appeal would lie to the Mauritius, until he receives further instructions from Her Majesty's Government. Whether the Governor acted properly in deporting the criminal referred to in his Excellency's despatch of the 4th December, 1867, we cannot judge, without knowing the terms of the local ordinance under which he acted.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 92.

*Law Officers' Report, August* 11, 1868.

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## Mexico.

### No. 93.

*The Attorney- and Solicitor-General to Lord Stanley.*—(*Received March* 28.)

My Lord, *Temple, March* 28, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th of March instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Westall, dated the 20th instant, requesting to be furnished, for the reasons therein stated, with a copy of a letter from Señor Castillo, to the then Minister in Mexico, Mr. Scarlett, dated the 16th of June, 1866, on the subject of the Mexican bondholders; and to request that we would take Mr. Westall's application into our consideration, and favour your Lordship with our opinion as to whether there would be any objection in complying with that gentleman's request.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That the application for a copy of the letter of Señor Castillo appears to be made *bonâ fide*, and on sufficient grounds; and, in the absence of any rule of the Foreign Office not to produce letters in aid of private suitors, we see no objection in complying with Mr. Westall's request.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.

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### No. 94.

*The Queen's Advocate to Lord Stanley.*—(*Received August* 12.)

My Lord, *Temple, August* 20, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence relative to the blockade of the port of Mazatlan by Commander Bridges, of Her Majesty's ship "Chanticleer," in consequence of insults offered to him and the officers of his ship by the Mexican authorities; and Mr. Hammond was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion as to Captain Bridges' proceedings.

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That under the circumstances of this case I think that Commander Bridges was not bound to have recourse to the Tribunals of the National Government, as suggested by General Corona in his despatch of 19th June, 1868. The doubloons seized on 16th June were the property of Her Majesty, and they were taken out of the charge of an officer of Her Majesty by officers of the Mexican Government, in contempt of the official permit which was produced to them, whilst the indignities to which Commander Bridges and Sub-Lieutenant Tacey were exposed on the following day, were inflicted on them when they had landed in Her Majesty's uniform, for the purpose of communicating officially with General Corona an the subject of the seizure of the doubloons. The affairs was, I think, clearly beyond the sphere of the ordinary tribunals of the country from the commencement, and could only be settled between the Representatives of the respective Governments.

Commander Bridges appears to have exhausted all available means to procure redress before having recourse to force. Mr. Woodrich, the British Vice-Consul, with whom he placed himself in communication, according to official directions, represents General Corona to have been the highest authority in the place; and that if he would not acknowledge his position and power to give redress, there was no one else for Commander Bridges to apply to except the Mexican Government, with which Government Her Majesty's Government had no political relations. Mr. Vice-Consul

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Woodrich appears also to have stated his opinion that Commander Bridges could not do less than vindicate the honour of his flag, and exact the highest satisfaction for the insult offered him, and to have suggested that the most advisable course for him to pursue, would be to blockade the port, and make seizures of Mexican vessels, until he could communicate with the Admiral.

Commander Bridges very properly abstained from any overt act of hostility, and confined himself to closing the port of Mazatlan against Mexican commerce, taking care meanwhile not to interfere with vessels under the flag of any third Power.

There is no doubt, I think, that before Commander Bridges closed the port, there had been a denial of justice to him after flagrant wrong, such as would have justified Her Majesty's Government in giving orders to Commander Bridges to make reprisals upon Mexican vessels, with a view to obtain the restitution of the doubloons, and satisfaction for the indignities offered to Her Majesty's officers.

Under ordinary circumstances, if there had been an accredited Envoy of Her Majesty at the Court of Mexico, it would, I presume, have been indispensable, according to the rules of Her Majesty's service, for Commander Bridges to have communicated through his superior officer with Her Majesty's Government, before taking any steps to obtain redress by force, for the indignities offered to himself and his officers; but the very peculiar circumstances in which Commander Bridges found himself on this occasion may probably be considered by your Lordship to have called for some immediate display of force on his part. There seem, as far as I may venture to form an opinion, to have been reasonable grounds for apprehending that the violence of the lawless population in Mazatlan, if Her Majesty's ship "Chanticleer" had sailed away without resenting the insult in any way, would have been directed against the unprotected subjects of Her Majesty on shore, in revenge for the hospitality which had been shown to certain political refugees on board Her Majesty's ship "Chanticleer," after the defeat of General Martinez, and in regard to which the conduct of Commander Bridges appears to have received the approval of his superior officer.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 95.

*The Queen's Advocate to Lord Stanley.*—(*Received September* 19.)

*Temple, September* 18, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 14th instant, stating that he was directed by your Lordship to transmit to me, with reference to my Report of the 20th ultimo, the accompanying letter from the Admiralty, dated the 11th instant, inclosing extracts of a letter from Rear-Admiral Hastings, stating that he had received a report from Commander Bridges, of Her Majesty's ship "Chanticleer," who is still blockading the port of Mazatlan. That he (Mr. Egerton) was to call my attention to a former letter from the Admiralty, dated the 2nd instant, also sent, containing remarks on my above-mentioned Report; and to request that I would take these papers into consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That in my previous Report to your Lordship I had in view the international question, which I considered to be referred to me, whether the closing of the port of Mazatlan, against Mexican commerce was justifiable on the part of the Commander of Her Majesty's ship "Chanticleer," as an act of reprisal, upon redress being refused for the insult to himself and his flag, that insult having been admitted by the General commanding the Mexican forces at Mazatlan, to whom the Captain of Her Majesty's ship had made more than one application for redress, to be very gross. As I understood from the correspondence that the Commander of Her Majesty's ship had taken care not to interfere with the ingress and egress of other vessels than those under the Mexican flag, I did not consider the closing of the port to be more than an act of reprisal on his part, not constituting war. I am now favoured with an extract from a letter addressed by Rear-Admiral Hastings to the Secretary of the Admiralty, dated 21st July, 1868, from which it appears that the Commander of Her Majesty's ship had, previously to the occurrences at Mazatlan, been informed of certain instructions of the Lords Commissioners of the Admiralty, conveyed in their letter to Rear-Admiral Hastings, dated 30th May, 1867, which, to use the words of Rear-Admiral Hastings, directed that "no actually coercive measures were to be adopted against the Mexican Government without authority from home," and that Rear-Admiral Hastings has conveyed to the Commander of Her Majesty's ship "Chanticleer" "his disapproval of the coercive measures adopted by him in pursuit of the redress sought for." I consider that, under the general terms in which those instructions appear to have been given to the Commander of Her Majesty's ship, he ought to have abstained from closing the port of Mazatlan; and that Rear-Admiral Hastings has properly informed him that it was his duty under those instructions "on the refusal of redress, to protest, and refer the matter for his consideration."

At the same time, I may observe that the orders given by the Lords of the Admiralty to Vice-Admiral Sir Rodney Mundy and Rear-Admiral Hastings, in consequence of the Foreign Office Letter of the 27th May, 1867, as appears from their Lordships' letter to the Under-Secretary of State for Foreign Affairs, dated 2nd September, 1868, referring to their letter of the 29th May, 1867, were, that they should "instruct the Captains of any of Her Majesty's ships employed on the coast of Mexico not to do more than to represent any acts of injustice towards British subjects, which might come to such Captains' knowledge either through Her Majesty's Consuls or otherwise, to the Governors or highest Mexican civil or military authorities at places where any such injustice might take place, as well as to Her Majesty's Minister in Mexico, and to their respective Commanders-in-chief, but not to adopt any actual coercive measures without authority from home."

Their Lordships have observed "that Commander Bridges makes no direct allusion to the order in question in his correspondence, and it must either have escaped his memory, or else he considered that the wrong and insult offered to him in the absence of responsible Mexican officers, and of all regular diplomatic relations, formed the case not provided for in the order founded on the Foreign Office Letter of the 27th May." I think that it would not have been unreasonable for the Commander of Her Majesty's ship "Chanticleer" to have interpreted the order in question as having reference only to acts of injustice towards British subjects, which might be brought to the knowledge of the Commanders of Her Majesty's ships through third parties, and not as covering wrong or insult offered directly to Her Majesty's uniform and flag. Your Lordship may, I think, concur with the Lords of the Admiralty in their proposal to inform Rear-Admiral Hastings further, that Commander Bridges was wrong in threatening to destroy some of the public buildings in Mazatlan by the fire of the ship's guns, and that the Admiral was right in referring the whole case to Her Majesty's Government.

It appears from the letter of Rear-Admiral Hastings of the 10th August last, that the Commander of Her Majesty's ship "Chanticleer" informed him, by a report dated the 11th July, 1868, that the port of Mazatlan was still kept by him closed against Mexican commerce, and that he understood the Custom-house officials concerned in the insults had been discharged or permitted to leave the country. The port has no doubt been opened before now in accordance with the telegrams transmitted to Commander Bridges. I do not consider that the measures taken by him, as distinguished from those which he threatened to take, "established a state of hostility," as suggested in the Report of the Mexican Minister of War and Marine. Although the measures were exceptional, your Lordship, I think, will be justified in maintaining that they were consistent with amity; and it appears from the Report above mentioned that there is no disposition on the part of the Mexican Ministry to give countenance to the wrongful acts of the Custom-house officials at Mazatlan.

I have, &c.
(Signed) TRAVERS TWISS.

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## Miscellaneous.

### No. 96.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 2.)

My Lord, *Temple, February* 28, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. Percy Doyle, dated the 24th ultimo, setting forth his claim to receive a diplomatic pension of the third class, that is to say, a pension of 900*l.* a-year, in consideration of his diplomatic services; that Mr. Doyle, as we would gather from his letter and from a memorandum on his case which had been drawn up in your office, retired from the service in 1858 on a diplomatic pension of the 4th class, that is to say, a pension of 700*l.* a-year, and we would observe that Mr. Doyle grounds his claim to the higher pension chiefly on the fact that a pension of the third class was assigned early in last year to Sir C. Wyke, in conformity with the opinion of the Law Officers of the Crown of the 29th of May, 1865, "that a Consul-General who also holds the diplomatic rank of a Chargé d'Affaires, and who, under that title, is accredited to a foreign Court at which there is no other resident British Minister, is, in substance and in effect (if the duties which he discharges are in all respects the same), a Minister Resident at the Court, and that such a diplomatic servant of the Crown may therefore receive a pension under the third class of pensions provided for by the Act of the 2nd and 3rd Will. IV, cap. 116."

Mr. Hammond was pleased further to state that Mr. Doyle contends that, inasmuch as it has been ruled that the service of a Chargé d'Affaires in the position of Sir C. Wyke might be regarded as the service of a Minister Resident, and as such might be reckoned as service qualifying him for a pension of the third class, his own service as temporary Chargé d'Affaires in Mexico in the absence of the Minister, and amounting collectively to a period of four years, six months, and sixteen days, should also be taken into acount in reckoning his qualifications for a diplomatic pension of the third class; and, as your Lordship does not consider the point to be entirely free doubt, Mr. Hammond stated that he was to request that we would take Mr. Doyle's representation into our consideration and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers referred to us into consideration, and have the honour to report—

That, as we understand the facts of Mr. Percy Doyle's case, it is not governed by that of Sir Charles Wyke, or any of the other cases mentioned in the memorandum sent to us.

It may be open to question whether the Ministers contemplated by section 6 of 2 and 3 Will. IV, cap. 116, are not those public Ministers specially referred to in the Recez of the Congress of Vienna of 1815, and the Protocol of the Congress of Aix-la-Chapelle of the 21st November, 1818; but this interpretation does not appear to have been expressly put upon the Acts by our predecessors in office.

At all events, we think that if, during the different periods at which Mr. Doyle was resident as Chargé d'Affaires in Mexico (before he became Minister), he was merely accredited to the Minister of Foreign Affairs as Chargé d'Affaires *per interim*, and was not accredited to the foreign Court as Chargé d'Affaires *ad hoc*, he cannot be considered as being during those periods, a Minister Resident within the meaning of the Act. If we are right in supposing that Mr. Doyle was thus only Chargé d'Affaires *per interim*, his case differs materially in this respect from that of Sir C. Wyke, who, as we understand, was certainly Chargé d'Affaires *ad hoc*, accredited to the foreign Court, and so, possibly, a Minister Resident within the true and fair meaning of the statute.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 97.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 26.)

My Lord, *Temple, March* 26, 1868.

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 12th instant, stating that, with reference to our Report of the 28th ultimo, he was directed by your Lordship to transmit to us, together with the previous papers, a letter from Mr. Percy Doyle, dated the 18th instant, again urging his claim to a diplomatic pension equal to that assigned to Sir C. Wyke; and Mr. Egerton was pleased to request that we would again take Mr. Doyle's case into our consideration, and report to your Lordship our opinion thereupon, so far as regards the points now adverted to by Mr. Doyle.

In obedience to the commands of your Lordship we have again taken Mr. Doyle's case into consideration, and have the honour to report—

That we see no reason to alter the opinion lately given by us as to Mr. Percy Doyle's pension.

From a perusal of Mr. Doyle's last letter, it appears to us that he misapprehends the view which we took of the case.

Sir Charles Wyke, whose case Mr. Doyle considers to form a precedent in his favour, was accredited to a foreign Court at which there was no other superior Minister. He was, therefore, head of the Mission, and it was on this ground that his claim to be a Minister Resident within the Act was supported.

Mr. Percy Doyle's case differed from Sir C. Wyke's in this essential particular, namely, that he acted as Chargé d'Affaires *per interim* only, and was liable to be superseded at any moment by the Minister superior in grade, during whose absence only he acted as head of the Mission.

It appears to us that, under these circumstances, though the claim of Sir C. Wyke may be supported, that of Mr. Doyle fails.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## Monte Video.

### No. 98.

*The Law Officers of the Crown to Lord Stanley.*—(*Received Janaary* 14.)

My Lord, *Temple, January* 13, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th of December, 1867, stating that he was directed by your Lordship to transmit to us therewith a despatch from Her Majesty's Chargé d'Affaires at Monte Video (No. 48, November 13), relative to the judicial proceedings which have taken place in the Courts of the Uruguayan Republic with regard to the trial of the person accused of the murder of an English family named Campbell, in the district of Colonia; and to request that we would take this paper into our consideration, together with the previous correspondence therewith annexed, and that we would inform your Lordship what course we consider it right for Her Majesty's Government to pursue in this matter.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That by the public verdict it appears, that the jury determined that Damaso Escobar was not proved to be guilty of the murder with which he was charged.

Inferentially, it appears that the jury considered that the accused was guilty of the robbery committed at the time the Campbells were murdered, and that the bloody knife found at the house of the Campbell family, and which was supposed to be the "corpus delicti," was the instrument used by Damaso Escobar up to a few days before the murder of the Campbell family.

It is difficult to understand what further evidence the jury required to enabled them to give a verdict of guilty, but we cannot say, not having the depositions before us, that the verdict of not proven was perverse, or that the trial was conducted unfairly.

The accused seems to have been sentenced to the arbitrary punishment of imprisonment for ten years under some law, which, as we presume, confers power on the Judge to award punishment for offences proved in the course of the trial, though they are not those for which the accused is actually tried.

It will, we think, be proper to ascertain whether, as the verdict is, that the charge was "not proved," Damaso Escobar can again be put on his trial for the murder. If this could be done, we think that in such a case another trial should be demanded. The strong comments made by Mr. Lettsom as to the insecurity of life, and the immunity and protection enjoyed by assassins in the Uraguayan Republic, may induce your Lordship to consider hereafter whether a joint remonstrance may not properly be addressed by Great Britain and other aggrieved European Governments against evils so generally asserted and complained of.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 99.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 9.)

*Temple, March* 7, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 21st ultimo, stating that he was directed by your Lordship to transmit the correspondence as noted in the margin,* which had passed between the Foreign Office and Her Majesty's Chargé d'Affaires at Monte Video, relative to the prevalence at that port of the practice of crimping sailors from British vessels; and Mr. Egerton was pleased to request that I would take these papers into my consideration and favour your Lordship with my opinion, as to whether the failure of the local Government to protect British merchant shipping against such proceedings as those reported in the inclosed papers, will justify any naval interference on the part of Her Majesty's Government within the jurisdiction of the Oriental Republic.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That I do not think that Her Majesty's Government can properly authorize any naval interference within the jurisdiction of the Oriental Republic. The practice complained of touches the public peace of the port, and is properly a subject of local jurisdiction.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 100.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 28.)

*Temple, April* 28, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed by your Lordship to transmit to me the accompanying letter from the Admiralty, dated the 21st instant, inclosing a letter from Rear-Admiral Ramsay, reporting the circumstances under which he has received on board his flag-ship "Narcissus," from the British steamer "Tycho Brahe," two political refugees, Colonel Flores and Captain Clarke, formerly officers in the Monte Videan army; and Mr. Hammond was pleased to request that I would take the same into my consideration and favour your Lordship with my opinion thereupon.

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* Mr. Lettsom, No. 73, Commercial; to Mr. Lettsom, No. 9, Commercial; Mr. Lettsom, No. 77, Commercial, 1867; Mr. Lettsom, No. 5, Commercial, 1868.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That Her Majesty's ship "Narcissus," being in an open roadstead, was entitled of strict right to receive on board any passenger from a British merchant-ship also riding in the roadstead, and I do not think that there was any abuse of that right on the present occasion. I assume that there was perfect good faith in the representation made by the parties received on board Her Majesty's ship, and that they had no intention of violating the laws of Monte Video, when they took passage on board the British steamer "Tycho Brahe," and that they had not committed any violation of those laws by entering any port or harbour of Monte Video before the "Tycho Brahe" was brought up in the roadstead.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 101.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 22.)

*Temple, December* 21, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence,* which has taken place with Her Majesty's Chargé d'Affaires at Monte Video, relative to the death in that city of Estevan Enrique, a British subject, which was occasioned by the violence of a policeman; and Mr. Hammond was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion as to the instructions which should be addressed to Her Majesty's Chargé d'Affaires with regard to this matter.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the question of compensation to the widow of Estevan Enrique may properly be allowed by your Lordship, to rest on different grounds from those on which the trial and punishment of the policeman may be insisted upon, and that Her Majesty's Chargé d'Affaires may be instructed to take advantage of the offer of his Excellency Dr. Herrera y Obes, to recommend the case of the widow to the generous sympathy of the Government of the Republic without waiting for the result of the trial.

I have, &c.
(Signed) TRAVERS TWISS.

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# Netherlands.

## No. 102.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 26.)

*Temple, March* 25, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 11th instant, stating that he was directed by your Lordship to transmit to me a despatch from the Acting British Consul at Batavia, reporting his proceedings in regard to the derelict British vessel "Maggie Leslie," and calling attention to the interpretation which the local authorities have put on the terms of the IXth Article of the Convention between Great Britain and the Netherlands of 1856, in so far as derelict vessels are concerned.

Mr. Murray was also to inclose a letter from the Board of Trade containing the observations and suggestions of that Department with regard to the case, and also a further despatch from Acting Consul McLean, not yet communicated to the Board of Trade, from which I should learn that an arrest has been laid by the Receiver of Wrecks on both ship and cargo, as a security for the payment to him of a per-centage which he alleges is due to him.

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* Major Munro, Nos. 18, 25, 32, and 38; to Major Munro, September 8, 1868.

Mr. Murray was pleased to request that I would take these papers into my consideration, and report to your Lordship my opinion as to the steps which should be taken in the matter.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the present case does not seem to me, upon either of the statements of Acting Consul McLean, to come within the IXth section of the Convention of 1856 (Hertslet, x, p. 478), which applies to vessels cast upon the coast of a colony or foreign possession of either of the Contracting Parties, where there is no person on the spot to represent the owners. Mr. McLean states in his letter of the 14th December, 1867, that the British vessel "Maggie Leslie" had been abandoned at sea, and was subsequently picked up by the English barque "Frisi Yama," the mate and four seamen of which vessel were put on board the "Maggie Leslie," and brought her as salvors into the port of Batavia. Under such circumstances it would depend upon the law of Batavia who should have the custody of the derelict until the owner appeared (the "Aquila," 1 Chr. Robinson, p. 42), and what remuneration should be paid to the salvors. I do not think that the circumstance to which Mr. McLean alludes in a subsequent part of his letter, that he could prove by a letter from the President of Banca that the barque had been stranded in Netherlands Indian waters, and not abandoned on the high seas, would affect the case, if the barque was subsequently found by the salvors afloat, and derelict at sea.

On the other hand, I find it stated in the correspondence from the Board of Trade, that as the vessel was stranded, and was abandoned by her crew, whilst she remained on the rocks a stranded ship, she ought to have been given up to the Acting Consul at once.

Before advising your Lordship upon the question whether the local authorities have put a correct interpretation on the IXth Article of the Convention of 1856, I should wish for some fuller information as to the circumstances under which the salvors found and took possession of the derelict, and also whether there is any colonial law under which the Receiver of Wrecks at Batavia is entitled to 6 per cent. upon derelicts picked up at sea brought by the salvors into that port.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 103.

*The Queen's Advocate to Lord Stanley.*—(*Received August* 31.)

*Temple, August* 29, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that, with reference to my Report of the 25th March last, upon the subject of the proceedings of the Netherlands authorities at Batavia with respect to the derelict ship "Maggie Leslie," he was directed by your Lordship to transmit to me, together with the previous papers which were therewith returned, two further despatches upon this subject from the Acting British Consul at Batavia; and Mr. Hammond was pleased to request that I would favour your Lordship with my opinion thereupon.

In obedience to the commands of your Lordship I have the honour to report—

That I am of opinion that it would be advisable for Her Majesty's Government to come to an agreement with the Government of the Netherlands for the amendment of Article IX of the Convention of 1856, so that its provisions should be made applicable to the vessels of either of the Contracting Parties found derelict on the high seas, and brought into a port of a Colony or foreign possession of the other. In the case of the "Maggie Leslie" there has been less difficulty, owing to the circumstance of the salvors being of the same nationality as the ship; but a very inconvenient dispute might have arisen if Dutch salvors had fallen in with the "Maggie Leslie" and brought her into Batavia, and given her up to the Dutch Receiver of Wrecks, who would appear to be authorized by the law of Batavia to take possession of derelicts, and the British Consul had intervened under Article IX of the Treaty and claimed to take possession of the vessel and cargo for the benefit of the owner.

In the present case, as the Batavian authorities have admitted that the case of the "Maggie Leslie," as she had been on the Alcestis Reef, was within the Convention, I am of opinion that Mr. Acting Consul McLean may be properly instructed to bring to the attention of the Batavian authorities the loss which has been occasioned to the owners of the cargo by the sale of it at a low rate, for which, as at present informed, I do not see that there was any justification, the hull of the ship being reported by Mr. McLean to have been perfectly uninjured, and Mr. McLean being apparently prepared to make the necessary advances for the payment of the salvage and other expenses.

I have, &c.
(Signed) TRAVERS TWISS.

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## Pacific Islands.

### No. 104.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 4.)

*Temple, March* 3, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 7th ultimo, stating that he was directed by your Lordship to transmit to me the correspondence regarding an offer which the Hawaiian Government have made to conclude with this country a reciprocity Treaty similar to that which they have recently concluded with the United States.

That, before deciding as to the course to be taken with respect to this offer, your Lordship's attention had been directed to the terms of the existing Treaty between England and the Sandwich Islands.

That on referring to that Treaty I should observe that the IIIrd Article is a *conditional* most-favoured-nation Article, which stipulates reciprocal equivalent concessions as a condition of such treatment in respect of all "favours," privileges, and immunities in matters of commerce and navigation. The IVth Article, on the other hand, stipulates that, as regards imports and exports, no higher duties shall be applied to British than to any other produce.

That under the terms of the Treaty it is competent for the Hawaiian Government to terminate it by giving twelve months' notice, and a differential system of duties might thus be created in the Sandwich Islands in favour of the United States.

That to obviate an inconvenience of this nature two courses are open to your Lordship, either to accept the offer of the Hawaiian Government and to enter into negotiations for a new Treaty, or to claim, under the terms of the existing Treaty, the right of Great Britain to share unconditionally in the commercial advantages which the United States have secured by important concessions.

That should the latter course be adopted, it is not impossible that the Hawaiian Government, relying on the terms of the IIIrd Article above referred to, might resist the claim of Her Majesty's Government; and Mr. Murray was pleased to request that I would take the terms of the existing Treaty into my consideration, and report to your Lordship my opinion whether Her Majesty's Government are thereby entitled to claim unconditionally from the Hawaiian Government equal privileges to those conceded to the United States.

In obedience to your Lordship's commands I have taken the terms of the existing Treaty into consideration, and have the honour to report—

That I am of opinion that Her Majesty's Government is entitled, under Article IV of the Treaty of July 10, 1851, to insist upon no other or higher duty being imposed on the importation into the Hawaiian Islands of any article, the growth, produce, or manufacture of Her Majesty's dominions than will be payable under the Convention lately concluded between the United States of America and the King of the Hawaiian Islands on the like articles, being the growth, produce, or manufacture of the United States; and that as no duties will henceforth be payable in the parts of the Hawaiian

Islands on the importation of any of the articles specified in Article II of the latter Convention, no duties can be imposed in those ports upon the importation of the like articles, being the growth, produce, or manufacture of Her Majesty's dominions.

It may be observed that the language and arrangement of the IIIrd and IVth Articles of the Treaty of 1851, differ from the language and arrangement of the paragraphs of the IVth Article of the Portuguese Treaty of 1842, and that the "conditional most-favoured-nation" clause is the subject of a separate Article in the former Treaty, and precedes the Article which contains the stipulations respecting duties upon imports and exports. This circumstance relieves the Treaty of 1851 of any possible ambiguity, as Article III of that Treaty, which contains the "conditional most-favoured-nation clauses" is totally silent on the subject of *goods*, and speaks exclusively of favours, privileges, and immunities granted to the *subjects* or *citizens* of the Contracting Parties; whereas the Convention lately concluded between the United States of America and the King of the Hawaiian Islands, declares *goods* which are the growth and produce of the United States and the Hawaiian Islands respectively, to be duty-free, without any reference to the *parties* importing them, whether they are *subjects* or *citizens* of the Contracting Parties or of any other State. There would thus appear to be no favour, privilege, or immunity granted by this latter Convention, which can properly be said to be granted to the *subjects* or *citizens* of the Contracting Parties, so as to come within the scope of Article III of the Treaty of 1851.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 105.

*Law Officers' Report, May 18, 1868.*

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### No. 106.

*The Law Officers of the Crown to Lord Stanley.—(Received August 18.)*

*Temple, August 18, 1868.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 16th July ultimo, stating that, on the receipt of our Report of the 18th May last upon the subject of the proposed Order in Council extending the provisions of the Foreign Jurisdiction Act to British subjects in the Fiji Islands, your Lordship requested the Lords of the Treasury to submit that Report, together with all the previous correspondence upon the subject, to Mr. Reilly, for any further observations he might have to make thereupon; and that he was then directed by your Lordship to transmit to us the accompanying letter from the Treasury, dated the 14th ultimo, inclosing Mr. Reilly's opinion.

Mr. Murray was pleased to remark that we would observe that, after consulting with Captain Jones, lately Her Majesty's Consul in the Fiji Islands, Mr. Reilly was satisfied that no sufficient jurisdiction had ever been exercised by Her Majesty in the Fiji Islands to warrant the passing of the proposed Order; and to request that we would favour your Lordship with our opinion as to the practicability of carrying out Mr. Reilly's suggestion that an Act of Parliament should be passed for the purpose of of bringing the islands in the Pacific, and possibly other countries, within the scope of the Foreign Jurisdiction Act.

The former papers connected with this question were annexed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That it appears to us that, in the case of the Fiji Islands and in similar cases, power might be conferred by Act of the Imperial Legislature on a Commissioner or person designated by some such title to exercise limited jurisdiction in civil and criminal cases over the British subjects resident in such islands. The Act which we have suggested would be framed somewhat on the same principle as that on which the Act passed by the United States, and of which an extract is sent to us with the papers, appears to be based, but the provisions as to the extent of jurisdiction, and the mode of giving effect to the powers of the Commissioner will require careful consideration.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## Peru.

### No. 107.

*The Queen's Advocate to Lord Stanley.—(Received February 29.)*

*Temple, February 28, 1868.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to me therewith a despatch and its inclosures from Her Majesty's Chargé d'Affaires at Lima, on the subject of a forced contribution which, it appears, that the revolutionary party in Peru who have taken possession of Cerro de Pasco, have compelled the inhabitants of that district, among whom are certain British subjects, to pay towards defraying the expenses of the *de facto* Government; and Mr. Hammond was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion thereupon.

A copy of the Treaty between this country and Peru, alluded to in Mr. Jerningham's despatch, was also sent therewith.

In obedience to your Lordship's commands I have taken the despatch and its inclosures into consideration, and have the honour to report—

That I am of opinion that your Lordship cannot, under present circumstances, properly direct any complaint to be made on behalf of Her Majesty's subjects who may be established at Cerro de Pasco, against the Government of the Republic of Peru, on the ground of a violation of Article IX of the Treaty of 1850. That Article, as I understand it, stipulates for an exemption from forced loans to be levied by one or other of the Contracting Parties; but, in the present case, it appears that Cerro de Pasco is in possession of a body of insurgents, who have established a "new order of things" in that town, and that the forced loan has not been levied by the Government of the Republic of Peru, with which the Treaty was concluded, but against the will and in defiance of the authority of that Government. It may, indeed, happen that the Government of the Republic, if it should have had the power to afford assistance for the protection of the property of British subjects in Cerro de Pasco, and should have

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failed to do so, may have incurred a responsibility under the common law of nations, and may hereafter be called upon to make compensation, but it would be premature, I think, to raise such a question until the insurrection has been put down, and the authority of the Government of the Republic re-established in the town, as, until its authority has been re-established, there is every presumption that the power of the Government has been inadequate to control the insurgents.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 108.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 16.)

*Temple, December* 15, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th ultimo, stating that he was directed to transmit to me the accompanying despatch and its inclosures from Her Majesty's Chargé d'Affaires at Lima, having reference to an opinion which has been given by one of the Peruvian Crown lawyers with regard to the responsibility of the Government for granting indemnity to a certain M. Prieur, a French subject, on account of his shop having been pillaged by the mob during the revolution in Lima in January last; and to request that I would take the same into consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the question of right as regards the claim of a foreigner to be indemnified by the Government of a country in which he has suffered loss or injury must depend upon the circumstances of each particular case, and is not in all cases governed by the principle which is assumed in the opinion of the Peruvian Crown lawyer that "the utmost protection owed to foreigners is to concede to them that which is conceded to natives." Such a rule, if applied in all its rigour, would be in evident conflict with various examples in which States have admitted their responsibility to indemnify foreigners for the seizure and confiscation of their property under circumstances when their own subjects would have had no right under their municipal law to be indemnified by their Government.

It appears to me, therefore, that your Lordship may properly approve the conduct of Her Majesty's Chargé d'Affaires at Lima in recording his dissent from the opinion issued by the Peruvian Crown lawyer, but your Lordship will probably think it advisable to instruct him at the same time not to commit Her Majesty's Government to any general proposition of public law on the subject.

I have, &c.
(Signed) TRAVERS TWISS.

## Portugal.

### No. 109.

*The Queen's Advocate to Lord Stanley.*—(*Received January* 13.)

*Temple, January* 13, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 4th instant, stating that he was directed by your Lordship to transmit to me, with reference to the Report of my predecessor, dated May 14, 1863, and July 18, 1864, a despatch from Her Majesty's Consul at Lisbon, calling attention to a Memorial of the British merchants resident at that capital, complaining of the increased taxation imposed upon them by the levying upon them of a per-centage on the "decima industrial," or tax on rents, which they contend cannot, under the terms of the Treaty of 1842 and its second explanatory note, exceed a maximum of 20 per cent.

That the per-centage thus levied, is stated to have been imposed for the maintenance of roads, and is described as an "imposto de viacão," and that I should perceive from Sir A. Magenis' despatch No. 57 of 1864, that the right to levy a per-centage for this purpose has already been questioned by the British community at Lisbon, and that the legal adviser of Her Majesty's Legation in that capital had advised Sir A. Magenis that British subjects are not exempt in Portugal from taxes which were established by law, provided those taxes are general and equal for all,—both natives and foreigners. That the opinion thus given is confirmed in the Report of my predecessor, dated July 18, 1864, and that it would therefore seem that Her Majesty's Government would not be justified in claiming redress for the British merchants as regards the imposition of this per-centage; but that before your Lordship furnishes Mr. Consul Brackenbury with instructions in the matter, your Lordship would be glad to learn my opinion on the merits of the case.

In obedience to your Lordship's commands I have the honour to report—

That it will be desirable that your Lordship should be furnished with precise information whether the "imposto de viacão" of which the Memorialists complain, does, or does not, as a matter of fact satisfy the conditions under which the Portuguese Law Adviser of Her Majesty's Legation at Lisbon in 1864, held that the Portuguese Government had a right to impose it, under the Treaty of 1842.

There are no particulars to be found in the correspondence, as far as I am aware, which show that the new impost is "a tax general and equal to all, both natives and foreigners," and although the mode of levying it as a per-centage upon the "mancio industrial" is by no means conclusive that the assessment is an infraction of the Treaty as the Memorialists contend, still the mode of levying it suggests that an inquiry may be usefully made before your Lordship determines what reply shall be made to the Memorialists upon two points: first, whether the "imposto de viacão" is levied upon any British or Portuguese subject who is wholly exempt from the operation of the "mancio industrial," and if so how it is circulated? secondly, whether the same per-centage upon the "mancio industrial" is levied under the name of "imposto de viacão," in the case of a Portuguese as of a British subject, as it would appear from the statement of the Memorialists that, since 1842, Portuguese merchants have only been charged with the payment of a "mancio" of 10 per cent. upon their houses &c., whilst British merchants have been assessed at the rate of 20 per cent., and if not, how the new impost is calculated in the case of a Portuguese subject.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 110.

*The Queen's Advocate to Lord Stanley.*—(*Received February* 14.)

*Temple, February* 14, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of 10th February instant, stating that he was directed by your Lordship to

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transmit to me therewith a despatch and its inclosures from Her Majesty's Chargé d'Affaires at Lisbon, together with previous correspondence which has taken place, relative to the arrest and temporary detention by the police authorities in Portugal of Mr. Godson, a British subject, under the belief that that gentlemen was a person of unsound mind; and Mr. Hammond was pleased to request that I would take this case into my consideration and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That it appears from Mr. Consul Brackenbury's letter of 12th December, 1867, that Mr. Godson, when brought by the police to the British Consulate, made no complaint, upon being asked by the principal clerk, against the local police authorities, and rather seemed anxious to exculpate them than to bring any charge against them; and further that, before he left the Consulate, he was again asked whether, on reflection, he considered that he had any grounds of complaint: upon which he reiterated his denial of having any complaint to make, and left the Consulate apparently satisfied. As these inquiries were made by the principal clerk, after he had opened the letter of the Civil Governor placing Mr. Godson at the disposal of the Consul, and after he had received Mr. Godson from the hands of the police, I consider the reason alleged by Mr. Godson in his letter to your Lordship in explanation of his having made no complaint at the Consulate against the police authorities, namely, that he was still in custody, is not satisfactory.

Further, it appears from the same letter, which is dated from Lisbon, that Mr. Godson's present complaint to your Lordship is directed against the general police authorities at Lisbon, as he states that he cannot disabuse his mind of the conviction that his being taken into custody at Cassilas "must have originated with some one *here* in more or less police authority." So far, however, from the facts of the case affording any reasonable grounds for such a conclusion, they point the other way; and I consider your Lordship may properly decline to entertain Mr. Godson's complaint on this head, as it is entirely unsupported by facts.

If it were necessary for your Lordship to come to any conclusion as to the state of Mr. Godson's mind, the fact of his not being able to disabuse himself of a conviction for which there is no reasonable foundation to be discovered in the events which occurred at Cassilas, would rather indicate the existence of mental delusion on his part and support the view of the Portuguese authorities that Mr. Godson is not in full possession of his intellectual faculties. The incoherency of the concluding paragraphs of his letter to your Lordship would also be accounted for on this supposition.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 111.

*The Law Officers of the Crown to Lord Stanley.—(Received March* 2.)

*Temple, February* 29, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 23rd January ultimo, stating that he was directed to state to us that during the last two years a negotiation has been in progress between Her Majesty's Government and that of Portugal with a view to the conclusion of a Treaty, the object of which would be to place the commercial relations between the two countries on an important footing. That that negotiation has unfortunately failed for the present, and that we should observe from the inclosed extract of a despatch from Sir Augustus Paget (No. 18, Commercial, 1867), that the Portuguese Government, appealing to the terms of the IVth Article of the Treaty of 1842 between Great Britain and Portugal, copy of which was also inclosed, maintain that it is competent for them, by negotiation with other Powers, to extend to other countries advantages which would be denied to British commerce. That we should also learn from the correspondence that, in the year 1860, the Portuguese Government appealed to the same Treaty stipulation, as precluding Her Majesty's Government from establishing differential duties against Portuguese wines; and that Her Majesty's Government confined themselves, in reply, to pointing out that the scale of wine duties then established was not of a differential character as between country and country, but as between wines containing different degrees of alcoholic strength. That the question, however, as to the legal interpretation of the IVth Article of the Treaty of 1842 has now been brought under your Lordship's attention by the circumstance that the Portuguese Government have lately entered into a Commercial Treaty with the French Government, which, as we should see from the inclosed despatch from Her Majesty's Consul at Lisbon, is considered to place British interests in a disadvantageous position in violation of the spirit of the Treaty of 1842; and Mr. Egerton was pleased to request that we would take these papers into consideration and report to your Lordship our opinion as regards the power of Portugal to withhold from this country any commercial concessions which may be granted to other countries.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the language of Article IV of the Treaty of 1842 is such that it is difficult to say that the interpretation which the Portuguese Minister seeks to put upon it is incorrect, and it is certainly unfortunate that he should be able to quote the despatch of Lord Russell of the 20th March, 1860, in support of his construction.

The contention of the Portuguese Minister rests on the concluding words of Article IV, which, he alleges, allows his Government to alter Customs duties in favour of a Power, by which an equivalent or compensation has been given, but to maintain the higher duties against a Power unable or unwilling to give an equivalent or compensation. Such a construction would clearly override the express language of the earlier parts of the Article.

The first part expressly provides that the subjects of the two Sovereigns shall not pay in the ports, harbours, &c., in either kingdom, any other or higher duties, &c., than those which are there paid by the subjects or citizens of the most-favoured nation. The next branch of the Article is equally expressed, and in terms provides, that no duty of Customs or other impost shall be charged upon any goods the produce of the one country upon importation by sea or by land from that country into the other, higher than the duty or import *charged* upon goods of the same kind, the produce of, and imported from, any other country. This probably refers to Customs duties existing at the time of the Treaty.

In the next branch the words are changed, and have a wider scope, and refer to *future* duties. "*No duty restriction or prohibition shall be imposed* upon the importation or exportation from one country to the other of the goods and produce of each which shall not be imposed upon *goods* of the same kind, when imported from, or exported to any other country."

The last branch of the Article is not, in form at least, introduced as a *proviso*, qualifying what precedes it, nor in terms does it relate to *duties or imposts* at all.

It stipulates that neither Power is to grant any favour, privilege, or immunity in matters of *commerce* or *navigation* to the *subjects* or *citizens* of any other State which shall not be extended to the subjects of the other Power gratuitously or conditionally, according to circumstances. On the best construction we can put upon these vague words, they have not the effect of qualifying or controlling the express and absolute stipulations which precede them. The words may well be satisfied by holding them referable to favours, privileges, and immunities in matters of commerce other than those relating to impost on goods which have been previously expressly provided for; and, on the whole therefore, we think that the construction sought to be put by the Portuguese Minister on this Article is not that which according to its fair interpretation it ought to bear.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 112.

*The Queen's Advocate to Lord Stanley.—(Received March* 11.)

*Temple, March* 10, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 6th instant, stating that, with reference to my Report of the 13th of January, he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Consul at Lisbon, containing the further information with which I requested to be furnished with regard to the right of British subjects in Portugal under the

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Treaty of 1842, to exemption from the payment under the name of "imposto de viação," of a per-centage upon the "decima industrial," the maximum amount of which, as fixed by the above-mentioned Treaty, is already levied upon them.

Mr. Murray at the same time returned to me the papers relating to this question which were inclosed in his letter of the 4th of January, and he was pleased to request that I would now favour your Lordship with my opinion as to the merits of the case.

In obedience to your Lordship's commands I have the honour to report—

That it appears from Mr. Brackenbury's despatch to your Lordship, that the "imposto de viação" is levied upon persons who do not pay the "decima industrial;" and that the form in which it is levied on such persons is by way of a per-centage upon some other tax or group of taxes to which they are liable. It appears further, that some of the British subjects upon whom the "imposto de viação" is levied, do not pay the "decima industrial," in which case they pay their contribution to the "imposto de viação" in the shape of a per-centage or surcharge upon the "predial" or "pessoal" tax. Under these circumstances I am of opinion that the "imposto de viação" must be regarded as a distinct tax from the "decima industrial," and that the assessment of it upon such British subjects as pay the "decima industrial," in the form of a per-centage upon the latter tax does not affect its character as a distinct tax, and is not a violation of the Treaty privilege of British subjects, which limits the amount of the "decima industrial" payable in their case to a maximum of 20 per cent.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 113.

*The Queen's Advocate to Lord Stanley.*—(*Received September* 2.)

*Temple, August* 31, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 17th ultimo, stating that he was directed by your Lordship to transmit to me therewith, two letters, dated respectively the 14th and 15th ultimo, from Mr. Mee Mathew, who is Counsel for Mr. F. Andrews, a British subject, resident in Portugal, whose property is alleged to have sustained damage during the civil wars in that country in the years 1833 and 1834, and whose claims on that account have given rise to a long correspondence between Her Majesty's Government and that of Portugal; and Mr. Murray was pleased to request that I would take Mr. Mathew's letter, together with the former papers relating to the case, which were forwarded therewith, into my consideration, and favour your Lordship with my opinion as to whether Her Majesty's Government would be warranted in extending to Mr. Andrews the same unofficial support which, with the concurrence of Her Majesty's Advocate-General, had formerly been afforded to him.

In obedience to your Lordship's commands I have the honour to report—

That I have perused the whole of the correspondence on the subject of this claim, and see no grounds for differing from the opinions which have been at various times expressed by my predecessors in office. As, however, Mr. Mee Mathew represents, on behalf of Mr. J. Andrews, that Count d'Avilar, who has succeeded the Count de Togal as Minister of Foreign Affairs at Lisbon, is "ready and willing to refer the claim of Mr. J. Andrews to arbitration, if your Lordship will, as your predecessors have done, again urge the Portuguese Government to do so," I think that your Lordship may, without impropriety, instruct Her Majesty's Minister at Lisbon to use his good offices with Count d'Avilar to bring about a settlement of this long-pending claim, by a reference to arbitration.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 114.

*The Queen's Advocate to Lord Stanley.*—(*Received October* 13.)

*Temple, October* 13, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 10th instant, stating that he was directed to transmit to me two letters from Messrs. Capper, Clark, and Rose, complaining of the annulment by the Portuguese Legislature of a contract entered into between them and the Portuguese Government for the construction and working of a submarine telegraph cable between England and Portugal; and Mr. Murray was pleased to request that I would take these papers into consideration, and report to your Lordship my opinion whether the case is one in which your Lordship is called upon to take any or what steps.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. Capper, Clark, and Rose appear to have entered into a contract with the Portuguese Government for the construction of a submarine telegraph between England and Portugal, which was approved by a Decree of the King of Portugal, but has been subsequently annulled by a Decree of the Portuguese Cortes.

The complainants state that the concession did not require any submission to the Cortes, but it is not suggested by them that the Cortes had no constitutional power to annul the concession. Upon the statement of facts submitted to your Lordship, I am of opinion that your Lordship is not called upon to direct any official representation to be made to the Portuguese Government in the sense suggested by the complainants, with a view to procure for them the reimbursement of their expenses and "such separation as they may consider themselves entitled to under the circumstances."

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 115.

*The Queen's Proctor to Mr. Hammond.*—(*Received December* 21.)

*Doctors' Commons, December* 21, 1868.

Sir,

I HAVE the honour to acknowledge the receipt of your letter of the 24th ultimo, stating, that you were directed by Lord Stanley to transmit to me a letter from Messrs. Clarkson and Cooper, dated the 29th April last, requesting his Lordship's intervention in the matter of a collision between the British barque "Meg Merrilies" and the Portuguese vessel of war "Estaphama," and also stating that his Lordship had, on the advice of the Queen's Advocate (whose reports on the subject you transmitted), proposed to the Portuguese Government that the case should be submitted for the arbitration of the Judge of the High Court of Admiralty, and that I should perceive from the inclosed note from Count Lavradio, that the proposal had been accepted. That you were also to inclose sundry documents obtained from the respective parties, which, in the opinion of the Queen's Advocate, would be sufficient to enable the case to be submitted to the Judge of the High Court of Admiralty; and you were therefore to request that I would lose no time in taking steps accordingly, and in offering to take his directions for any assistance he might require.

I beg to state that, in accordance with Lord Stanley's directions, I prepared a case for arbitration, and waited upon the learned Judge of the High Court of Admiralty therewith, who desired me to state, that he thought the case of the Portuguese war-steamer, was left rather "bare," as there was no evidence from the man on deck at the time of the collision, nor were any extracts from the log-book produced. The learned Judge, therefore, thought that the attention of the Portuguese Minister should be called to these facts, with the view of affording him the opportunity of producing the evidence if he be in a position to do so; and, if not, his Lordship will proceed to fix a day for the hearing of the case.

I have, &c.
(Signed) F. H. DYKE.

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## PORTUGAL.—PRUSSIA.

### No. 116.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December 28.*)

*Temple, December* 28, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 24th instant, stating that, with reference to my Report of the 27th August last, he was directed to transmit to me the draft of a letter which was addressed from the Foreign Office to the Queen's Proctor, explaining the steps which, in compliance with my suggestions, have been taken as regards the proposed arbitration in the case of the "Meg Merrilies" and "Estephania." Mr. Otway also inclosed the reply received from the Queen's Proctor, from which I should perceive that it has been suggested to your Lordship that the Portuguese Legation should have an opportunity of putting in further evidence in support of their case; and was pleased to request that I would furnish your Lordship with my opinion, whether this step can properly be taken, and, if taken, whether any further evidence, which may in consequence be tendered on the Portuguese side, should be communicated to the parties interested in the "Meg Merrilies" before it is laid before the Arbiter.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may properly communicate to Count Lavradio the view of the learned Judge of the High Court of Admiralty as to the case of the Portuguese war-steamer having been left rather "bare," in the absence of any affidavit from the man on deck at the time of the collision and any extracts from the log-book of the steamer, and that an opportunity should be offered for such evidence to be tendered on the Portuguese side, if it is thought by him advisable. If any such evidence should be tendered, copies should be furnished on behalf of the war-steamer to the parties interested in the "Meg Merrilies" before the hearing of the case, but it will not be necessary to furnish any such copies to those parties before it is laid before the Arbiter.

I have, &c.
(Signed) TRAVERS TWISS.

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## Prussia.

### No. 117.

*The Queen's Advocate to Lord Stanley.*—(*Received August 8.*)

*Temple, August* 6, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 28th ultimo, stating that he was directed by your Lordship to transmit to me a letter from Mr. Herring, who requested to be informed whether a certificate of naturalization taken out by him in 1855 enables him to claim British protection as against his native country, Prussia, when travelling abroad.

A Memorandum on the subject drawn up in the Foreign Office was also inclosed therewith; and Mr. Egerton was pleased to request that I would have the goodness to take the papers into my consideration, and favour your Lordship with my opinion as to the reply which should be given to Mr. Herring's application.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it appears from Mr. Herring's letter that he is a native of Prussia, and was naturalized in Great Britain in 1855, and has since that time been established as a merchant in the latter country; I assume, therefore, that his *domicil* is British at the present time, which is a consideration of preponderating weight, in my opinion, as regards the *international status* of Mr. Herring whilst he is travelling in any third country.

Your Lordship will, I think, be fully justified by precedent and on principle in

### No. 116*.

*The Queen's Advocate to Lord Stanley.*—(*Received May 7.*)

*Temple, May* 6, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to me a letter from Mr. Crossthwaite,* formerly Her Majesty's Consul at Cologne, praying that Her Majesty's Government will intervene to procure the annulment of his naturalization, and that of his son, as Prussian subjects, in order that the latter may be exempted from the penalties of not answering the call made upon him for military service in Prussia.

Mr. Murray was pleased to remark that I should see from the annexed Report of the Law Officers of the Crown, dated November 1862,† that the legal liability of Mr. Crossthwaite's son to such service has already been under consideration. It was not considered necessary at that time to make a further reference to the Law Officers; but with reference to the remark in this Report, that it was not stated what was the obligation under which Mr. Crossthwaite had become naturalized, Mr. Murray was pleased to state to me that the obligation was imposed upon Mr. Crossthwaite by the requirements of Prussian military law, and that his Exequatur as Consul at Cologne could not be issued until he had complied with those requirements.

Under these circumstances, Mr. Murray was pleased to request that I would favour your Lordship with my opinion as to whether any, and what, steps should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands I have the honour to report—

That the only mode whereby Mr. Crossthwaite can be denaturalized in Prussia, as far as I am aware, is by obtaining from the Prussian Government what is termed "a permission to emigrate."

The same observation will apply to his son, Mr. Henry Crossthwaite, who appears to have been born in England in 1843, and is therefore now of full age. I apprehend that, under the Prussian law, minor children only, who are still subject to the paternal authority, follow the condition of the father, and that it will be necessary for Mr. Henry Crossthwaite to obtain for himself "a permission to emigrate." As Mr. Henry Crossthwaite appears to have left Prussia in the year 1860, he had not at such time attained the age of 20 years complete, at which age he would have become liable to military service, and would have been bound to present himself before a Military Commission. Mr. Henry Crossthwaite does not therefore seem to have violated the law of Prussia in any other manner than by leaving the Prussian territory without permission, and thereby evading the obligation to present himself at the proper time to the Military Commission. For this he would be liable to a penalty varying from 50 to 1,000 crowns, or to imprisonment for a term varying from one month to one year.

I consider that Mr. Henry Crossthwaite, if he is desirous to divest himself of his Prussian national character, with a view to travel in security in North Germany, ought to comply with the requirements of the Prussian law, and that if he is disposed to do so the good offices of Her Majesty's Government may be exercised in his favour at Berlin to support an application on his part for "a permission to emigrate." He will, however, be required, in all probability, before his application can be entertained, to set himself right with the Prussian authorities, by submitting to any penalty to which he may be liable for leaving Prussia without permission; and I think that the good offices of Her Majesty's Government may also be exercised in his favour in that respect, so that he may be required only to pay the minimum penalty, as there can be no doubt, from Mr. Crossthwaite's statement, that his son was not aware, when he returned to England in 1860, that he was guilty of any breach of Prussian law, and that he did not at that time leave Prussia for the purpose of evading any military obligation, of which fact the Prussian authorities may require to be certified.

I have, &c.
(Signed) TRAVERS TWISS.

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* April 22, 1868.

† Confidential No. 1301, p. 272.

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according to Mr. Herring the full protection of the British authorities in any foreign country except Prussia. If Mr. Herring, however, should return to the country of his birth, his domicil of origin may be held to revive, and his native national character will *pro tanto* revert. But as long as Mr. Herring is travelling on his business as a merchant in any third country, his *municipal status* as a naturalized subject of the British Crown will entitle him by British law to your Lordship's protection, whilst his *international status* of a domiciled Englishman will justify your Lordship in claiming from the Government of the country in which he is travelling the same comity which it shows to other members of the same nation.

It is not very probable that Prussia will venture to demand from the Netherlands or France the surrender of Mr. Herring as a Prussian deserter pursuant to the Treaties of 1818 or 1828, which are referred to in the Memorandum which accompanies Mr. Egerton's letter, unless Mr. Herring should return to Prussia, and after his return attempt to evade the obligations of military service by seeking an asylum in the Netherlands or France. They would clearly not be applicable to Mr. Herring, whilst domiciled in England, on occasions of his visiting the Netherlands or France on matters concerned with his mercantile establishment in England.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 118.

*The Law Officers of the Crown to Lord Stanley.—(Received October* 31.)

*Temple, October* 30, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 2nd instant, stating that, with reference to our Report of the 28th of July last, he was directed by your Lordship to transmit to us a further letter from Mrs. Harper, with its inclosures, respecting the detention in Germany of the illegitimate daughter of her husband by the family with whom the young lady has for some time past been residing; and Mr. Egerton was pleased to request that we would take these papers into consideration and furnish your Lordship with our opinion as to the reply which should be returned to Mrs. Harper's application.

We are also honoured with Mr. Egerton's letter of the 5th instant transmitting a further despatch from Lord Loftus relating to this case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the proper reply to be sent to Mrs. Harper will be, that it is not in the power of Her Majesty's Government, under the circumstances of this case, to insist on the delivery up of Miss Mary Harper either to Mr., Mrs., or Miss Emma Harper. That the remedy, if any exist, of any person claiming the right of compelling Mr. Ree to deliver up the girl must be in the Prussian Courts.

Whether Mr. Harper, having regard to Mr. Winke's opinion, would think it worth while to resort to those Courts, must rest with him; but there seems every reason for anticipating that such proceedings would not terminate successfully. We think that the substance of the latter part of the Prussian Minister's letter stating the grounds upon which Mr. Ree refuses to give up the girl, and the determination of the Prussian Government that they cannot interfere, might also be communicated to Mrs. Harper.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

# Russia.

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### No. 119.

*The Law Officers of the Crown to Lord Stanley.*—*(Received January* 29.)

My Lord, *Temple, January* 29, 1868.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 26th of December, 1867, stating that, with reference to the accompanying Reports from Her Majesty's Advocate-General upon various questions which have been submitted to him respecting the proceedings of Mr. Grenville-Murray,* Her Majesty's Consul-General at Odessa, and to our Reports of the 28th May and 22nd of August last, respecting the question of the validity of a marriage celebrated at Odessa between William Laney and Sarah Cramer, he was directed by your Lordship to inform us that, in consequence of the unsatisfactory nature of Mr. Grenville-Murray's explanations upon these and other points, your Lordship considered it necessary that an inquiry should be instituted at Odessa into his proceedings and into the manner in which he has conducted his official duties; and you accordingly selected Mr. Wilkins, Her Majesty's Consul at Chicago, to undertake this duty.

Mr. Murray was also pleased to state that he was now to transmit to us that gentleman's Report, dated the 18th ultimo, together with the papers and evidence to which it refers; and to request that we would take the papers into our consideration and favour your Lordship with our opinion upon the facts which they disclose, and as to the course which Her Majesty's Government should now pursue with respect to Mr. Grenville-Murray.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That we have carefully considered the Report of Mr. Wilkins, and the documents referred to therein, and we have had the advantage of conferring with Mr. Wilkins on two occasions. The Report, however, appears to us to be so carefully prepared that we base our observations on the case entirely upon that Report and the documents accompanying it.

With regard to the first question investigated by Mr. Wilkins, viz., the granting of passports to the Ionians, Alexander and John Vucina, we may remark that we have not seen the earlier documents of 1863, referred to in the Report, from the recital of which, however, it appears that, in 1863, Mr. G. Murray had asked for a passport for John Vucina which had been refused by Lord Russell; and it certainly seems difficult to suppose that Mr. G. Murray could have been ignorant that these gentlemen were Ionians and that they ceased to be entitled to British protection upon the cession of the Ionian Islands to Greece in 1864.

It is true, that Mr. Grenville-Murray says he was ignorant that the applicants were Ionians, and, as far as we can judge from the statements before us, it seems difficult to ascribe any improper motive to Mr. G. Murray in allowing the passports to be issued. But upon the facts stated, unless explained, we think that Mr. G. Murray is certainly open to the charge of negligence; for if, as pointed out by Mr. Wilkins, he did not know Messrs. Vucina personally, and did not know them to be entitled to British passports, he should have required confirmation of their statements; and if he did know them personally, it was his duty to satisfy himself that they were so entitled before he gave orders that they should receive passports. Further, we think that under the circumstances of the case Mr. Wilkins' criticism on the form of application is well founded, and that the peculiar statement that the applicants *have been* British subjects, ought to have attracted attention and led to further inquiry. It must be remembered, however, that Mr. Grenville-Murray was on the eve of quitting Odessa, and that under the pressure of business, and preparation for departure, this may have escaped his notice.

In his letter of the 8th April, 1867, to your Lordship, Mr. Murray writing apparently from recollection, states that the passports were granted on the written declaration of two resident merchants that Messrs. Vucina were British subjects, but we find no declaration by any merchants *other* than Messrs. Vucina to this effect. The words, quoted apparently by Mr. Wilkins, "and not Ionians," do not appear in *this* letter. As regards the non-receipt of fees on passports, Mr. Grenville-Murray has already given his explanation. The fact that fees were not received is admitted. Whether Mr. Grenville-Murray acted rightly or improperly in this respect is a question upon which probably it is not expected that we should now express an opinion.

The next case to which Mr. Wilkins refers in his report is that relating to Mr. Charlton's application for the box and papers belonging to Messrs. Furness and Company, and it appears to us unnecessary to make many observations on this matter. The box and papers have been restored, through Mr. A. Cutbill, to Messrs. Furness. Mr. Grenville-Murray and Mr. Charlton are at issue upon the question, whether the latter sent the papers and box to the Consulate for safe custody, or whether the former took possession of them at the request of the late Mr. Cutbill. This is a matter which it seems unnecessary to pursue further. We have not before us Mr. Murray's letter of the 2nd March on this subject to Mr. Grenville-Murray (referred to in the letter of Mr. G. Murray of the 8th April), and cannot judge whether after that letter, which seems to have made a claim on behalf of Mr. Charlton, Mr. G. Murray was justified in handing over the box and papers without further communication with your Lordship to Mr. A. Cutbill. As, however, no complaint on this score was made at the time, we think the matter should not be adverted to now.

At the end of Mr. Wilkins's report on this case, a matter is incidentally mentioned of some importance, as bearing on the Taglioferro case—viz., the fact that M. Antonne's contract, of which a certificate of registration was given, and to which M. Antonne says Mr. G. Murray affixed the seal, bears only a medallion wafer similar to that on document No. 7, and not the Consular Seal.

The report on the Tagliaferro case, and the documents laid before us with reference to this case, are the next matters to which we have to advert.

The principal question that arises upon them is, whether the account already given by Mr. Grenville-Murray and Madame Tagliaferro can be deemed to be a truthful and satisfactory account of the document No. 7, and the purposes for which, and circumstances under which that document was signed, sealed, and issued. We have come to the conclusion that that explanation, read by the light thrown upon the case by the further documents and statements now before us, is wholly unsatisfactory. Of course, we cannot tell what further explanation may be given, nor can we form any opinion as to what Mr. Grenville-Murray's real or assumed position towards Madame Tagliaferro and her children may be; whether he is a trustee or executor under Madame Tagliaferro's late husband's will, or in what other capacity (besides that of Consul) he acts, but we cannot give credit to Mr. Grenville-Murray's statement, even though backed by that of Madame Tagliaferro in letters, which it is difficult to believe were not written in concert with Mr. Grenville-Murray, that the document in question was a draft sent to a man of business for perusal, and not used or intended to be used in the completion of the purchase. It appears to us that documents, and apparently well ascertained circumstances, completely contradict these assertions both of Mr. Grenville-Murray and Madame Tagliaferro, and cast grave suspicion upon both. The impression made on the minds of Messrs. Tubino that they have been made the victims of a fraud, and that the British Consul has aided in the deception, is certainly well justified by present appearances.

Upon the fourth matter referred to by Mr. Wilkins, and upon which he has reported—viz., the irregularities committed by Mr. Grenville-Murray with relation to the solemnization of marriages at Odessa, it appears unnecessary for us to comment at any length, as the letter of the Registrar-General, who has examined the register, and who points out irregularities in it, and also refers to the neglect of duty with respect to certified copies of marriages transmitted from Odessa (though we have no precise information as to the nature of the neglect complained of), is before your Lordship. We think that the Registrar-General should be requested to point out *in detail* all the informalities he has detected in the register and otherwise, and that Mr. Grenville-Murray's explanation of this charge should be required.

The "Laney" marriage we propose to advert to elsewhere.

The report of Mr. Wilkins on the fifth matter inquired into by him again discloses irregularity and improper conduct on the part of Mr. Grenville-Murray. The instructions of the Foreign Office as to registering births and deaths are not before us, but it appears clear that irregularities in carrying out the instructions have existed, and the special case of "Oakley," adverted to by Mr. Wilkins, calls for serious consideration.

On the question as to Consular fees, it appears that Mr. Wilkins does not consider his Report complete, and as it now stands the Report on this subject hardly calls for

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* March 14, 25, and 30, April 24, May 28, August 22, 1867.

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any observation from us. No doubt, however, sufficient appears on the face of it to justify suspicion that Mr. Grenville-Murray was either lax in exacting the proper fees, or negligent in accounting for them.

With respect to the "Laney" marriage, the further information obtained by Mr. Wilkins shows that Mr. Horowitz *says* that he had a special authority (which he offers to produce) from Mr. G. Murray to act for him, and a draft letter, the original of which we presume was sent by Laney to Mr. Horowitz states, whether truly or falsely we know not, that the Rev. Mr. Clarke performed the ceremony in Mr. Horowitz's presence.

If a clergyman performed the ceremony, it may be valid, though Mr. G. Murray was not present, and either did not appoint, or could not by law appoint a substitute. The information on this case is still incomplete and unsatisfactory. We agree in thinking that the signature in the Register is not that of Mr. Horowitz (if his other signature be genuine), and it remains doubtful whether, if Mr. Horowitz were present, he acted otherwise than as a witness to the marriage.

Your Lordship will probably think that the first charge (as to the passports), is reduced to a charge of neglect on the part of Mr. Grenville-Murray, in not taking further precautions to ascertain that Messrs. Vucina were entitled to British passports, and that the second (Charlton's) need not be further noticed.

The other charges all require explanation, especially the Tagliaferro case, for as to the others to which we have adverted (except as regards the Laney marriage) the *facts* cannot, we presume, be much in dispute.

We think that a written statement of the *results* of Mr. Wilkins' investigation, should be sent to Mr. Grenville-Murray, in order that he may make such explanation or comment as he may deem right, and that he should be informed of the existence of the documents upon which in part the Report is based, and which apparently lead to the inference that his former explanations are insufficient. An offer should be made to him of copies of such documents as he desires to have, with an intimation that he may see the originals at the Foreign Office if he should wish to do so, or perhaps as regards the less important and more bulky documents, such as the extracts from Maltese tribunals, he should be offered inspection with liberty to take any extracts he may require. The same observation applies to the registers brought from Odessa.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 120.

*The Law Officers of the Crown to Lord Stanley.—(Received February 26.)*

My Lord,
*Temple, February* 26, 1868.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 12th instant, stating that, with reference to our Report of the 29th ultimo, he was directed by your Lordship to state to us that your Lordship called upon the Registrar-General to give the details which we suggested that he should be asked for, regarding the irregularities of Mr. E. C. Grenville-Murray, Her Majesty's Consul-General at Odessa, with respect to the registration of births, deaths, and marriages.

Mr. Murray was also pleased to state that those details are recorded in the accompanying letter from the Registrar-General, and to request that we would favour your Lordship with my opinion as to whether the facts pointed out by the Registrar-General call for any and what action on the part of Her Majesty's Government.

Mr. Murray was at the same time to inform us that a copy of Mr. Wilkins' Report has been forwarded to Mr. Grenville-Murray for any observations that he may have to offer thereon; and that Mr. Grenville-Murray has availed himself of the offer made to him to be allowed to inspect at the Foreign Office the documents inclosed in Mr. Wilkins' Report.

Mr. Murray added that Mr. Grenville-Murray on these occasions has been accompanied by his solicitor.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we think that the attention of Mr. Grenville-Murray should be directed to the irregularities and omissions in his performance of duty pointed out by the Registrar-General as the result of his examination of the Register which it was the duty of Mr. Grenville-Murray to keep, and in the transmission of certified copies of the Registrar-General's Department.

We think, however, that the substance only of the Report of the Registrar-General should be forwarded to Mr. Grenville-Murray; and as there are certain comments, statements, and observations which it is not, in our opinion, expedient to incorporate in the document sent to Mr. Murray, we have thought it best to forward with this Report a draft letter which your Lordship may think proper and sufficient for the purpose of pointing out to Mr. Murray the irregularities and omissions which appear to exist in the Registers and the breaches of duty which require explanation.

We have taken this course because we think it open to doubt whether the Registrar-General's views as to the construction of some of the Statutes to which he refers can be supported, and on this point we would beg leave to call attention to the following remarks:—

The second irregularity noticed by the Registrar (which we have numbered in pencil (2) in the margin) would not be penal under sec. 42 of 6 and 7 Will. IV, cap. 86, unless it could be proved that Mr. Grenville-Murray, "while he had the custody of the Register Book, carelessly allowed the same to be injured whilst in his keeping."

In the charges numbered by us in pencil 3, 4, 5, and 6, all reference to the Statute 6 and 7 Will. IV, cap. 85, and the felonies created by that statute had better be avoided as it is open to grave doubt whether, although that statute is, by one of its sections, incorporated with 6 and 7 Will. IV, cap. 86; and the 12 and 13 Vict., cap. 68, is, by sec. 18, incorporated with the last-mentioned statute, such incorporation extends to the statute 6 and 7 Will. IV, cap. 85, so as to make that statute a part of the Foreign Marriages Act. The comment of the Registrar-General on case 7 ought also in our opinion to be omitted.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### Inclosure in No. 120.

*Draft of Despatch to Mr. Grenville-Murray.*

*Foreign Office,*

Sir,

BY the direction of Lord Stanley the Registrar-General has been directed to report on the state of the Register of Births, Marriages, and Deaths recently kept by you as Consul-General at Odessa; and I am desired by his Lordship to call your attention to the following irregularities and omissions which have been pointed out to his Lordship by that officer:—

The entries of marriages have not been made in regular order from the beginning to the end of the book, as required by the Foreign Marriage Act.

The Register, which ought to have been carefully kept, appears to be in a mutilated condition.

It appears that in the case of the marriage of R. F. Oakley and E. Fletcher, No. 17, solemnized 23rd August, 1863, by banns, the notice was given on the 17th of August and the certificate granted on the same day, in contravention of the provisions of the Foreign Marriage Act.

In the case of the marriage of J. Dismore and E. Somosky, No. 18, solemnized on 17th January, 1864, notice appears to have been given on 7th January, 1864, and a certificate dated on the same day but not signed. The marriage appears to have been solemnized before the expiration of twenty-one days, and without certificate being duly issued.

With respect to the marriage of W. Laney and J. Cramer, No. 19, solemnized 14th September, 1865, the notice is dated the 22nd August, 1865, and in it the essential particulars as to dwelling-place and length of residence are left blank, and the license appears to have been granted on the same day. This marriage is recorded as celebrated according to the rites of the churches of *England* and *Scotland*. There is no signature of Consul-General, or of any person described as duly authorized to act for him, appended to this entry.

With respect to the marriage of G. Goddard and M. Vasilima (No. 20), solemnized

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on 18th October, the notice is not signed by either party, and is dated $\frac{\text{27th September}}{\text{9th October}}$, 1865. The certificate is not signed by the Consul-General, but is dated the 9th October, 1865.

The Registrar-General points out that, in the Register of Births, No. 13, the birth of Jane Sarah Oakley is recorded as having occurred at *Steblow* on the 24th August, 1863; whereas the father and mother are registered as having been married at *Odessa* the day before,—Steblow being, as it is understood, far distant from Odessa. At No. 15 in the book the same mother is recorded (forty-seven days after the birth of Jane Sarah Oakley at Steblow) to have given birth to a boy, Richard Thomas Oakley, at Kieff, on 10th October, 1863.

With respect to your conduct in transmitting certified copies of registers to the Registrar-General's Department, it is stated by the Registrar-General that he has had to notice improper delays in such transmission; that the copies have not been on proper forms; that in some cases it appears that wrong dates have been inserted; and that there have been irregularities in certifying such copies and attaching the Consular seal.

The irregularities in your conduct, with reference to your duties in and in connection with the solemnization of marriages, have led to serious inconvenience, and have caused doubts to be thrown on the validity of marriages, which have rendered it necessary to pass a special Act of Parliament; and I am directed to ask for any explanation you may desire to furnish as to these charges of improper conduct and neglect in the discharge of the duties of your office.

I remain, &c.

[J. B. K.
W. B. B.
T. T.]

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## No. 121.

*Queen's Advocate's Report, March 5, 1868.*

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## No. 122.

*The Law Officers of the Crown to Lord Stanley.—(Received April 3.)*

*Temple, April* 2, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 12th ultimo, stating that, with reference to our Reports of the 26th February and 29th January, and to previous correspondence respecting the inquiry into the conduct of Mr. Grenville-Murray, Her Majesty's Consul-General for Odessa, he was directed to transmit to us the accompanying letter from Messrs. Cookson, Wainwright, and Co., solicitors to Mr. Grenville-Murray, asking, on behalf of that gentleman, for copies of various documents relating to the inquiry. A Memorandum drawn up by Mr. Wilkins, to whom the application was referred, was also inclosed, and Mr. Murray was pleased in request that we would furnish your Lordship with our opinion as to the answer that should be returned to Messrs. Cookson, Wainwright, and Co.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the general rule to be observed with respect to the application of Mr. Grenville-Murray is, that he, or his advisers, should be allowed to inspect and take copies of all documents in the possession or under the control of the Foreign Office which have any relevancy to the charges made against Mr. Grenville-Murray, so as to enable him to answer or explain those charges. Any written instructions given by the Secretary of State to Mr. Wilkins or to any person ordering inquiry to be made, or any communication made privately to the Foreign Office, should be considered confidential communications, as should cases laid before the Law Officers and opinions on such cases, and production of such documents should be refused. Any application for the production of documents not in the possession, or under the control of the Foreign Office at home or abroad, or of any document equally accessible to Mr. Grenville-Murray as to any Agent of the Foreign Office should be refused.

These answers will, we believe, easily enable your Lordship to determine as to each of the seventy-three applications made on behalf of Mr. Grenville-Murray.

We think that the answer to be given to Messrs. Cookson and Co. might properly be to the effect following:—

That the Report of Mr. Wilkins is founded, as is to be gathered from the Report itself, upon statements made to him in the course of the investigation directed by your Lordship, which investigation Mr. Grenville-Murray declined to attend, and not solely on documentary evidence.

That it is your Lordship's desire that every facility should be afforded to Mr. Grenville-Murray and his advisers to inspect every document in the control of the Foreign Office referred to in Mr. Wilkins' Report, and upon which that Report is based, and that these will be produced at the Foreign Office for inspection upon reasonable notice.

That your Lordship is not aware that there are under the control of the Foreign Office at Odessa or elsewhere, papers, deeds, documents, letters, or accounts belonging to Mr. Grenville-Murray, relating to the estate of the late M. Simon Tagliaferro and his family, but that your Lordship will give instructions that any papers, &c., in the custody or under the control of the Foreign Office in Odessa or elsewhere, relating to such estate, and which are necessary to enable Mr. Grenville-Murray to answer or explain the charges made against him, shall, on application, be produced. That your Lordship cannot consent that private Reports made to the Foreign Office, cases submitted to the Law Officers, and their opinions, instructions given to Mr. Wilkins, and other documents of a like description mentioned in the list, and assumed, in some cases erroneously, to be in existence, and which in no way tend to prove or rebut any charge made against Mr. Grenville-Murray, shall be produced; and that, while it is impossible for your Lordship to answer Messrs. Cookson, Wainwright, and Co. more specifically than you have done, in stating what existing documents included in the list can properly be produced, your Lordship will at all times, subject to what is above stated, be ready to consider any application for the production of any particular document that may be required to insure Mr. Grenville-Murray every opportunity of answering the charges made against him.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

### No. 123.

*Queen's Advocate's Report, April* 17, 1868.

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### No. 124.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 30.)

My Lord, *Temple, April* 29, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed by your Lordship to transmit to me a despatch and its inclosures which your Lordship had received from Her Majesty's Ambassador at St. Petersburgh (No. 38), respecting the arrest and sentence of expulsion from Russia which has been pronounced against a British subject named Demartino, under the circumstances therein set forth; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the circumstances of this case are not such, in my opinion, as to call for your Lordship's intervention.

It appears that the Russian authorities at Odessa or at St. Petersburgh have put in force against Mr. Demartino, a native of Malta, certain police regulations authorizing the expulsion of foreigners, whose conduct may have afforded grounds for suspicion to those authorities.

The grounds of suspicion in the present case have their foundation in a letter which was addressed by Mr. Demartino, when he was in London in 1866, to his partner, Mr. Goldstein, inclosing a Warsaw bank-note of 150 roubles for sale, and stating that if he could undertake the sale of such paper, certain parties in London would give him (Demartino) a large quantity, and allow them (Demartino and Goldstein) 50 per cent. discount.

This letter was, upon its receipt, placed by Mr. Goldstein at once in the hands of the Russian authorities at Odessa, as the bank-note was one of a large parcel of notes stolen from the Bank of Warsaw, and the matter was referred to the authorities at St. Petersburgh.

Mr. Demartino seems not to have returned to Odessa until, according to the report of Her Majesty's Consul, "the matter had quieted down," but the attempt to put the stolen bank-notes into circulation at a commission of 50 per cent., seems to have rendered Mr. Demartino an object of deserved suspicion to the Russian authorities.

Mr. Demartino has submitted to Her Majesty's Minister at St. Petersburgh a version of this transaction, which is irreconcilable with his own letter, and upon which your Lordship, in my opinion, would not be warranted in placing any reliance.

There being thus just and substantial grounds of suspicion against Mr. Demartino, I consider that the objection, to which Her Majesty's Minister alludes, respecting charges against foreigners in Russia being dealt with administratively instead of judicially, would hardly apply to a case in which the overt act, which has given rise to the suspicion, has been committed beyond the limits of Russian jurisdiction.

I have, &c.

(Signed) TRAVERS TWISS.

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### No. 125.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 30.)

*Temple, April* 30, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 22nd April instant, stating that, with reference to our Report of the 2nd instant, he was directed by your Lordship to transmit to us a letter dated the 17th instant, from Messrs. Cookson and Wainwright, acting on behalf of Mr. Grenville-Murray, requesting to be informed as to which of the documents connected with the case, enumerated in the list inclosed by them,* can be communicated to them, as well as with the grounds on which the production of any of the documents is declined by your Lordship.

Mr. Murray was pleased to say that he would perceive from that letter that Messrs. Cookson and Wainwright state that it will not be in their power satisfactorily to discharge their duty towards Mr. Grenville-Murray under the disadvantage of being precluded from seeing documents which they consider "throw valuable light on the proceedings of Mr. Wilkins."

That from the correspondence connected with the case, as already communicated to us, we are aware that the matter at present in question does not relate to the proceedings of Mr. Wilkins, whose Report on the case was only communicated to Mr. Grenville-Murray, as your Lordship was unwilling to arrive at a final decision on the case without affording to him an opportunity of furnishing such explanations as he might have to offer in the matter; that from the tone of Messrs. Cookson and Wainwright's letter, as quoted, there is, however, reason to surmise that the object which the parties now have in view, is to avail themselves of the opportunity thus afforded them by your Lordship to advance charges founded on the proceedings of Mr. Wilkins in discharging the duty entrusted to him by your Lordship; and that under these circumstances your Lordship is of opinion that the time has now arrived for recalling the matter to the issue which was contemplated by your Lordship, by informing

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* Minute of Messrs. Cookson and Co.'s letter; Former papers; Messrs. Cookson and Co., March 4; to Messrs. Cookson and Co., April 3; Law Officers, April 3, 1868.

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Mr. Grenville-Murray, to whom alone your Lordship proposes that further communications in the matter should henceforward be addressed from your office, that he must now give a definite answer to the charges brought against him.

That, in making to Mr. Grenville-Murray a communication in this sense, he would be reminded that, when your Lordship deputed Mr. Wilkins to make the investigation into his proceedings, every opportunity was afforded to him to be present at the inquiry thus set on foot, and that he alone is responsible for any disadvantage which he may consider himself to have suffered owing to his not having availed himself of your Lordship's offer; Mr. Grenville-Murray's attention would also be called to the permission granted to him by your Lordship to visit the Foreign Office with his solicitor for the purpose of inspecting such documents connected with the case as could properly be placed before him, and he would be informed that, as he has now been enabled to make himself acquainted with the charges brought against him, and had been given every opportunity for explanations or observations, your Lordship only suspends a final decision in the matter, until your Lordship learns whether Mr. Grenville-Murray has any statements to advance in his defence.

Mr. Murray was pleased further to state, that your Lordship would be glad to learn our opinion as to the course thus proposed to be pursued in the present position of the case; but your Lordship requested that we would also report our view as to the propriety of two alternative courses, the one being whether Mr. Grenville-Murray might not properly be required to answer the specific charges contained in Mr. Wilkins' Report, without being put in possession of the grounds on which those charges were made; the second course being the indictment of Mr. Grenville-Murray for the malpractices laid to his charge in the matter of the marriages, and of Madame Tagliaferro's property.

In obedience to your Lordship's commands we have the honour to report—

That we concur in thinking that a letter should be addressed to Mr. Grenville-Murray in the sense proposed, and that in acknowledging the receipt of Messrs. Cookson and Co.'s letter they should be referred to Mr. Murray's letter, and informed that Lord Stanley has addressed a letter to Mr. Grenville-Murray apprizing him that all further communications must take place directly between him and the Foreign Office, and that upon the charges made against Mr. Grenville-Murray of official irregularities and breaches of duties which have been brought pointedly to the attention of Mr. Grenville-Murray, and upon which his Lordship is awaiting his answer, his Lordship cannot enter into further correspondence with his solicitors.

We think that, whilst Mr. Grenville-Murray should be pressed for his answer to the charges at an early date, all reasonable indulgence should still be afforded him for the purpose of giving his answer. Mr. Grenville-Murray's policy will probably be to make out a case of hardship and difficulty in bringing forward his answer to the charges; it will be desirable not to give him any opportunity of setting up as a grievance that every reasonable opportunity has not been afforded him of meeting the charges made against him.

As to the alternative courses, to which our attention is directed, it appears to us that Mr. Grenville-Murray has already been put in possession of the grounds on which the specific charges were made, and the offer to give him access to documents cannot, we think, be retracted.

As to the second course, we do not think that it would be expedient to adopt criminal proceedings against him either with reference to the marriage registers or the Tagliaferro property. We are by no means prepared to say from our recollection of the facts that there is evidence on either of those charges sufficient to convict Mr. Grenville-Murray in a Criminal Court.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 126.

*The Law Officers of the Crown to Lord Stanley.*—(*Received May* 28.)

My Lord,
*Temple, May* 26, 1868.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 19th instant, stating that, with reference to our Report of the 30th ultimo,

he was directed by your Lordship to transmit to us the following papers connected with Mr. Grenville-Murray's case:—

1. The draft of a letter from the Foreign Office, calling upon him for his final explanations;
2. Mr. Grenville-Murray's reply;
3. Mr. Wilkins' Memorandum on the statements contained in that reply; and,
4. The draft of a letter which your Lordship proposes to address to Mr. Grenville-Murray, communicating to him the decision at which your Lordship has arrived in the matter.

Mr. Murray was pleased to state that we should perceive that, in dealing with the case, it is your Lordship's intention to confine yourself to the facts which concern the manner in which Mr. Grenville-Murray has discharged his official duties, and that various subjects of complaint against Mr. Grenville-Murray, which have been under our consideration, are not alluded to in the proposed letter. That the matter thus assumes an official, rather than a legal form; but, inasmuch as the general charges brought against Mr. Grenville-Murray have been under our consideration, Mr. Murray was pleased to request that we would report to your Lordship at our earliest convenience our opinion whether we concur in the terms of the letter which your Lordship proposes to address to Mr. Grenville-Murray.

In obedience to your Lordship's commands we have the honour to report—

That the first ground upon which it is stated in the draft letter proposed to be sent to Mr. Grenville-Murray, that your Lordship recommends the commission of Mr. Grenville-Murray to be cancelled, relates to the Vucina passports.

We would submit that Mr. Grenville-Murray may take exception to the grounds of the conclusion in this case.

The statement of Mr. Grenville-Murray, in his answer to the Report of Mr. Wilkins, may be read as amounting to this: that although he would have implicitly trusted a statement of a member of the Vucina firm that he was a British subject (page 27), yet his invariable rule (14) was to require the written declaration of two resident merchants as to the nationality of the applicant; and he states (page 20) that he probably gave *general* instructions to Mr. Perkins (who, we believe, actually issued the passports) only to issue passports on the usual evidence being furnished.

Taking Mr. Grenville-Murray's *whole* statement together, we suggest that he may contend that it amounts to this: that even where he implicitly trusted a statement made by one of the Vucina firm, he would still have had a certificate by two merchants in pursuance of the rules of the office, and that he did not order Mr. Perkins to issue the passports except in ordinary course—that is, after production of such a certificate. His explanation is not consistent with his letters of February 1867 and March 1867, but if your Lordship thinks our view of the present statement of Mr. Grenville-Murray correct, a modification of the first conclusion will be desirable.

The second conclusion is founded on Mr. Grenville-Murray's statement (page 183). The refutation of the accuracy of the statement is contained in the despatch which was addressed to Mr. Grenville-Murray. We presume that he does not deny the receipt of this document.

We would suggest the addition of such words as we have inserted in the margin, because your Lordship will probably think that it was culpable negligence on the part of Mr. Grenville-Murray to act without having copies of the Statutes to guide him in matters of so much importance.

As to the third conclusion, we would suggest that it can hardly be said that the fact of a register having been furnished is "proved" by the despatches quoted. A modification of this part of the draft may be thought expedient.

Subject to the above observations, and to one or two marginal suggestions, we think that, if your Lordship considers that official negligence, warranting dismissal, is sufficiently established by the conclusions arrived at, the letter is such as may be sent to Mr. Grenville-Murray.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 127.

*The Law Officers of the Crown to Lord Stanley.*—(*Received June* 2.)

*Temple, June* 1, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 29th ultimo, stating that he was directed by your Lordship to inform us that, in pursuance of our suggestions as made in our Report of the 26th ultimo, your Lordship amended your letter to Mr. Grenville-Murray, and dispatched it in the form recorded in the accompanying draft. That its receipt had been that day acknowledged by Mr. Grenville-Murray in the accompanying letter, in which we should observe he denies the right of Her Majesty's Secretary of State to cancel Her Majesty's Commission; and Mr. Murray was pleased to request the favour of our opinion whether any, and if so, what, notice should at present be taken of that letter or of its contents.

In obedience to your Lordship's commands we have the honour to report—

That we think that Mr. Grenville-Murray's letter requires no answer beyond a mere acknowledgment, coupled perhaps, with an intimation that no effect will be given to his protest against the cancellation of Her Majesty's Commission contained in that letter.

We have, &c.  
(Signed) JOHN B. KARSLAKE.  
WM. BALIOL BRETT.  
TRAVERS TWISS.

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### No. 128.

*The Law Officers of the Crown to Lord Stanley.*—(*Received June* 2.)

*Temple, June* 2, 1868.

My Lord,

We are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th April last, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Sir Andrew Buchanan, respecting the claim of the Russain Tribunals to exercise jurisdiction over persons in the employment of foreign Embassies and Legations at St. Petersburgh; and Mr. Hammond was pleased to request that we would take these papers into consideration and favour your Lordship with our opinion respecting this question, and as to the reply which should be returned to Sir Andrew Buchanan's despatch.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That it is somewhat difficult for us to determine the real meaning and effect of the 230th Article of the Criminal Code as completed or supplemented by the addition recently made. If the meaning of this Article be, that, in the absence of Treaty, crimes and offences of all persons in the service of Ambassadors, Ministers, and other Diplomatic Agents are subject to criminal trial on the ordinary basis, that is, as any other criminal or offender, only that the process or citation must be made through its Minister of Foreign Affaires, it appears to us objectionable and contrary to international usage; but if the meaning really be, that the trials of such persons are to be before the ordinary tribunals, but that the culprit is only to be bound to appear if the foreign Minister or Ambassador in whose service he is, shall do that which under ordinary circumstances would be done, namely, send the accused before the Court on proper application from the Russian Minister, reserving the power of refusing to waive his privilege of keeping his servant back, we think that there is no objection to it.

The Clause of the Civil Code, 225, appears to us to be in accordance with international law; but if by the new "observation" it is intended to compel persons being in the service of Ministers &c., to appear against the wish and without the consent of the Minister, before the ordinary tribunals, we think that it is objectionable. We would venture to suggest that before any remonstrance is addressed to the Russian Court on the subject of these laws, it would be expedient for Sir A. Buchanan to take an opinion of a Russian lawyer as to what, according to the Russian law, is the true scope and meaning of the Criminal and Civil Codes as now amended, and if the recognized interpretation be, that all persons in the service of the Minister, or "belonging to foreign Embassies," by which we understand members of the official suite, are to be *bound* to appear before the Courts, whether the Minister consents or not, remonstrance against a law, so likely to be productive of inconvenience and discomfort to the Minister, should be made.

We have, &c.  
(Signed) JOHN B. KARSLAKE.  
WM. BALIOL BRETT.  
TRAVERS TWISS.

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### No. 129.

*The Attorney- and Solicitor-General to Lord Stanley.*—(*Received August* 3.)

*Temple, July* 31, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th July instant, stating that, with reference to our Report of the 2nd June last, he was directed by your Lordship to transmit to us, together with the former papers,* the accompanying further despatch from Sir A. Buchanan,† on the question of the jurisdiction of Russian Tribunals over foreign Missions in Russia; and to request that we would again take the matter into consideration, and favour your Lordship with opinion thereupon.

In obedience to your Lordship's commands we have again taken the matter into our consideration, and have the honour to report—

That the Report of Mr. Roebuck upon the Code and Oukase appears to us to render it unnecessary to object to or remonstrate against the law. The 230th section of the Criminal Code is said by him to apply to those *servants* only who would be amenable to the ordinary Russian Tribunals. That section, however, is silent as to the mode in which such servants are to be served with process, and the supplementary law provides for the mode of procedure, ordering the service of citation to be made through the Minister of Foreign Affairs. We presume that that Minister receiving the citation would communicate with the Ambassador or Minister in whose employment the servant is, so as to consult the Ambassador or Minister as to the mode and time of serving the citation on the offender. This would be a proper and recognized course, and we think could not be objected to. The 225th section of the Code of Civil Procedure and its supplement also apply, as Mr. Roebuck states, only to such *servants* as before mentioned of the Ambassadors, and, as explained seems unobjectionable. By the service of process through the Foreign Minister who, as we have assumed, would consult the Ambassador as to the time and mode of service on the servant, all practical inconvenience to the Ambassador will be avoided.

We have, &c.  
(Signed) JOHN B. KARSLAKE.  
WM. BALIOL BRETT.

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## Saxony.

### No. 130.

*The Queen's Advocate to Lord Stanley.*—(*Received February* 21.)

*Temple, February* 21, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letters of the 18th instant, stating that, with reference to my letter of the 18th December of last year, stating that further information should be obtained respecting the case of Mr. Joseph Warburton now in prison at Dresden, he was directed by your Lordship to

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* Sir A. Buchanan, No. 21, March 27; to Sir A. Buchanan, No. 43, June 6, 1868.

† Sir A. Buchanan, No. 141, July 4, 1868.

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transmit to me a despatch from Her Majesty's Chargé d'Affaires in that city, containing a statement of the case which has been drawn up by Mr. Warburton's lawyer; and Mr. Egerton was pleased to request that I would favour your Lordship with my opinion as to what should be done in the matter.

The previous correspondence was therewith inclosed for my convenience.

In obedience to your Lordship's commands I have the honour to report—

That it appears from Dr. Gunner's statement that Mr. Joseph Warburton has been arrested on a criminal charge, and that the District Court of Dresden, before which the prosecution has been instituted, has declined to accept bail on his behalf. I do not think that it would be advisable for your Lordship to authorize Mr. Burnley to lay any statement privately before the Saxon Minister of Justice. If the health of Mr. Joseph Warburton is suffering from his imprisonment, that circumstance ought to be brought to the notice of the District Court in the ordinary way, and it will be for that Court to determine whether it can consistently with its own rules of procedure accede to an application made on those grounds. It does not appear that any such application has been made as yet to that Court. On the other hand, no suggestions has been made by Dr. Gunner of any unwarrantable delay in the conduct of the case, which would justify an intervention of your Lordship with the Saxon Minister of Justice with a view to expedite the examination of accounts, which are admitted to be of a very complicated character.

I have, &c.
(Signed) TRAVERS TWISS.

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# Siam.

## No. 131.

*The Law Officers of the Crown to Lord Stanley.—(Received July 9.)*

My Lord,

*Temple, July* 8, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th June ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, dated the 18th untimo, forwarding a correspondence which has taken place between the Siamese Government and the Governor of Singapore, relative to the apprehension in that Colony of a Chinaman accused of coining Siamese money; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the course that should be pursued in the matter.

In obedience to your Lordship's commands we have taken the papers submitted to us into our consideration, and have the honour to report—

That we are of opinion that the answer of the Governor of Singapore to the Siamese Minister of Foreign Affairs is correct.

The statute 24 and 25 Vict., cap. 99, sections 18 to 24 inclusive, may serve as a guide for the legislation proposed by the Governor, though the statute itself not having we believe been extended to the Colonies by statute similar to the 16 and 17 Vict., cap. 48, has no operation or effect there. It appears to us right that the defect in the Criminal Law should, as proposed by the Governor, be remedied by legislation in the Colony as soon as possible.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 131*.

*The Law Officers of the Crown to Lord Stanley.—(Received July 13.)*

*Temple, July* 13, 1368.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 28th of April last, stating that he was directed by your Lordship to transmit to us a correspondence with the Colonial Office respecting a Convention which it is proposed to conclude with the Rajah of Queddah, a dependent of Siam,* and to request that we would favour your Lordship with our opinion as to whether there is anything objectionable in the provisions of the proposed Convention.

We are also honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd of June ultimo, stating that, with reference to Mr. Egerton's letter of the 28th April, forwarding a correspondence with the Colonial Office in regard to a Convention which it is proposed to conclude with the Rajah of Queddah, he was directed by your Lordship to transmit to us a further letter, dated May 25, from the Colonial Office, inclosing a copy of a despatch which has been received from the Governor of the Straits Settlements, forwarding, for ratification, a Treaty which he has entered into on the part of Her Majesty's Government with that of Siam respecting Queddah; and to request that we would take this Treaty into our consideration as a substitute for the Draft of Convention then before us, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That as the proposed Treaty sent to us on the 3rd ultimo is in substitution of the Convention forwarded to us with the previous papers, it seems unnecessary to make any comment on the form or terms of the latter document.

The new Treaty professes to be made by his Excellency the Governor on the part of Her Britannic Majesty, and the Commissioners on the part of the King of Siam, with the consent of Phya Sayburee Yeang de per Tuan of Queddah, and, by Article VI it is to come into operation from the date of the execution thereof by his Excellency the Governor of the Straits Settlements and the Siamese Commissioners, from which date all former Treaties, &c., are to be void, and after the signing of the Treaty it is to be submitted for ratification to Her Britannic Majesty and the King of Siam. It is signed by his Excellency, and the Commissioners, and by Phya Sayburee. We advert to this because, as we understand, the Governor had no power to enter into such a Treaty, and the question whether, under the circumstances, it should be recognized and ratified by Her Majesty if unobjectionable in substance, is one of policy.

The clause upon which we presume it is principally desired that we should report, is Article IV, relating to extradition. This Article states that "all convicts or prisoners awaiting trial, or persons against whom warrants for their arrest may be issued" for the crimes specified, who escape from British possessions into Queddah, or who may be found within the Kingdom of Queddah, shall upon formal requisition from the Governor of the Straits Settlements, or the Lieutenant-Governor of Penang to Phya Sayburee, be delivered up. It would be wise to exclude British subjects from the operation of this clause; and if, as we gather, Phya Sayburee is the *name* of the present King or Rajah of Queddah, and not the *title* of the Ruler, an alteration should be made in this respect, otherwise the Treaty will become inoperative on the demise of the present Ruler. The Article is defective in that part of it which stipulates that "in like manner all convicts or prisoners charged with similar offences," who may effect their escape from Queddah into British territory, shall be surrendered, inasmuch as the words "such" should precede "convicts," and after word "prisoners," the words "as aforesaid, and all persons against whom warrants for their arrest may be issued for the crimes hereafter specified," should be inserted, and the words "charged with similar offences" struck out.

As regards the crimes and offences specified, we would remark that "gang robbery" and "great personal violence," are not terms known to English law, and unless these terms are recognized in Siam *and* in the Straits Settlements, it would be better to have some terms known in both countries to express the crimes. Breach of prison, unless when the person is imprisoned for a criminal offence, should hardly be included. Breach of trust, too, we should think, might be omitted, and "attempts to commit *any of these offences*" seems too wide. It is difficult to understand how an attempt to commit perjury could be proved. The Treaty might, however, properly include *attempts* to commit murder, rape, burglary, arson, and robbery.

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* Colonial Office, March 17; Extract to Colonial Office, March 25; Colonial Office, April 22, 1868.

We think for the above reasons that the clause is defective in form and substance, and that the Treaty should not be ratified as it now stands.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 132.

*The Queen's Advocate to Lord Stanley.*—(*Received November* 21.)

*Temple, November* 20, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Acting Consul in Siam (No. 48), inclosing copies of a correspondence which has passed between himself and the Siamese Government, in regard to the destruction by conflagration of some British property, which originated in an attempt of the Siamese authorities to arrest some Chinese opium smugglers; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That I think the more advisable course for your Lordship to pursue, will be to put aside entirely the question which is in dispute between Her Majesty's Acting Consul and the Siamese authorities, as to the origin of the conflagration, to instruct Mr. Alabaster to press his claim for compensation to be made to the British tenants of the Bazaar on the non-fulfilment of the obligations contracted on the part of the Siamese authorities, under Article I of the Treaty concluded by Sir John Bowring, which stipulates that "all British subjects coming to Siam shall receive from the Siamese Government full protection and assistance, to enable them to reside in Siam in all security." With regard to the point in dispute, I consider Her Majesty's Acting Consul is justified in relying on the depositions of the witnesses examined before himself, whom the Siamese authorities refused to examine. They have deposed to having seen a Siamese, whom they agree in identifying as far as the description of his dress and his person goes, with a lighted torch, evidently engaged on the outside in setting fire to the compound; whilst the inquiry before the Siamese authorities, in the course of which a Chinaman has been produced to say that he set fire to the compound on the inside in self-defence, has not elicited any corroboration from witnesses who saw him do any such act. But, however that may be, Captain Ames, a British subject, in command of the police force of the Siamese Government, was present on the spot to protect and aid the opium farmer's agents in storming the compound, and capturing its inhabitants. It is stated by the British witnesses examined before the Acting Consul, that they called Captain Ames' attention to the progress of the fire, and he refused to interfere, although his own Report to the Siamese authorities shows that he had a force of ninety armed policemen with him to assist and protect the opium farmer's agents; and that after the compound was set on fire, no active resistance was made. He further reports, that the fire spread rapidly, and caught the adjacent house; but he does not state that the police made any effort whatever to arrest the fire, or to protect or save the property of the innocent British tenants of the adjoining bazaar. Under these circumstances, I think, that the Siamese Government is responsible for the default of its police in not affording due protection and assistance to the British tenants of the bazaar, who applied for it, and who were especially entitled to it under Article I of the Treaty to which reference has been above made, and to which Her Majesty's Acting Consul has called the attention of the Siamese Minister of Foreign Affairs in his despatch of 9th September, 1868.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 133.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 11.)

*Temple, December* 10, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th November ultimo, stating that, with reference to our Report of the 13th July, he was directed by your Lordship to transmit to us a letter from the Colonial Office, dated the 10th ultimo, inclosing for your Lordship's approval a further Draft of Convention to be concluded between Her Majesty's Government and the Rajah of Queddah; and to request that we would take this letter into our consideration and favour your Lordship with our opinion as to the answer which should be returned thereto.

For our convenience, Mr. Hammond was pleased to transmit to us the former papers on this subject.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That we think that your Lordship may properly approve the course suggested in the despatch of Mr. Alabaster of the 18th March last addressed to your Lordship, and which his Grace the Duke of Buckingham and Chandos considers will best facilitate the conclusion of the Treaty, namely, that the Treaty should be concluded between the Siamese Government and Her Majesty's Consul after consultation with Sir H. Ord, and with the formal adhesion of the Rajah.

With regard to the substance of the Treaty, we would suggest that, in the Ist Article, the words "shall cease and determine" should be substituted for "shall be null and void." The crimes described as "gang robbery," and "great personal violence," should be properly defined by persons conversant with local law, as suggested by the Colonial Office and other *attempts* to commit those crimes as defined as well as the crimes of murder, robbery, arson, rape, and burglary, ought, we think, to be crimes warranting extradition.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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### No. 134.

*The Queen's Advocate to Lord Stanley.*—(*Received December* 11.)

*Temple, December* 10, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, with reference to his letter of the 2nd, and to my Report of the 20th ultimo, he was directed by your Lordship to transmit to me a further despatch from Mr. Alabaster, Her Majesty's Acting Consul in Siam (No. 54), inclosing copies of a correspondence which has passed between himself and the Governor of the Straits Settlements in regard to a difficulty as to a question of Treaty rights which has arisen between Mr. Alabaster and the Siamese Government on account of the injury done to the property of British subjects at Bangkok by a conflagration which broke out in consequence of a disturbance between some opium smugglers and the Siamese police.

Mr. Hammond was pleased to request that I would take these papers into my consideration, and favour your Lordship with my opinion on the view taken by the Colonial Attorney-General at Singapore in this matter.

For my convenience, the former despatches connected with this question were therewith transmitted to me.*

In obedience to your Lordship's commands I have taken these papers into consideration and have the honour to report—

That, upon the view which I have ventured to suggest in my previous Report, that the breach of Treaty, upon which it would be advisable for for Her Majesty's Consul at Bangkok to rely, was, in regard to the failure of the Siamese Government under Article I of the Treaty of the 18th April, 1855, to give "full protection and assistance to British subjects to enable them to reside in Siam in full security, no question would arise as to the proper mode of inquiry for the purpose of ascertaining

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* From Mr. Knox, Nos. 48 and 51; to Mr. Knox, Nos. 6 and 7.

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the origin of the conflagration. If, however, it were necessary to determine this subordinate question, it would appear from Mr. Alabaster's despatch to Admiral Keppel (September 9, 1868) that, upon the report of the British subjects whose property had been destroyed, and who charged the agents of the opium farmer with having set fire to the building, Mr. Alabaster requested the Kalahome to institute a thorough inquiry, at which he announced his desire to be present. I consider that Mr. Alabaster was so far acting in strict accordance with the following provisions of the Commercial Agreement of the 15th May, 1856 (Hertslet x, p. 567).

"That whenever a British subject has to complain against a Siamese, he must make his complaint through the British Consul, who will lay it before the proper Siamese authorities.

"That in all cases in which Siamese or British subjects are concerned, the Siamese authorities in the one case, and the British Consul in the other case, shall be at liberty to attend, and copies of the proceedings will be furnished from time to time, or whenever desired, to the Consul or the Siamese authorities, until the case is concluded."

Whether in the course of the inquiry before the Siamese authorities, Mr. Alabaster has insisted on more than his right, will depend very much upon the interpretation, which has been in practice, given to the provisions of the Treaty, under which it would appear that the Siamese authorities were bound to institute an inquiry on this occasion.

"British subjects, their persons, houses, premises, lands, ships, or property of any kind, shall not be seized, injured, or in any way interfered with by the Siamese. In case of any violation of this stipulation, the Siamese authorities will take cognizance of the case and punish the offenders."

If Mr. Alabaster's interference in the course of the inquiry before the Siamese authorities was in *substance* intended to enforce upon the Siamese authorities their Treaty obligations to take cognizance of the case, and to secure a *bonâ fide* inquiry into the merits, then I think the question of *form* would be of secondary importance, and it might well be the duty of Her Majesty's Consul, if he thought the proceedings before the Siamese authorities were intended to work a fraud upon the Treaty, to protest against them.

I am so far under the necessity of dissenting from the view of Her Majesty's Attorney-General at Singapore, that the question was "purely Siamese," and that "the Consul had no right to interfere in it." At the same time I should venture to suggest that, as satisfaction has been rendered by the Siamese authorities for the losses sustained on this occasion by British subjects, Her Majesty's Consul may properly be instructed not to insist upon any explicit acknowledgment on the part of the Siamese authorities that there has been an infringement of Treaty rights in the conduct of the proceedings.

I have, &c.
(Signed) TRAVERS TWISS.

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## Spain.

### No. 135.

*The Queen's Advocate to Lord Stanley.*—(*Received January 4.*)

*Temple, January 4, 1868.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Minister at Madrid, inclosing a correspondence between himself and Her Majesty's Consul at Alicante, relative to the seizure of a Gibraltar vessel, the "Amalia," by a Spanish guarda-costa, and the proceedings taken against her on a charge of smuggling; and Mr. Hammond was pleased to request that I would furnish your Lordship with my opinion as to whether the proceedings in question should form the subject of any representation to the Spanish Government by that of Her Majesty.

In obedience to your Lordship's commands I have the honour to report—

That it appears from the statement made by the master of the "Amalia" to Mr. Consul Barrie, that the "Amalia" was within two or three miles of the Hormiga Island when she was seized by the Spanish guarda-costa. The Spanish statement places her within half-a-mile of the Hormiga Island when she was seized, so that upon either view of the case the "Amalia" was at such time within Spanish waters, and was committing an offence cognizable by the Spanish Municipal Tribunals, if her master was approaching the shore with an intention to land a forbidden cargo on that part of the Spanish coast.

The question, therefore, resolves itself into one of probability as regards the intention of the master, who appears to have been out of his proper course, and to have endeavoured to explain his undue proximity to the Spanish coast by the action of the currents upon his vessel during a complete calm,—the existence of which calm, however, is denied by the seizors, although the existence of the currents (perhaps the most important question) does not appear to have been denied by them. As the proceedings, which have been conducted before the Junta Administrativa of Alicante, the proper Tribunal according to the requirements of Spanish law, are not impeached on the ground of any unfairness, and the master has appealed against its decision, I consider that your Lordship is not called upon at present to make any representation to the Spanish Government, but that Mr. Consul Barrie may be properly instructed to continue to watch the case, taking care always that the master shall have all necessary assistance in the conduct of his appeal, and report upon the result of the appeal.

I may add that no international question can arise upon the facts of this case, as at present disclosed, in regard to the extent of the fiscal zone which the Spanish Government may be disposed to claim; as, although the master's protest states that he was "off Hormiga Island eight miles from the shore," his statement to Mr. Consul Barrie explains that he was really within two or three miles of that island, which is situated between four or five miles from the coast.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 136.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January 4.*)

*Temple, January 4, 1868.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 8th November last, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Chargé d'Affaires at Madrid (No. 22), inclosing a letter addressed to him by Señor Retortillo, the Counsel for Messrs. Saul Isaac and Co., stating that fresh questions have been raised by the Spanish Government, which will delay the final settlement of the case of the "Tornado;" and to request that we would take these papers into our consideration, and favour your Lordship with any observations we may have to offer thereupon.

Mr. Egerton was also pleased to inclose the former papers for convenience of reference.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we think that the circumstances stated in Señor Retortillo's letter do not make it necessary for Her Majesty's Government to take any steps in this matter.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 137.

*The Queen's Advocate to Lord Stanley.*—*(Received January* 25.)

*Temple, January* 25, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that with reference to my Report of the 4th instant on the subject of the seizure off Hormiga Island, by a Spanish guarda-costa, on a charge of smuggling, of the Gibraltar vessel the "Amalia," he was directed by your Lordship to transmit to me the accompanying despatches from Sir J. Crampton reporting further particulars respecting this case, and inclosing a copy of the sentence of the Court which condemned the vessel; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and favour your Lordship with my opinion whether the proceedings of the Spanish authorities in this matter call for any representation on the part of Her Majesty's Government.

The former papers relating to this case were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That Mr. Consul Barrie should be instructed to watch his appeal, and to use his good offices, if they should be required, to procure for the captain of the "Amalia," if the procedure of the Court of Appeal should admit, the examination of the keeper of the lighthouse and the Spanish boatmen, by the non-production of whose evidence before the Administrative Junta of Alicante the captain declares that he has been seriously prejudiced.

The questions in this case are twofold: first, whether the "Amalia" was within Spanish waters when she was seized by the guarda-costa. Mr. Consul Barrie states that the diary or log presented by the captain represented the vessel as being, at the time when she was detained, from *two to three miles* off the Island of Hormigas; though, in his defence, the captain asserted it to be from *five to six*. It is extremely unlikely that the Court of Appeal would allow any fresh oral testimony, if its rules will allow it to be produced, in this part of the case, to prevail against the entry in the log of the vessel; but it deserves remark that the Judgment of the Junta proceeds upon the view of the vessel having been seized within the distance of *less than six miles* from the coast of the Island of Hormigas, as if the position of the vessel at the time of seizure constituted an offence against the provisions of Article 462 of the Ordinances of Customs.

This gives rise to the second question, whether the vessel at the time of seizure was committing any offence against those Ordinances. It is not very clear what are the precise terms of Article 462, as in the petition of Appeal the Article is twice referred to, but in different terms; and the passage of the Judgment in which it is referred to gives a third version of the Article. It will be desirable, therefore, that Mr. Consul Barrie should be instructed to transmit an accurate version of Article 462 of the Customs Ordinance, inasmuch as the case may assume a different aspect according as the Ordinance prohibits vessels from coming within six miles from the Spanish *coast*, or six miles from a non-qualified *port, bay, creek*, or *cove*.

The captain of the "Amalia," upon the assumption of the latter being the correct version of the Article, denies that his proximity to the Hormigas Island constituted any infringement of Spanish Law. As the case is at present represented the guarda-costa may have been entitled to seize the "Amalia;" but it is not altogether clear that the "Amalia" was at the time of seizure violating the Spanish Ordinances of Customs.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 138.

*The Queen's Advocate to Lord Stanley.*—*(Received February* 24.)

My Lord,
*Temple, February* 22, 1868.

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 14th instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence respecting various illegal and high-handed acts committed by British traders on the West Coast of Africa against the natives, and relating also to the proceedings of Her Majesty's Consul at Fernando Po for the administration of justice and the preservation of peace, against certain of which proceedings the British traders and the King and Chiefs of Bonny have written protests, which will be found among the inclosed papers.

That legitimate trade has been steadily increasing for some years past upon the West Coast of Africa, and has been watched with great interest by Her Majesty's Government, not only as an important branch of commercial enterprize, but also as the most effectual mode of extinguishing the Slave Trade. That they are, therefore, most anxious that its existence should not be imperilled either by the unjust conduct of British traders or by the feuds of native tribes; but, that before issuing any further instructions to Consul Livingstone upon the matters treated in the inclosed correspondence, your Lordship would be glad that I should take the papers into my consideration, and report to your Lordship not only upon the proceedings of that officer, who seemed to have acted in conformity with long-established custom on the West Coast of Africa, but also generally upon the powers of Her Majesty's Consuls upon that coast for preventing or punishing acts of cruelty, oppression or fraud on the part of British traders.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it will be convenient to consider the proceedings of Her Majesty's Consul, against which the Chairman and certain members of the Equity Court at Brass have sent in written protests, apart from the proceedings against which the King and Chiefs of Bonny have complained.

Of the two protests forwarded to your Lordship, one is signed by the Chairman of the Court on his own behalf, and he complains simply of the insulting language of Her Majesty's Consul towards himself; the other is signed by the remaining members of the Equity Court, and their complaint is of a more grave character, as they protest against Her Majesty's Consul's partiality, as well as against his abusive language towards their Chairman. Your Lordship has already thought it right to address some observations to Mr. Livingstone, expressing your disapproval of the curtness and harshness of tone employed by him in his communication with some of the English traders, and your Lordship's remarks will, no doubt, impress upon him the propriety of adopting a more conciliating tone in future, and of using language more becoming his *quasi* judicial functions. Such a course is the more necessary on his part as, in the absence of any Order of Her Majesty in Council, Her Majesty's Consul at Fernando Po would have no legal power to enforce against British subjects the jurisdiction conferred upon him by the Agreement of 17th November, 1856 (Hertslet, vol. x, p. 691), under which Her Majesty's Consul may have considered himself to have been acting on the occasion in question, or any other customary jurisdiction. With regard to the charge of partiality brought against Her Majesty's Consul, I presume that it refers to Mr. Livingstone enforcing the payment due from Mr. Lyons, and declining to enforce the payment due to Mr. Lyons. I consider that Her Majesty's Consul was right in not allowing Mr. Lyons to make one debt a set-off against the other, as the parties were not identical; but although the facts are somewhat in dispute, I am disposed to think that Article VIII of the Agreement of 17th November, 1856, would have justified Her Majesty's Consul in pressing more strongly King Arishna to see that no loss accrued to Mr. Lyons from the default of one of his men.

A question has been addressed to your Lordship which is pertinent to the proceedings of the Equity Court, in the letter of the Liverpool African Association, touching "the legal powers of Her Majesty's Consul to imprison British subjects, traders and agents, for matters of merely a commercial character arising out of disputes between the agents and traders." I am not aware of any such power being possessed by Her Majesty's Consuls, but I observe that Mr. Livingstone, in his letter of 23rd December, 1867, informs your Lordship that he warned Mr. Lyons "to be careful to do nothing which might cause him to appear before a British Court of

Justice at Lagos." I should wish to be informed if there is any Order of Her Majesty in Council under which British traders on the coast of the Bight of Biafra are amenable to a Supreme Court of Justice at Lagos for offences committed on that coast. I am not aware of any such Order.

The complaint of the Bonny King and Chiefs involves a question of fact, whether they have assisted the Okrikas against Calabar contrary to their profession of neutrality, or not. They admit that the late King, William Pepple, did assist the Okrikas and Brass nations against Calabar, for which he was fined by the Consul, and trade was stopped; but they assert that since the accession of Prince George (16th October, 1866) they have not directly or indirectly afforded any assistance to either Okrika or Brass. Unless, therefore, it can be established that the Bonny King and Chiefs have made this assertion in bad faith, I cannot advise your Lordship that it would be proper to blockade their river, or to compel them to take measures to put a stop to the war which Okrika and Brass are waging against Calabar.

One fact, however, seems to be clear, that Her Majesty's Consul at Fernando Po has not at present the requisite legal power to control and punish British traders on the coast of the Bight of Biafra, if their violation of trading usages or trading Conventions have in any way contributed to give rise to disputes between the different nations, in consequence of monopoly of trade at the opening and closing of the oil markets; and I would suggest for your Lordship's consideration that it may be expedient in the interests of legitimate trade that Her Majesty's Consul on that coast should be furnished with the necessary power by an Order of Her Majesty in Council, under the Foreign Jurisdiction Act.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 139.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 10.)

*Temple, March* 9, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th ultimo, stating that he was directed by your Lordship to transmit to me the correspondence relative to the seizure by a Spanish revenue cruizer in December last, for alleged smuggling, of a Gibraltar vessel named the "Catalina;" and Mr. Hammond was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the property and destination of the cargo on board the "Catalina" is left in too much obscurity at present for your Lordship to direct any official support to be given to the claim of the owner of the "Catalina." The owner's son, in his letter of 7th January, 1868, addressed to Her Majesty's Vice-Consul at Algeciras (Inclosure No. 2 in Sir J. Crampton's No. 41 of 18th February, 1868), states that he has no documents in proof of the order for the tobacco. He represents it to have been verbally consigned by the owner, whom he does not name, to Mr. Bennett Russo, at Tangiers, with whom he had no commercial relationship, and that he shipped it as a favour to the owners of the tobacco. This is not a very satisfactory account, more particularly as the owner of the vessel is stated to be a tobacconist. It does not appear what cargo-papers were on board the "Catalina." The Captain of the Port at Gibraltar merely speaks of the vessel being provided with the certificate of registry, articles of agreement with the crew, and bill of health (No. 3 in Sir J. Crampton's No. 13 of 15th January, 1868). He also says that she cleared with *two* passengers; but it appears from the examination of the captain, who is an illiterate man, and cannot write his name, that he had *three* passengers on board. Who these *three* passengers were, does not appear, further than that one of them, who is also an illiterate man and cannot write his name, describes himself of Santa Pola, and says that he was going to Tangiers. The other two do not appear to have been examined; yet it was of the greatest importance for the owner of the ship to have produced them, or to have given some account of them, with a view to show that they were persons free from all suspicion of complicity in smuggling, and that they were really going to Tangiers; for although the destination of the passengers would not be conclusive as to the real

destination of the cargo, the absence of any evidence as to their destination is damaging to the claim of the shipowner.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 140.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 18.)

*Temple, March* 17, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed to transmit to me the accompanying correspondence relative to the seizure by the Spanish revenue cruizer "La Viva," of the Gibraltar vessel "Garibaldi," while on a voyage from that port to Falmouth; and to request that I would take this case into consideration, and furnish your Lordship with my opinion thereupon.

Mr. Hammond was also pleased to call my attention to the question raised by the owners of the vessel as to the real limits of Spanish maritime jurisdiction in the Straits of Gibraltar, and along the neighbouring seaboard of Spain; and requested that I would furnish your Lordship with any observations I might have to make upon this point.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That this case is distinguishable from the cases of the "Amalia" and the "Catalina," which have been recently under your Lordship's consideration. In both of those cases it was alleged by the Spaniards that the vessels at the time of seizure were within a marine league of Spanish land; and their seizure, if made within that distance, was clearly valid, whatever may have been the character of the subsequent proceedings for their condemnation. But in this case, if credit is to be given to the master and crew of the "Garibaldi," the seizure of this vessel was effected by a Spanish guarda-costa in the Gulf of Cadiz, at a distance of more than four leagues from any Spanish land. The vessel appears to have been, at the time of seizure, navigating the high seas on a course not merely far outside the maritime territory of Spain, but also far outside the fiscal zone of two leagues, within which vessels with contraband goods on board are forbidden by the Municipal Law of Spain to navigate, except under certain conditions of necessity, which did not exist in the present case. According to the statement of the master and crew, if it cannot be rebutted by the seizors, it would seem that the seizure of the "Garibaldi" cannot be defended upon any plea of necessary precaution on the part of Spain, *ratione loci*, to prevent smuggling, as her own Municipal Law has fixed the limits of those necessary precautions to a distance of six miles from her coasts; much less upon any principle of territorial right. But there are circumstances in this case which may induce your Lordship to direct further inquiry to be made.

Mr. Consul Dunlop in his letter to Mr. Freeling of 22nd January, after reporting the result of his own examination of the master and crew, which confirms their previous depositions at Huelva, states that although no doubt exists in his mind of the fact that the vessel was seized at sea far outside Spanish waters or jurisdiction, the situation or position of the "Garibaldi" when taken, as declared by Firpo, her master, appears to him *suspicious of the intention to smuggle*, being certainly out of the course of vessels sailing from Gibraltar to England.

This remark (of Mr. Dunlop) deserves the more attention as it appears from the master's affidavit, made on 1st February, 1868, before the Captain of the Port of Gibraltar, that the wind had been from the *eastward* ever since the "Garibaldi" left Gibraltar, so that there was no necessity on account of the wind for the vessel to hug the Spanish coast, as she had evidently done, ever since she had sighted Tarifa. Unfortunately for the owners there is nothing forthcoming from on board the vessel to support her alleged destination to Falmouth except her papers, which may be colourable. All her crew appear to have shipped for a voyage out and home again to Gibraltar, and the single passenger on board her, whose destination is not deposed to by her master, does not appear to have himself made any statement.

Further, it may be gathered from the depositions that the "Garibaldi" had been much nearer inshore opposite Huelva early in the morning, and that she had hoisted more sail upon seeing the guarda-costa.

It would also appear from the subsequent deposition of the master before the Captain of the Port of Gibraltar, that certain declarations were taken from his crew by the Commander of the guarda-costa, and that those declarations were read over to them by the Spanish authorities at Huelva. There may thus have been evidence from the crew before those authorities which is not before your Lordship, and which may have furnished support to the evidence, whatever that may have been, on the part of the seizors. Whether it was proper under the circumstances of this case for the Commander of the guarda-costa to have extorted such declarations from the crew, as he is represented to have done, may be reserved for future consideration.

It appears further that an application has been made in vain by Her Majesty's Vice-Consul at Huelva for a copy of the evidence upon which the "Garibaldi" and her cargo have been confiscated.

Under these circumstances it will be proper, in my opinion, for your Lordship to direct Her Majesty's Minister at Madrid to represent to the Spanish Government that your Lordship, upon the evidence which has been submitted to you on behalf of the owners, is disposed to regard the seizure of the "Garibaldi" as a marine trespass; but that before your Lordship will think it right to make any demand for indemnification against the Spanish Government, you are desirous to be informed upon what evidence and upon what principle of public right the Administrative Board at Huelva has decreed the confiscation of the "Garibaldi" and her cargo. Her Majesty's Minister may also be instructed to state that he reserves to Her Majesty's Government the right to bring under the notice of the Spanish Government on a future occasion the conduct of the Commander and crew of the guarda-costa upon boarding the "Garibaldi."

With regard to the general question which has been raised by the owners of the "Garibaldi," as to the real limits of Spanish maritime jurisdiction in the Straits of Gibraltar and along the neighbouring seaboard of Spain, if by *real* limits are meant the limits of a jurisdiction which no nation may question,—such limits, I apprehend, are coincident with the extent of what would be termed Spanish waters, which include all waters within a marine league from Spanish land, and further will embrace all portions of sea cut off by an imaginary line drawn from one headland to another, when both those headlands belong to Spain, and are within a reasonable distance from each other.

It is possible that the Spanish authorities may assert that the waters of the Gulf of Cadiz, in which the "Garibaldi" was seized, are a Spanish "chamber." If such should be the case it will be proper to consider between what headlands the imaginary straight line must be drawn to constitute such a "chamber," and whether the claim will be in itself reasonable, or have any warrant in immemorial usage. But in the Straits of Gibraltar, I presume, no such question can arise; and each nation will be entitled to assert an exclusive jurisdiction over the waters measured seawards from its coast to the distance of a marine league. It appears, however, that the Municipal Law of Spain has established a zone of two leagues along its coast for fiscal purposes, and has forbidden vessels having contraband goods on board to be navigated within that zone, except under certain conditions of necessity. This limit rests, however, upon other considerations than those of absolute right. Nations have been accustomed to concede to one another a certain exercise of police over merchant ships on the high seas beyond the limit of a marine league from their coast, with a view to prevent illicit trade; and when the municipal regulations of a State are in such matters reasonable, and its police is enforced with fairness and equity, foreign nations have acquiesced in its exercise.

I am not disposed to think that a fiscal zone of two leagues, which has been adopted by Spain, is in itself unreasonable. The British Quarantine Laws (6 Geo. IV, cap. 18), take effect upon foreign vessels when they come within a zone of two leagues from the United Kingdom; and the British Revenue Laws (16 & 17 Vict., cap. 107) take effect on foreign vessels, under certain circumstances, when they are found within three leagues from the coast of the United Kingdom. But if this permissive police is exercised with undue severity or with injustice, the comity of nations will not require the State whose subjects are harshly treated to acquiesce in its exercise. This, however, must depend upon the circumstances of each case; and it will be advisable for your Lordship in due time to ascertain what can be said in defence of the alleged misconduct of the seizors.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 141.

*The Law Officers of the Crown to Lord Stanley.—(Received March* 28.)

*Temple, March* 28, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid (No. 72), inclosing a letter which had been addressed to him by Señor Villalobos, a Spaniard, requesting that his son, who was born in England, may be registered at Her Majesty's Legation as a British subject.

That Sir John Crampton, as we should perceive, has deferred complying with M. Villalobos' wishes until he can receive instructions on the subject; and Mr. Hammond was pleased to request that we would take the matter into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to M. Villalobos.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That if by the laws of Spain the son of Señor Villalobos is held to be a Spanish subject, though born in England, it would be contrary to practice that he should be registered as a British subject in Spain, although elsewhere than in Spanish dominions he would be entitled to British protection as a natural-born subject of this realm.

We think that an answer to the above effect should be returned to Sir John Crampton.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 142.

*The Law Officers of the Crown to Lord Stanley.—(Received April* 21.)

*Temple, April* 21, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that with reference to our Report of the 17th of August, and to previous Reports on the case of the "Queen Victoria," he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Minister at Madrid and Consul at Cadiz, relative to the offer of 4,835*l*. 16*s*., which has been made to the owners by the Spanish Government in settlement of all claims on account of this vessel; and Mr. Hammond was pleased to request that we would take the same into our consideration, and favour your Lordship with our opinion as to whether the claimants should be advised to accept this offer.

The previous papers relating to this case were also forwarded for convenience of reference.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we think that under all the circumstances it would be wise for the claimants to accept the offer made, without delaying the settlement of this matter by insisting on a claim which possibly, to some extent, might be advanced with justice for interest on the amount which the Spanish Government admits to be fairly payable.

It appears to us that if by the waiver of any claim for interest, speedy payment of the amount agreed to can be secured, the parties concerned will be acting wisely in foregoing any further claim or dispute upon this matter.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

### No. 143.

*The Queen's Advocate to Lord Stanley.*—(*Received April 28.*)

My Lord, *Temple, April* 28, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that with reference to a Report of the Law Officers of the 4th July, 1866, and previous Reports on the case of the British vessel "Mermaid," which was alleged to have been sunk by a shot fired from the batteries of Ceuta in October 1864, he was directed to transmit to me the accompanying correspondence, from which I should learn that the Spanish Government have lately consented to refer the claim on this account to a Mixed Commission, and that Messrs. Barter and Co., who represent the owners, have been directed to take steps for preparing their case for submission to the Commissioners. This Messrs. Barter have as yet failed to do, and in a letter from them of the 17th instant, which was also inclosed, they state the cause of the delay, and request the advice and assistance of Her Majesty's Government. That your Lordship proposes to inform Messrs. Barter, in reply to this letter, that your Lordship cannot undertake to say what evidence the Commission will admit or reject, or give any other advice than that they should make their case as complete as they can, substantiating it by such oral or documentary testimony as they can produce. That the Commission can alone decide as to the admissibility of any portion of it, and also to urge them to expedite the preparation of their case, as the Spanish Commissioners are ready to commence the inquiry; and Mr. Hammond was pleased to request that I would take this matter into consideration, and furnish your Lordship with my opinion, at my earliest convenience, as to whether the proposed answer to Messrs. Barter is right and proper.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. Barter and Co.'s attention may be properly directed to the provisions of Article III of the Convention, under which the Commissioners are bound to receive all written documents and statements which may be presented to them on behalf of the owners of the "Mermaid," or of the Spanish Government, and to receive and consider any evidence ("testimonio") that may be tendered to them on either side. Under this Article, I consider that the claimants will be warranted in tendering to the Commission the protest and affidavits which have been laid before Her Majesty's Government, and that they will do well to frame their case in accordance with the state of facts deposed to in those documents.

It will also be advisable for Messrs. Barter and Co. to produce for cross-examination as many as possible of the parties whose affidavits they may propose to tender, as thereby the case, as far as it rests upon such affidavits, will be rendered more complete.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 144.

*The Queen's Advocate to Lord Stanley.*—(*Received May 1.*)

My Lord, *Temple, April* 30, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that, with reference to the Report of the Law Officers of the 13th September, 1865, and previous Reports on the same subject, he was directed to transmit to me therewith a despatch from Her Majesty's Minister at Madrid, stating that he has reason to believe that the Spanish Government are not disinclined to award a reasonable indemnity to the relations of Daniel Hocken, who was killed on board the "Mountaineer" in 1864, by a shot fired from the Fort of Tarifa, and requesting to be informed what sum under the circumstances would be considered satisfactory by Her Majesty's Government; and Mr. Hammond was pleased to request that I would take this case into consideration, and furnish your Lordship with my opinion as to the amount which should be named on this account.

In obedience to your Lordship's commands I have the honour to report—

That the sum of 1,000 dollars may, I think, be reasonably claimed by your Lordship by way of compensation from the Spanish Government to the parents of Daniel Hocken.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 145.

*The Queen's Advocate to Lord Stanley.*—(*Received July 15.*)

My Lord, *Temple, July* 14, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to me the accompanying letter and its inclosures from the Colonial Office, relative to the proceedings of a Spanish guarda-costa in intercepting and boarding a Gibraltar schooner named the "Fanny," while on a voyage with a cargo of tobacco from that port to Oran; and to request that I would take the case into consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the mode in which the "Fanny" had been hovering off the Spanish coast for four hours and a-half before the first visit of the Spanish guarda-costa was calculated, in my opinion, to excite reasonable suspicions on the part of the Spanish Custom-house officers, and justified them in boarding her. Her subsequent navigation, after they had ascertained that she was laden with tobacco, was not calculated in my opinion to disarm their suspicions; and unless it can be shown that there were hindrances to the schooner prosecuting her voyage to Oran, notwithstanding that there was a favourable wind from east-north-east, and that the Spanish Custom-house officers ought to have taken those hindrances into account after they left on the first occasion, I think it to be a matter of doubtful expediency for your Lordship to direct any further representation to be made to the Spanish Government.

It is very possible that the representation of the crew of the guarda-costa will be less favourable to the schooner than the depositions of her own crew.

There seems, however, to have been some laxity of conduct on the part of the crew of the guarda-costa as regards the bottle of gin which they found and drank off on board the schooner; but as that fact has been already made known to the Spanish Government, it is hardly deserving of further serious notice from your Lordship.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 146.

*The Queen's Advocate to Lord Stanley.*—(*Received July 23.*)

My Lord, *Temple, July* 22, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that with reference to my Report of the 17th March last on the subject of the seizure by a Spanish revenue cruizer of the Gibraltar vessel, the "Garibaldi," while on a voyage to Falmouth, he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Minister at Madrid, inclosing a copy of a letter, with a translation, which has been addressed to your Lordship by the Spanish Minister for Foreign Affairs, stating the grounds upon which the Spanish Government consider the "Garibaldi" to have been legally captured, and Mr. Hammond was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion thereupon.

The previous papers relating to this case were also inclosed, for convenience of reference.

In obedience to the commands of your Lordship I have taken this case into consideration, and have the honour to Report—

That it appears from the despatch of the Spanish Minister of Foreign Affairs that the evidence, upon which the "Garibaldi" was condemned by the Spanish authorities, conflicts in important particulars with the depositions made by the master and crew of that vessel before the British authorities at Huelva and Cadiz after the condemnation of the vessel, and upon which my previous Report to your Lordship was founded.

Upon the evidence, which the Spanish Minister reports to have been given before the Junta Administrativa at Huelva by the crew of the coast-guard vessel, coupled with the evidence of the log-book and of the master and crew of the "Garibaldi," who were personally examined by the Spanish authorities, it would be difficult to contend that the seizure and condemnation of the "Garibaldi" may not have been justifiable under the Spanish Revenue Law. It is said, however, by Mr. Consul Dunlop, in his

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despatch of 22nd January, 1868, that he had ascertained, upon cross-examining the master and crew of the "Garibaldi," that threats were used to obtain such evidence from them (in Colonial Office letter of 8th February, 1868). The case, however, does not rest alone upon oral evidence. There are certain points upon which the crew of the coast-guard vessel and the "Garibaldi" are at issue, and in regard to which the entries in the log-book of the "Garibaldi" may be of service in determining to which side credit ought to be given. The Spanish Minister has justly called attention to the fact of the statement of the master of the "Garibaldi," that he sailed from Gibraltar on 16th December being contradicted by the ship's manifest, which shows that the "Garibaldi" cleared from Gibraltar on the 12th December, which latter circumstance is confirmed by the certificate of the Captain of the Port of Gibraltar, of 31st December, 1867 (No. 5 of Sir J. Crampton's No. 21, of 26th January, 1868). The log-book of the "Garibaldi" ought to throw valuable light upon this interval of time, respecting which the captain and crew of the "Garibaldi" are totally silent in their depositions. If it be true, as stated in the Spanish Minister's despatch, that the "Garibaldi" lay-to during those four days, and kept close to the Spanish coast, such a fact would probably be noted in the log-book, and would be of the greatest importance, as confirmatory of the suggested intention of the captain to take advantage of an opportunity to land contraband goods on the Spanish coast. But there is an important discrepancy in the statements on either side as to the conduct of the "Garibaldi" when the coast-guard vessel fired a signal for her to bring-to, which the log-book may assist to clear up. The Spaniards say that the "Garibaldi," when sighted by the coast-guard vessel, took to flight, and hoisted no colours, although invited to do so by some musket-shots from the coast-guard vessel. The master of the "Garibaldi" in his first statement, made on 21st December, 1867, to the British Consul at Cadiz, is silent on the subject of his hoisting any colours; and it is not, apparently, until after the master and crew had been examined by the Spanish authorities at Huelva, and had been liberated, that mention of British colours having been hoisted was for the first time made by the master in his protest on 14th January, 1868, declared before the British Vice-Consul at Huelva. As the Spanish Minister of Foreign Affairs refers to the log-book of the "Garibaldi," and other official documents in the possession of the Spanish authorities, as corroborating the Spanish account of the seizure of the "Garibaldi," and showing the incorrectness of the information which has been communicated to your Lordship, I think it would be desirable for your Lordship to instruct Her Majesty's Minister at Madrid to state that it would be very satisfactory to your Lordship if the Spanish authorities would favour your Lordship with copies of the log-book, and the official documents to which his Excellency has referred.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 147.

*The Attorney-General to Mr. Hammond.*—(*Received July* 30.)

*Temple July* 30, 1867.

Dear Mr. Hammond,

IN the papers now before us, a letter is referred to, said to have been written by Señor B. De Castro to Sir J. Crampton, on 11th December 1865, a copy of which was forwarded to Lord Clarendon.

It is stated that in this letter a promise was made that all claimants should be heard before the Council of State, and it is on the faith of this promise that Isaac, Campbell, and Co., require Her Majesty's Government to insist on their being so heard.

I cannot find a copy of this despatch, or of the petition presented to the Council of State by Isaac, Campbell, and Co., to be heard among the papers.

There is also a letter from General Calonge to Sir J. Crampton, of 21st November, 1867, which I cannot find.

If you have any of these papers in the Foreign Office, will you send them to me? They are important for me to see before advising.

Very faithfully, &c.
(Signed) JOHN B. KARSLAKE.

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## No. 148.

*The Attorney-General to Mr. Egerton.*—(*Received July* 31.)

*Temple, July* 31, 1868.

Dear Egerton,

THE letter of the 11th December, 1865, which you have sent me, is not the one I want. There appears to have been other inclosures in Sir J. Crampton's despatch of 13th December, 1865, and perhaps one of De Castro's as to the right of appeal to Councils of State, may be among them. The letter you send relates solely to privateers.

Your ever, &c.
(Signed) JOHN B. KARSLAKE.

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## No. 149.

*The Attorney-General to Mr. Egerton.*—(*Received August* 1.)

*Temple, August* 1, 1868.

Dear Egerton,

I THINK I have the right letter now, but I should be glad if you obtain copies of the other letters to which I referred in my note, and a copy of Isaac, Campbell, and Co.'s petition to the Council of State.

Very faithfully, &c.
(Signed) JOHN B. KARSLAKE.

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## No. 150.

*The Queen's Advocate to Lord Stanley.*—(*Received August* 8.)

*Temple, August* 8, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 4th instant, stating that, with reference to my Report of the 14th ultimo, relative to the boarding of the Gibraltar schooner "Fanny" by a Spanish revenue cruizer, he was directed by your Lordship to transmit to me therewith, together with the previous papers, a letter from the Colonial Office, requesting to be informed what are the particular statements in the depositions on which the view taken by me of the case is founded, and to which the Governor of Gibraltar's attention should be called; and Mr. Egerton was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion as to the answer, which should be returned to the Colonial Office.

In obedience to the commands of your Lordship I have taken these papers into consideration, and have the honour to report—

That upon the view which I have taken of the depositions of the master and crew of the schooner "Fanny," and it may be observed that their depositions are *ex parte*, and may be presumed to present the most favourable view of their case. I consider it to be established that the "Fanny" left the Bay of Gibraltar on the 16th June, 1868, with a steady breeze from east-north-east. Her destination is alleged to have been for Oran, with a cargo of tobacco. At half-past 3 P.M., having been four and a half hours at sea, the "Fanny" was only distant 3 miles from Europa Point, bearing north-west by north. She was at this time boarded for the first time by the Spanish Revenue boat. If, as his Grace the Duke of Buckingham gathers from the papers, the "Fanny" had been making from two to three miles an hour during this interval of time, she ought to have been from ten to twelve miles distant from the Spanish coast, if she had been making the best of her way to Oran. I am therefore led to the conclusion that the "Fanny" must have been tacking about—in other words, was hovering off the Spanish coast under circumstances which might reasonably warrant the Spanish revenue boat in visiting and overhauling her.

The first visit of the revenue boat seems to have lasted about ten minutes, and their conduct, with the exception of taking away a bottle of gin from one of the crew, does not seem open to any fair complaint, as the "Fanny" was at once allowed to proceed on her voyage.

After the lapse of an hour the "Fanny" is represented by her master and crew to have advanced on her alleged destination to Orna only half a-mile. It is not stated that the wind had become unfavourable in any way to the "Fanny" since she left

Gibraltar, and no explanation is offered for her continuing thus to hover off the Spanish coast. The officer in charge of the revenue boat, on boarding her the second time, seems to have decided to take her to Algeciras, and altered her course for Cabreta Point. After keeping her on this course for about a quarter of an hour, no reason being stated by the master of the "Fanny" for the officer's change of purpose, he is represented to have left the "Fanny;" at this stage of the case there is a conflict of evidence between the master and the mate of the "Fanny." The mate states that, after the Spaniards left her on this occasion, she proceeded towards Gibraltar in order to report the circumstance, and had proceeded for about half a-mile, when the revenue boat returned and boarded her a third time. On the other hand, the master, in his statement, made at Gibraltar on the 17th June, 1868, says that he was at a distance of three and a-half miles from Gibraltar when he was boarded the second time, and the third time about four miles. He also says that he had proceeded about half a-mile upon his course after the Spaniards had left him for the second time, before the boat for the third time returned and boarded him. The master and mate are thus in direct conflict as to the course of the "Fanny" after the Spaniards left her on the second occasion. It may be observed that during the whole of this time the "Fanny" was within the Spanish Fiscal Zone, which, from the evidence in other cases, appears to extent to a distance of six miles from the Spanish coast. It is not stated in the depositions at what time the "Fanny" was boarded for the third time, but it is stated that, after the third visit of the revenue boat, she returned to Gibraltar and anchored there at 7·30 P.M. There would thus be altogether an interval of eight hours and a-half during which, although the "Fanny" had a fair wind for Oran, she was at no time further distant from Europa Point or Gibraltar than four miles.

After the third visit, the revenue boat is stated to have steered for Ceuta with oars and sail. Nevertheless, the Captain states that he returned to Gibraltar after rather a formal leave-taking on the part of the officer of the revenue boat, "fearing that he should be captured."

His Excellency the Governor of Algeciras, in his letter to his Excellency the Governor of Gibraltar, states that the crew of the schooner, the whole of them being Spaniards as well as the Captain, are known by the Spanish revenue authorities to be engaged in the smuggling trade, and that it is imputed to them that, although they were provided with papers for Oran, their real intention was to land their cargo on the Spanish coast, or to tranship it into small boats to be smuggled on shore. I cannot but think that the circumstance of the "Fanny" continuing to hover off the Spanish coast after the officer of the Spanish revenue boat had visited her, not merely once, but a second time, remains without any sufficient explanation, and that his Grace the Duke of Buckingham may properly direct the attention of his Excellency the Governor of Gibraltar, to the silence of the master and crew upon this subject, as well as to the conflict between the evidence of the master and mate, and to the unsatisfactory reasons alleged for the vessel not proceeding on her course to Oran after the officer of the revenue boat had finally taken leave of her on seeing the English steamer.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 151.

*The Law Officers of the Crown to Lord Stanley.—(Received August* 15.)

My Lord,

*Temple, August* 14, 1868.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 17th day of July last, stating that, with reference to our Report of the 4th of January last, he was directed by your Lordship to transmit to us the accompanying letter from Messrs. S. Isaac, Campbell, and Co., protesting against the final decision of the Prize Court at Cadiz, by which it appears their vessel, the "Tornado," has been condemned as prize of war, and requesting the intervention of Her Majesty's Government with a view to prevent the sentence being confirmed by the Council of State.

Mr. Murray was pleased to inclose the accompanying despatch from Her Majesty's Minister at Madrid, having reference to the same subject, and to request that we would take these papers into our consideration and favour your Lordship with our opinion thereupon.

We were also favoured with three notes from Mr. Egerton dated respectively the

18th, 23rd, and 25th July, transmitting to us further despatches from Her Majesty's Minister at Madrid and a further letter from Messrs. Saul Isaac, Campbell, and Co., relating to the case of the "Tornado."

We are also favoured with a letter from Mr. Hammond dated 6th August instant, stating that he was directed by your Lordship to transmit to us, for our consideration, the accompanying letter from Messrs. Isaac, Campbell, and Co., dated the 4th instant, inclosing Counsel's opinion on the present position of the "Tornado" case regarded in a legal point of view.

In obedience to your Lordship's commands, we have taken the papers transmitted to us into our consideration and have the honour to Report—

That we find from the papers now before us that the Prize Court at Cadiz, which, after the former sentence of condemnation was set aside, was appointed for the hearing of the case of the "Tornado," has pronounced a sentence of condemnation of the vessel.

The proceedings on this trial are not sent to us, and have probably never been forwarded to the Foreign Office, but on the 14th July last Messrs. Isaac, Campbell, and Co. announced the fact, that they had received a copy of the final decision of the Prize Court or "Junta Economica," and in a letter, remarkable for the numerous inaccurate statements contained in it, they have protested against the sentence of condemnation, as having been accomplished in utter disregard of facts and in violation of those principles of international law hitherto respected by all maritime States.

The course taken by Isaac, Campbell, and Co. before this Court does not very clearly appear. As far as we can gather it from the statements contained in this letter, they appeared before the Court, protested, and took no further part in the proceedings. They had the opportunity of being heard, but did not avail themselves of it, because, as they represent, with a perfect consciousness of their own innocence, they knew that the vessel would be condemned.

It appears further that, after the sentence was pronounced, it was referred by the Minister of Marine to the Council of State, but whether for revision or only for advice whether the sentence should or should not be confirmed, is not clear.

The claimants petitioned to be heard before the Council of State, but whether by the Law of Spain there is any *right* of appeal, and if there be any such right, what the proper mode of proceeding is no one in Spain seems to know. This may be inferred from the petition of Don Eusebio Casaes in the name of the owners of the "Tornado" to the Minister of Marine asking for guidance as to appealing to the Council of State.

Of course, if there be a *right* of appeal by Law, and the claimants without default on their part are deprived of that right by the action of the Spanish Government, it would be matter for serious remonstrances. But the case at this moment hardly assumes that aspect. It is contended that independently of any question of law, such solemn assurances have been given by the Spanish to Her Majesty's Government, that an appeal was permitted to the Council of State in prize cases that, acting on these assurances, Her Majesty's Government should insist on an appeal being allowed.

The first of these promises, and the one mainly relied upon, as appears from Don Eusebio Casaes' letter to Sir John Crampton of the 15th July last, is a letter dated the 11th December, 1865 (long before the capture of the "Tornado"), of which we have obtained a copy from the Foreign Office. That letter, apparently one of a series of correspondence between Don Bermudiz de Castro and Sir John Crampton, which related specially to Prize Courts held on board Spanish ships of war, states that there is an absence of any reason for harbouring the slightest suspicion of injustice in the decisions of the tribunal over which the Commander of the Spanish squadron would preside, "considering that they would have to receive the confirmation of the Council of State, before which is allowed the most ample defence of the captured vessels.

But besides this letter, there is one from General Calonge to Sir John Crampton dated the 21st November, 1866, and written specially with reference to the "Tornado" and the constitution of the Prize Court at Cadiz. Speaking of the preliminary inquiry ("sumario") and the full inquiry ("plenario"), he says—

"The measures of the former must necessarily be secret, because they are for the purpose of substantiating the fact and of obtaining the data necessary for the qualifying of it; in the second, the suit has already arrived at that stage, in which the accused uses the right of defence and takes such measures as he may consider necessary to clear himself from the charges brought against him, as the results of the preliminary proceedings, and he may also afterwards *appeal against the sentence which may be given in the first instance, and amplify, in the second instance, his defence for the sustaining of that appeal.*"

And further, "For the rest you may assure the British Government that without the necessity of any apprehension, and in fulfilment of the *existing laws*, the tribunal will take care that none of the parties shall be deprived of the legitimate means of defence, permitting the owners of the prize to employ Counsel, and to hold direct communication with the British Consul in Cadiz, so far as the law may allow."

It appears to us that these passages do amount to an authoritative statement, that an appeal in prize cases is allowed, and we think that your Lordship may instruct Sir John Crampton to refer to these statements, and to urge on the Spanish Government that the privilege of appealing which is said to be secured to a claimant, and of which the claimants are desirous of availing themselves, before any sentence is enforced, should be given to the claimants in this case so that the representations made to Her Majesty's Government as to the law and practice of Spain in such cases may be fulfilled.

We think that, so far as Messrs. Isaac, Campbell, and Co. are concerned, your Lordship, while communicating to them your intention of instructing Her Majesty's Minister at Madrid to put himself in communication with the authorities there to ascertain why an appeal has not been, or should not be, allowed, will probably think it right to abstain from expressing any opinion that these gentlemen have had any injustice done them by the sentence in condemnation of the vessel already pronounced, or that the principles of international law have been violated by the Spanish Tribunal.

With reference to the opinion of the learned Counsel recently sent to your Lordship, we cannot, as far as we know the facts, agree with him in his views.

He assumes that the claimants have been condemned unheard and without the opportunity of being heard; whereas, we believe that they had the opportunity of being heard but refused to avail themselves of it: nor, as at present informed, do we know, as is assumed, that the law of Spain has been departed from by a refusal to allow an appeal, which, by the *law* of Spain, exists.

If by law this right does exist and has been denied, the propriety of remonstrating is, as we have already said, clear enough. It is the doubt as to what the law really is which makes the case a difficult and delicate one to deal with; for if *by law* no appeal is allowed, we should hesitate to advise your Lordship that the statements contained in the letters referred to would, if founded on a misconception of the law, entitle your Lordship to ask that a *Special* Tribunal should be formed to entertain such an appeal.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 152.

*The Law Officers of the Crown to Lord Stanley.*—(*Received August* 19.)

My Lord, *Temple, August* 18, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th of June last, stating that, with reference to our previous Reports on the case of the "Tornado," he was directed by your Lordship to transmit to us the accompanying letter from Mr. Forbes Campbell, making a representation on behalf of the crew of that vessel, and inclosing Counsel's opinion with regard to their claims upon the Spanish Government; and to request that we would take these papers into our consideration and favour your Lordship with our opinion as to the answer which should be returned to Mr. Forbes Campbell.

Mr. Hammond was also pleased to inclose the most recent correspondence for convenience of reference.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That it is hardly necessary to point out to your Lordship that the statement of facts upon which the opinion of the learned Counsel is based, is one which it is impossible to admit as accurate, and we cannot attribute importance to advice given upon such premises.

We think that Messrs. Isaac, Campbell, and Co. should be informed that the final issue of the proceedings in the "Tornado" case must be awaited before any decision is arrived at as to the course to be adopted with reference to the claims of members of the crew for compensation. At present a sentence of condemnation of the vessel has been pronounced; and against this sentence, as your Lordship is aware, the claimants are

urging their right of appeal. The delay in this case, in the Spanish Courts, has, beyond doubt, been very great; but we cannot help observing that not a little of that delay appears to have resulted from the course taken by the claimants themselves.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 153.

*The Queen's Advocate to Lord Stanley.*—(*Received August* 21.)

*Temple, August* 20, 1868.

My Lord

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed by your Lordship to request my opinion on a point which has been raised in the discussion of the case of the "Mermaid," by the mixed English and Spanish Commission appointed under the agreement which he inclosed.

Mr. Hammond was pleased to send me, for my more complete information, all the Reports of the Commissioners, but he observed that the point on which the parties are at issue is stated in the despatches Nos. 25, 26 and 27, and that I should see, that the arbiter selected jointly by the English and Spanish Commissioners having left Cadiz apparently for an indefinite time, after having given his decision on a point referred to him, the Spanish Commissioners contend that, under the Articles of Agreement, another arbiter should be appointed, while the British Commissioners maintain that any subsequent differences which may arise, should be referred to the arbiter first appointed, notwithstanding his absence from Cadiz.

Mr. Hammond was pleased to ask my opinion on this appointment, and if I should consider that there should be a new appointment of an arbiter, he was to request me to say whether such arbiter would be entitled to set aside the decision of his predecessor by decisions opposed to the tenor of that already pronounced by him.

That I should perceive from the remarks of the British Commissioners, that this point is one of some importance, if they are correct in considering that the decision already given practically decides the points remaining to be discussed by the joint Commission.

In obedience to your Lordship's commands I have the honour to report—

That I consider that, under the Articles of Agreement, the Spanish Commissioners are correct in contending, that in the absence of M. Benedetti from Cadiz a new person should be named by the Commissioners to act as umpire.

With regard to the authority of a new umpire, he will be empowered under the Articles of Agreement to act as arbitrator on any point within the sphere of the Commission, on which the Commissioners may differ in opinion.

With regard to the question which has been referred to M. Benedetti, whether it is proved that the shot from the battery struck the "Mermaid," I consider that his decision in that particular point is final and conclusive.

But with regard to the remaining questions, which the Commissioners at the commencement of their proceedings have agreed to discuss, if the Commissioners should differ in opinion with regard to any point, the Spanish Commissioners would be entitled under the Articles of Agreement to claim that it should be referred to the new umpire, and I do not consider that the new umpire would be bound by the *reasons*, which M. Benedetti may have given for the *conclusion* at which he arrived, so as to be precluded by them from deciding the point referred to him, according to his conscience. At the same time, as regards the *conclusion* itself, at which M. Benedetti has arrived, as it must be taken under the Articles of Agreement to be final, I consider that no decision of the new umpire upon the remaining questions, if it should be opposed to the tenor of that *conclusion*, can set it aside, as regards the matter of fact immediately decided by M. Benedetti.

I have, &c.
(Signed) TRAVERS TWISS.

## No. 154.

*The Law Officers of the Crown to Lord Stanley.—(Received September 8.)*

My Lord, *Temple, September 7*, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st August ultimo, stating that, with reference to his letter of the 4th of June last, he was directed by your Lordship to transmit to us the accompanying further letter from Mr. Forbes Campbell, dated the 24th ultimo, in answer to one addressed to him founded on our Report of the 24th August, and to request that we would take the paper into our consideration and favour your Lordship with our opinion as to the answer which should be returned to Mr. Forbes Campbell.

In obedience to your Lordship's commands we have taken the letter from Mr. Forbes Campbell into our consideration, and have the honour to report—

That we submit to your Lordship, that the briefest possible acknowledgment will be a proper and sufficient reply to the letter which Mr. Forbes Campbell has thought proper to address to your Lordship.

We have, &c.
(Signed) JOHN B. KARSLAKE.
TRAVERS TWISS.

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## No. 155.

*The Queen's Advocate to Lord Stanley.—(Received September 16.)*

My Lord, *Temple, September 16*, 1868.

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 11th instant, stating that, with reference to my Reports of the 20th ultimo, he was directed to transmit to me the accompanying despatch from the British Commissioners sitting on the case of the "Mermaid," stating that the Spanish Commissioners will not consent to the remaining questions being decided without a new arbitrator, and that the labours of the Commission have in consequence come to a standstill; and Mr. Egerton was pleased to request that I would take this Report into consideration, and furnish your Lordship with my opinion as to what instruction should now be addressed to the British Commissioners. The previous papers were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That the British Commissioners should be instructed not to object to the discussion of the question which the Spanish Commissioners propose to raise, whether the captain of the "Mermaid," either from carelessness or want of skill, was, in a great measure, the cause of that vessel being lost, after the shot from the battery struck her. I think this question is so intimately connected with the 12th and 13th of the remaining questions of the series, which has been drawn up for consideration, that its discussion could not well be avoided whenever those questions should come on. But, independently of those questions, the analogy of the practice of the High Court of Admiralty in causes of collision at sea, affords strong support to the Spanish Commissioners. The practice of that Court in such cases, is to allow a party to admit his liability for the damage immediately resulting from the collision; but to deny his liability for the damage subsequently resulting from the other vessel foundering at sea, owing to the alleged carelessness or want of skill of the master, and therefore issue may be taken upon the latter question.

A far more important point is involved in the 14th and 15th questions, which deal with the burden of proof; and here again I think that the British Commissioners may be properly instructed to be guided by the analogy of the practice of the High Court of Admiralty; and it may be convenient that they should be furnished with a copy of the Judgment of Dr. Lushington, in the case of the "Pensher" (Swabey's Admiralty Reports, page 213), in which two important principles are laid down:—

1. That the *onus probandi* lies on the party alleging negligence or want of skill and knowledge, distinctly to prove it; and,

2. That *ordinary* nautical skill and experience is all that can be required from the master of a small merchant-vessel.

The order in which the series of questions has been drawn up by the Commissioners, is certainly most inconvenient; but I do not see how the British Commissioners can refuse to proceed in due order to discuss them. It may be proper, perhaps, that they should be instructed, lest they should be led further into error, that "the principle laid down on a late occasion by the Law Advisers of the Crown," was not that M. Benedetti's decision was *right*, but that it must be taken to be *conclusive*, upon the question submitted to him. With regard to the appointment of a new arbitrator, it is obvious that the questions which may have to be submitted to him, will be of the greatest importance as regards the final result.

Under the circumstances that a difference of opinion already exists between the *naval members* of the Commission upon the subject of the master's conduct after the shot struck the "Mermaid," it would not be advisable, in my opinion, for the British Commissioners to acquiesce in the proposal, that a Spanish *naval officer* should be named umpire in the place of M. Benedetti. It does not appear from the despatch of the British Commissioners that any application has been made to any of the foreign Consuls at Cadiz to replace M. Benedetti. I might venture to suggest that the assistance of one of the foreign Consuls, to be agreed upon by both parties, as sole umpire, would be likely to prove more satisfactory than the appointment of a person on each side, and a decision by lot which of the two persons so appointed should act as umpire for the remaining questions.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 156.

*The Queen's Advocate to Lord Stanley.—(Received September 17.)*

*Temple, September 17*, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 16th instant, stating that, with reference to his letter of the 11th instant, he was directed by your Lordship to transmit to me the accompanying telegram from Mr. Walsham, one of the British Commissioners sitting on the case of the "Mermaid," stating that they hope to be able to secure the services of the Captain of Her Majesty's ship "Bristol," for the purposes mentioned in their despatch No. 30 of the 5th of September.

In obedience to your Lordship's commands I have the honour to report—

That I presume, from Mr. Walsham's telegram, that the British Commissioners hope to be able to secure the services of the Captain of Her Majesty's ship "Bristol," as the person to be named by them under the alternative course contemplated in the Convention, when the Commissioners cannot agree upon an umpire, and when each side is to nominate a person, and it is to be decided by lot which of the two persons so nominated shall act as umpire.

I have already, in the report which I had yesterday the honour of addressing to your Lordship, pointed out certain objections against adopting this alternative, having regard to the questions which remain open for discussion. At the same time, those objections are not paramount, and your Lordship may, I think, properly authorize the British Commissioners to exercise a free judgment on this point after weighing the objections, as probably they alone can fully appreciate the difficulty of proceeding any further with the business of the Commission, unless they are left at liberty to adopt the alternative course.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 157.

*The Queen's Advocate to Lord Stanley.—(Received October 23.)*

*Temple, October 23*, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 13th instant, stating that, with reference to my report of the 16th ultimo, he was directed by your Lordship to transmit to me therewith two despatches from the British Commissioners sitting upon the case of the "Mermaid," accompanied by the several drafts of arguments which they have prepared for presentation to the Arbitrator, when the time arrives for submitting to him the several questions to which they refer, and

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Mr. Egerton was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion thereupon.

The previous papers were also sent therewith for convenience of reference.

In obedience to your Lordship's commands, I have taken these papers into consideration, and have the honour to report—

That the arguments of which the drafts have been prepared by the British Commissioners for presentation to the Arbitrator, if the occasion should arise, are, in my opinion, very able and very exhaustive, and I have nothing to suggest to your Lordship as a matter of further instruction to the Commissioners in regard to the mode of treating the five remaining questions.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 158.

*The Queen's Advocate to Lord Stanley.*—*(Received October* 28.)

*Temple, October* 27, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to transmit to me, together with the previous paper, a letter from the Colonial Office, dated the 15th instant, inclosing a copy of a despatch from the Acting Governor of Gibraltar, furnishing further explanations with reference to the points adverted to in my Report of the 8th August, with regard to the boarding of the Gibraltar schooner "Fanny" by a Spanish revenue cruizer; and to request that I would take this case again into consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That, upon a careful consideration of the Report made by the Lieutenant and Commander of Her Majesty's gun-boat "Skylark" to the Senior Naval Officer, on the 16th September, 1868, and of the subsequent Report made by the Senior Naval Officer to his Excellency the Governor of Gibraltar on the 19th September, I see no reason to alter my opinion that the manner in which the "Fanny" was navigated was calculated to awaken the suspicions of the Spanish guarda-costa as to the destination of the "Fanny," and to justify their boarding her. The Commander of the "Skylark" says, "It certainly appears, even after allowing for baffling winds and calms which do prevail during easterly winds in the vicinity of the rock, that the 'Fanny' was an unusually long time in arriving at the place where she was first boarded." The Senior Naval Officer, who is disposed to think it possible that the "Fanny" might have been prevented by baffling winds from making further progress on her course to Oran before she was boarded for the first time, says, "the statement which makes the 'Fanny' only sail half-a-mile in one hour, the time which elapsed between the first and second boarding, requires explanation."

I am therefore not disposed to think that this case, so far as the conduct of the guarda-costa is concerned in boarding the "Fanny," calls for any further action on the part of Her Majesty's Government than has already been taken by his Excellency Sir R. Airey. But with regard to the further question raised by the Senior Naval Officer as to the right of the Spanish guarda-costa to search the "Fanny" at all, "as she was not at any time more than four miles distant from Europa Point, and consequently was in British waters or on the high seas," and the view which the Acting Governor of Gibraltar has expressed that "although the 'Fanny' may possibly have been rather more than three miles from Europa Point, yet at no time was she within even the six miles from their coast claimed by the Spaniards as their fiscal zone, I am unable to form an opinion upon the matter of fact without further information as to the precise locality where the vessel was boarded, and its bearings in regard to the Spanish coast. With regard, however, to the question of law, I may observe that a great distinction must be made between "British waters," and the "high seas," as regards the action of the Spanish guarda-costas, and that whilst under no circumstances are they entitled to search any merchant-vessel within British waters, they would be justified under *the comity of nations* in searching a foreign vessel on the high seas if she was within six miles of their coast, and they had reasonable grounds for believing that she was bound to a Spanish port, or meant to land her cargo anywhere on the coast of Spain.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 159.

*The Queen's Advocate to Lord Stanley.*—*(Received November* 12.)

*Temple, November* 11, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to me the accompanying letter from the Colonial Office, inclosing a copy of a letter from the Acting Governor of Gibraltar, reporting the circumstances under which a deserter from the Spanish army, named Antonio Baey Brabo, claims protection from the Gibraltar Government as a British subject, and forwarding a copy of a report on the facts of the case which has been drawn up by the Attorney-General of Gibraltar; and Mr. Hammond was pleased to request that I would take these papers into my consideration and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That I am of opinion that, under the circumstances of this case, Antonio Baey Brabo has no claim to the protection of the Governor of Gibraltar against the Spanish authorities. Antonio Baey Brabo appears to have been of Spanish origin, both his parents being Spanish subjects, his mother, however, was by accident within the lines of Gibraltar *in itinere* at the moment of his birth, his father being at such time in Spain. Under such circumstances, the child under the law of nations, would follow the condition of its parents, and its national character would be Spanish. Antonio Baey Brabo seems always to have resided in Spain, and has come within the British lines under circumstances which entitle the Spanish Government, under an agreement with the Governor of Gibraltar of April 21, 1838 (Hertslet, vii, page 1011), to claim that he should be delivered up. I consider that it would be a breach of that agreement for the Governor of Gibraltar to refuse to deliver up Antonio Baey Brabo, and that he is not precluded from delivering him up by the circumstance of his having been born, as aforesaid, within the British lines.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 160.

*The Queen's Advocate to Lord Stanley.*—*(Received November* 14.)

*Temple, November* 13, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th ultimo, stating that he was directed by your Lordship to transmit to me the accompanying correspondence, as marked in the margin,* with regard to a request made by Mr. W. Grain to be allowed to have access to the Reports of the Commission appointed under the Act 10 Geo. IV, cap. 20, for the settlement of certain British claims upon Spain, and certain Spanish claims upon Great Britain.

Mr. Hammond was pleased also to inclose a Memorandum, dated the 20th ultimo, with regard to this application, which had been prepared in the Foreign Office, and to request that I would take these papers into my consideration, and favour your Lordship with my opinion as to the propriety of complying with Mr. Grain's request.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to Report—

That your Lordship may, I think, properly allow Mr. Grain to have access to the *ship-papers* and *cargo-papers* of the four treasure-ships "Media," "Fama," "Clara," and "Mercedes," which were captured by the order of the British Government previous to the Declaration of War by Spain in 1804, and which he has specified as being the particular vessels respecting which he has failed to discover any evidence of their capture in the indices here, or by reference to the Vice-Admiralty Courts.

With regard to the proceedings of the Commission on claims settled under the Treaty of Amiens, I think it not advisable that Mr. Grain should be allowed to peruse the *correspondence* between the British and Spanish Governments on the subject of the claim of the Marquis de Yranda, in respect of property captured on board the Spanish vessel "La Minerva," without the consent of the Spanish Minister; but I see no objection, on principle, to his being allowed to see the particulars of *the claim* itself, which was given in on behalf of the Marquis de Yranda, and which the British Government refused to admit. It may, however, deserve consideration on the part of your Lordship whether the circumstance of your predecessor in office having tacitly declined to comply with the request of the Spanish Minister in 1866, that he should be furnished with certain information, which was then required by the Spanish Government to protect itself against claims arising out of the Treaty of Amiens, will not preclude your Lordship on the present occasion from furnishing to a Spanish subject information which he requires to support a claim under that Treaty against that Government. I would suggest to your Lordship that it might be desirable to ascertain on what grounds the Lords Commissioners of the Treasury did not give the necessary directions in 1866, in order that the information desired on that occasion should be communicated to the Spanish Government.

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* Treasury, September 4; Mr. Grain, September 5; to Mr. Grain, September 7; Mr. Grain, September 11, 1870.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 161.

*The Queen's Advocate to Lord Stanley.—(Received November* 18.)

*Temple, November* 17, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 3rd instant, stating that he was directed to transmit to me the accompanying despatches and their inclosures from Her Majesty's Minister at Madrid, relative to the seizure by a Spanish ship of war on the high seas, and to the subsequent release of the "Gibraltar Segundo," a vessel sailing under the British flag; and Mr. Spring Rice was pleased to request that I would take the same into consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the "Gibraltar Segundo" appears to have been seized and taken possession of by the Commander of the war-steamer "Favorite," under the impression that she was unlawfully navigating under the British flag, none of her crew being British subjects. It does not appear from the correspondence, in whom the ownership of the vessel was vested, but I infer that the register, or rather I presume, certificate of registry, of which Mr. Consul Turner speaks in his letter of 24th September, No. 15, was a British certificate delivered at Gibraltar under the provisions of the Merchant Shipping Act, 17 and 18 Vict., cap. 104, sec. 30, which constitutes the Governor, or other person administering the government at Gibraltar a registrar for the purposes of that Act. The exhibition of that certificate ought to have satisfied the Commander of the Spanish cruizer that the vessel was British-owned, and entitled to use the British flag; but he appears to have been misinformed as to the requirements of the British Municipal Law, and to have suspected a fraud on the part of those on board her, none of the crew or passengers being of British nationality. As the vessel and her crew have been released upon the representation of the British Consul that the vessel was duly navigated in compliance with the requirements of British law, I consider that your Lordship may properly direct Her Majesty's Minister at Madrid to refrain from interfering further in the matter.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 162.

*The Queen's Advocate to Lord Stanley.—(Received November* 19.)

*Temple, November* 17, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 7th instant, stating that he was directed by your Lordship to transmit to me the accompanying letter, dated the 5th instant, from the Colonial Office, and its inclosures, relative to the seizure by Her Majesty's ship "Skylark," of a Spanish revenue cruizer while searching a Spanish trader in British waters, and to the subsequent proceedings of the Acting Governor of Gibraltar with regard to those vessels; and Mr. Murray was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it appears from the Report of the Commander of Her Majesty's gun-boat "Skylark," that in consequence of a signal having been made from the Signal Station, that a Spanish revenue boat was boarding a British trader in British waters, he got up his steam, and proceeded to the vessels, and thought it his duty to detain them both, and to take them into the New Mole at Gibraltar, having transferred the crew of the revenue boat into his own vessel. Upon the examination of the crews of the revenue boat and the trader before the police magistrate at Gibraltar, it appeared that Her Majesty's gun-boat was not justified in detaining and taking into port either of the vessels, as the trader proved to be a Spanish vessel belonging to Estepona, and the officer in charge of the revenue boat asserted that he had gone on board the trader for water, and not for the purpose of searching her for revenue purposes; in which story he was confirmed by the master of the trader. It may be open to question whether this story was altogether consistent with the facts observed from the "Skylark;" but I think the British authorities were right in acting upon it. Under the circumstances, therefore, that both vessels were Spanish, and that the Spanish revenue boat had not attempted to exercise any right of search within British waters, the Governor of Algeciras would have been entitled to demand that both vessels should be given up to him; and it was a proper act of courtesy on the part of the Acting Governor of Gibraltar to anticipate any such demand by sending in the vessels to Algeciras, with an explanation of the grounds of seizure. I do not consider that the letter of 19th August, 1868, which the Acting Governor of Gibraltar addressed to the Governor of Algeciras on sending back the two vessels, was calculated to lead the latter to suppose that the Spanish trader had been sent in to Algeciras, "as she appeared to have been about to smuggle tobacco into Spain." The fair construction of the letter would appear to be, that although the Acting Governor had misgivings as to the conduct of the revenue boat, "he felt himself at liberty to place both vessels at the disposal of his Excellency." With regard, therefore, to the proceedings of the Acting Governor, upon the view which I have ventured to take of them, I think that they were proper. But it seems to have been stated by the master of the trader before the police magistrate at Gibraltar, that he had on board a cargo of tobacco, which he intended to smuggle into Spain; and the Governor of Gibraltar, who was not himself at Gibraltar at the time of the seizure, alludes to that amongst other facts in his despatch of 16th October, to his Grace the Duke of Buckingham and Chandos, which may have led his Grace to suppose that it was the motive for the Acting Governor of Gibraltar handing over the trader to the Governor of Algeciras. If his Grace's supposition should prove to be correct, it was an error on the part of the Acting Governor to send in the Spanish trader to Algeciras in order that she should be dealt with according to Spanish law. But I do not think the circumstance of the trader having tobacco on board would have been a sufficient answer to the Spanish authorities, if they had sent to demand the surrender of both vessels whilst they were under seizure; and therefore I consider that it did not preclude the Acting Governor of Gibraltar from handing over the Spanish trader to the Spanish authorities at the same time when he handed over the revenue boat.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 163.

*The Queen's Advocate to Lord Stanley.—(Received December* 5.)

*Temple, December* 5, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to me the accompanying correspondence relative to the seizure by a Spanish revenue cruizer, while on a voyage from Gibraltar to Laraiche, of the British falucho "San Pablo," and to her subsequent condemnation as prize by the local tribunals at Algeciras; and Mr. Egerton was pleased to request that I would take this case into my consideration, and favour your Lordship with my opinion as to any steps which Her Majesty's Government should take with regard to it.

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In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That it does not appear to be advisable for your Lordship to raise any question with the Spanish Government in this case in regard to the Spanish fiscal zone, of two leagues, as the "San Pablo" was within two miles, or a mile and a half from the coast of Spain, when she was seized by the Spanish revenue vessel.

With regard to the case itself, I think that the statement given by the master in explanation of the navigation of his vessel is not satisfactory. According to his deposition, the vessel had used her oars in the early part of the morning as well as sails, to enable her to leave the port of Gibraltar and reach Calrita Point, after which the wind freshened, and she is stated to have made an offing of 4½ miles from that point, when the wind failed, and the current drove her in shore towards Botiga. At half-past 12 a light wind sprung up from the westward, notwithstanding which she was at 1·30 P.M. two miles only off the Spanish coast, abreast of Botiga, standing towards the south. No attempt seems to have been made by the master, when he found himself within Spanish waters, to make use of his oars as he had done in the earlier part of the day; whilst, according to his statement at the time, when his vessel was seized by the Spanish revenue boat, she was scarcely moving through the water.

It is agreed by all parties that, at the time of seizure, the "San Pablo" was in 20 or 21 fathoms water, and two experts are stated to have deposed before the Junta at Algeciras that the "San Pablo" could not have been driven by the currents to the spot where she was seized.

Upon the report made by Mr. Griffiths (No. 2 in Sir John Crampton's despatch No. 211A), I consider that the owners of the vessel and cargo have no just ground of complaint, as regards the proceedings before the Junta. The crew and passengers appear to have been examined before the Junta, in the presence of the British Consular Officer, Mr. Griffiths, who was an eye-witness of all that passed, and there was evidence before the Junta, upon which it *might* condemn the vessel and cargo.

On which side, however, the weight of evidence preponderated cannot be ascertained, as the proceedings before the Junta have not been made public. Mr. Griffiths reports that the parties have appealed, and if the good offices of Her Majesty's Minister should be required to secure the due hearing of their appeal before the Junta of Madrid, I think your Lordship may so far direct assistance, if required, to be given to the parties, but I do not think that it is a case at present which calls for any diplomatic intervention on your Lordship's part with the Spanish Government.

With regard to the Memorial addressed by Messrs. Charles and John Garcia to his Excellency the Governor of Gibraltar, which is inclosed in the Colonial Office letter of September 30th, 1867, after stating in the fourth paragraph that, in consequence of the currents, the wind being then calm, they were driven to Botiga, about one mile and a half from the shore; they go on to submit to his Excellency in the seventh paragraph "that if the law which the Spanish Government wish to put in force with respect to the capture of vessels within the zone, particularly in the Straits of Gibraltar were recognized by the English Government, no British vessel under 200 tons could safely pass the Strait. Moreover, it is well known that, in consequence of the currents that exist in the mid Strait, and which are continually varying, all vessels, and particularly so small faluchas or crafts, are obliged to sail along the Spanish coast to avoid the currents."

It does not, however, appear from the facts of this case that any question arises as to the passage of the Strait itself, and the further question whether, in the Strait itself small vessels may not be obliged to sail along the Spanish coast to avoid currents, is also foreign, if I mistake not, to the present case, as the allegation of the parties is, not that they were sailing along the Spanish coast to avoid the currents, but that they had been driven to the spot, where they were seized by the force of the current.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 164.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 11.)

*Temple, December* 10, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in a note from Mr. Hammond dated the 26th November last, stating that he was directed by your

Lordship to transmit to us, for our consideration with the papers then before us, the accompanying letter from Mr. Kirby, containing a statement bearing on the case of the steam-ship "Tornado."

We are also honoured with a note from Mr. Egerton, dated the 28th November last, inclosing a further letter from Mr. Kirby bearing on the case of the "Tornado."

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we think that an acknowledgment of Captain Kirby's letters is all that is needed.

The information contained in them appears to have only a remote bearing on the "Tornado" case, and, in fact, they are hardly intelligible without the communication (No. 1) referred to in the letter of the 23rd November.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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## No. 165.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 11.)

*Temple, December* 10, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in a note from Mr. Egerton, bearing date the 9th November ultimo, stating that he was directed by your Lordship to transmit to us, for our consideration with the papers then before us, the accompany despatch and its inclosures from Her Majesty's Minister at Madrid, on the subject of the case of the "Tornado."

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That if, as we have suggested in another report, an application be made to the Spanish Government, that the claimants of the "Tornado" should have an opportunity of being heard against treating the vessel as prize, the Government may properly be asked that the vessel shall not be sold in pursuance of the existing sentence of condemnation.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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## No. 166.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 12.)

*Temple, December* 10, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 12th September last, stating that, with reference to our Report of the 14th ultimo, and previous Reports, on the case of the "Tornado," he was directed to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid, containing copy and translation of the Report of the Spanish Minister of Marine to the Minister of State and Foreign Affairs, announcing the definitive confirmation of the sentence of the Tribunal at Cadiz in the case of that vessel; and to request that we would take these papers into consideration, and furnish your Lordship with our opinion thereupon.

We are also honoured with Mr. Egerton's letter of the 14th October and 4th instant, transmitting further papers respecting this case.

In obedience to your Lordship's commands we have the honour to report—

That, in Sir John Crampton's letter of the 6th September, 1868, inclosing the copy and translation of the Report of the Spanish Minister of Marine to the Minister of State and Foreign Affairs, announcing the definitive confirmation of the sentence of the Tribunal of Cadiz, Sir John adds that he had instituted inquiries with a view to elucidate more fully the points referred to in your Lordship's despatch No. 94, respecting the legal proceedings in this case, and the rights of defence and of appeal which may, under Spanish law, appertain to the Defendants, as well as to the manner in which they may have availed themselves of those rights, or in how far they may have been prevented or have abstained from so doing. Events that have recently occurred in Spain have prevented Sir John from ascertaining from the Government of Her Catholic Majesty, how it was that the promise made to your Lordship that the claimants should have a full opportunity of appealing against the sentence of the Court at Cadiz was unfulfilled, notwithstanding the applications of the claimants to be allowed a hearing before the Council of State.

Señor Retortillo, however, in his letter to Sir J. Crampton, of the 19th October, 1868, states the actual course of events and proceedings in this case, and from this statement it appears, that the claimants desisted entirely from taking any step, or offering any evidence before the Cadiz Prize Court, relying, it is said, upon the certainty of being able to defend themselves before the Council of State. In effect, therefore, the Cadiz Prize Court, after giving the claimants the fullest opportunity of appealing and being heard against the sentence of condemnation, considered the case upon the materials before the Court, and, for the reasons stated in the Decree, pronounced for the condemnation.

The use of these materials as a foundation for such a sentence is objected to by the claimants, but we cannot say that a sentence founded upon them (after full opportunity given to the claimants to supply fresh evidence, and object to and maintain the worthlessness of that used), made the decision one contrary to justice, and in fact we are not aware that any promise or representation was ever made by the Spanish Government, that on the appeal, which it was stated the claimants were entitled to, any other evidence could be used than that produced and relied upon in the first Prize Court. Senor Retortillo, as we gather, considers that, from the peculiar "administrative" character of the proceedings, defence *as of right* before the Council of State was not allowed, but that having regard to the obligations which the Spanish Government had contracted with the British Government, on the fulfilment of which the owners had always relied, "the Spanish Government ought to have transmitted the defence of the owners to the Council." No reply was however given to the claimants' petition to be heard, and the sentence of the Cadiz Court was affirmed without any such hearing. We are of course ignorant as to what evidence the claimants intended to produce to prove the innocence of the vessel, but relying on their statement that they anticipated that they should be allowed the opportunity of defence before a Tribunal of Appeal, your Lordship may properly represent to the Spanish Government, the circumstances under which the claimants postponed, and declined to enter into their defence, and ask that under these circumstances a special Tribunal after hearing both sides may determine, whether the "Tornado" was or was not good prize.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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### No. 167.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 12.)

*Temple, December* 10, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th of October last, stating that he was directed by your Lordship to transmit to us for our information the accompanying extract of a despatch from Her Majesty's Minister at Madrid, from which we should learn that the Chamber of Appeal called the "Seccion Contenciosa," has been abolished by a Decree of the Spanish Provisional Government.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we understand from the letter of Señor Retortillo of the 19th of October, 1868, now before us with other papers relating to the "Tornado," that in prize proceedings the Spanish Prize Courts proceed *administratively*, and that there is no appeal and further hearing before the *Council of State*, the functions of which in such cases are *consultative*, and are only set in motion by the Minister of Marine invoking its advice. It does not appear to us, therefore, that the abolition of the Contentious Section of the Council of State, before which *judicial* sentences are appealed, can have

any bearing upon the case of the "Tornado" of such a character as to call for notice from the British Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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### No. 168.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received December* 16.)

*Temple, December* 14, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that, with reference to his letter of the 28th ultimo, he was directed by your Lordship to transmit to us for our consideration a further letter, dated the 8th instant, from Mr. Richard Kirby, bearing upon the case of the "Tornado."

In obedience to your Lordship's commands, we have the honour to report—

That the receipt of Mr. Kirby's further letters should be acknowledged, and that he should be informed that your Lordship will bear his communications in mind; but that your Lordship does not consider that there is any occasion for confronting Mr. Kirby with Messrs. Campbell and Co. and Messrs. Spyers and Hayward, and, therefore, that there does not seem to be any reason for Mr. Kirby to alter his arrangements. The charter-party of the "Alicia Annie" may, at the same time, be returned to Mr. Kirby.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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### No. 169.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December* 31.)

*Temple, December* 30, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammonds's letter of the 20th instant, stating that, with reference to my Report of the 22nd of July last, he was directed to transmit to me the accompanying despatch from Her Majesty's Minister at Madrid inclosing copies and translation of the log-book of the "Garibaldi" and of other documents throwing light on the circumstances attending the capture of that vessel; and to request that I would take the same, together with the previous papers, into my consideration and furnish your Lordship with my opinion upon this case.

In obedience to your Lordship's commands I have the honour to report—

That the so-called log-book of the "Garibaldi" is not, properly speaking, a ship's log-book, but is a kind of protest apparently made by the master of the "Garibaldi" after his arrival at Huelva, and so far worthless for the purpose for which I was desirous to see it, as likely to contain entries made before the seizure of the vessel. On referring to the document your Lordship will find that, as respects that part of it which professes to be a journal of navigation, it contradicts the ship's manifest and the certificate of the Captain of the Port of Gibraltar, to which I have alluded in my Report of 22nd July last, in regard to the day on which the "Garibaldi" sailed from that port, and so far from throwing any light upon the navigation of the vessel between the 12th and 16th December, for which purpose I thought it might be especially useful, it ignores that interval of time altogether.

Under the very suspicious circumstances of this case, I think your Lordship will be justified in instructing Her Majesty's Minister at Madrid to intercede no further with the Spanish authorities on behalf of the owners of the "Garibaldi" and her cargo.

I have, &c.
(Signed) TRAVERS TWISS.

1868

## Switzerland.

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### No. 170.

*The Queen's Advocate to Lord Stanley.—(Received April 25.)*

*Temple, April* 25, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to me the accompanying letter from Mr. W. G. Farrer, respecting a claim made by the Swiss authorities at Lausanne to be paid the sum of 2,650*l.* as duty upon the estate of the late Rev. Chauncey Hare Townshend, in this country, before permitting his executors to have access to papers and property left by the deceased in a villa rented by him at Lausanne.

Mr. Hammond was also to inclose a Memorandum which has been drawn up in that office with reference to this case, from which I should perceive that, in the year 1837, a claim advanced by the authorities of Zurich under somewhat similar circumstances was successfully resisted by Her Majesty's Government; and, as the principle involved in the present case is of considerable importance, Mr. Hammond was pleased to request that I would favour your Lordship with my opinion upon it, and as to any steps which it may be desirable that your Lordship should take with reference to Mr. Farrer's application.

The Decree of the Federal Directory of July 1818, the Declarations of Great Britain, and of the Directory of the Swiss Cantons in 1841 and 1842, and the Treaty of Commerce with Switzerland of September 6, 1855, bearing upon this case, were also annexed for my information.

In obedience to your Lordship's commands I have the honour to report—

That it appears from Article IV of the Treaty of 1855, that the Federal Council of the Swiss Confederation has contracted with Her Majesty the Queen of the United Kingdom of Great Britain and Ireland to allow the heir or representative of any British subject, who may have acquired or possessed property of any description within the territories of the Confederation, to succeed and take possession of that property *in the ordinary form of law,* as any Swiss citizen may do.

It would seem, therefore, that Her Majesty's Government is entitled to insist of right that the representative of Mr. Townshend shall be allowed to take possession of all the personal property of that gentleman within the Canton of Vaud.

But it is of importance to ascertain in the first place from Mr. Farrer whether the Rev. Mr. Helmore has proceeded strictly according to *the ordinary form of law* as a Swiss citizen would do, and whether it may not be necessary for him to obtain from some tribunal of the Canton of Vaud a judicial recognition of his character as representative, before he can claim to be put into possession of the late Mr. Townshend's property. A foreign probate would not be of conclusive authority in England, and the representative of a foreign testator under a will proved abroad would be required to obtain the authority of an English Testamentary Court, before he could claim to be put into possession of any personal property in England which had belonged to the testator.

Assuming, however, that all the requirements of the law of the Canton of Vaud have been or will be satisfied, I am of opinion that the representative of Mr. Townshend may thereupon demand of right to be allowed access to the property of the testator before *any* payment can be demanded of him; for the Treaty stipulates that the representative of a foreigner shall not "pay upon the value of *such* property"—that is, property in the territory of the Swiss Confederation—"any other or higher impost, duty, or charge than is payable" by a Swiss citizen; but for the purpose of this payment the value of such property must be ascertained by the representative, and he cannot ascertain its value unless he is permitted to have access to it.

With regard to the demand of 2,650*l.*, which is stated to have been made by the Cantonal Authorities, under the pretext of a duty levied upon the property of Mr. Townshend in England. I am of opinion that such a demand is in direct violation of the Treaty of 1855, and that if Mr. Helmore has complied with all the antecedent forms which may be required by the Swiss law, to constitute him the legal representative of Mr. Townshend, Her Majesty's Minister would be justified in presenting a note to the Federal Directory, calling upon it to take the necessary measures to secure that effect may be given by the authorities at Lausanne to the provisions of the Treaty of 1855.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 171.

*The Queen's Advocate to Lord Stanley.—(Received May 6.)*

*Temple, May* 6, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 4th instant, stating that, upon the receipt of my Report of the 25th ultimo, respecting the claim of the Swiss authorities at Lausanne, to be paid duty on the estate of the late Mr. Townshend in this country, your Lordship directed inquiry to be made of Mr. Farrer in the sense suggested in my letter; and Mr. Egerton was pleased to transmit to me the reply which has been received from Mr. Farrer to that inquiry, and to request that I would again take these papers into consideration, and furnish your Lordship with my opinion as to the course which Her Majesty's Government should pursue in the matter.

The previous papers were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That the Government of the Canton of Vaud is entitled to put the executors of the will of the late Mr. Townshend upon the proof of his testamentary domicil, more particularly as the probate taken out in England, which has been exhibited to the Cantonal authorities, describes Mr. Townshend, according to the statement in Mr. Farrer's last letter of 30th April, as of Norfolk Street, Park Lane, and of Lausanne, in Switzerland. The Cantonal authorities may not unreasonably hold that, as the English probate has described Mr. Townshend to be of Lausanne, in Switzerland, as well as of Norfolk Street, Park Lane, they are entitled to be satisfied that Mr. Townshend was not domiciled at Lausanne before they give up their claim to the succession duty on his personal estate.

If the main ground upon which the Cantonal authorities are disposed to rely is the fact, that Mr. Townshend took out a *permis de domicile*, it is of importance that such domicil, which is essentially a domicil for *municipal* purposes, should not be confounded with *international* domicil, by which the disposition of personal property is regulated.

Municipal domicil may be properly held to be some evidence of international domicil, but it is not conclusive evidence of it; on the contrary, the presumption arising upon it is a very weak presumption, upon which English Courts do not lay much stress, but it is of importance that the executors should fully instruct their legal representative at Lausanne as to the facts upon which they rely to support the English international domicil, in case the Cantonal authorities should be disposed to attach undue weight to the municipal domicil.

It does not appear from Mr. Farrer's letter whether the Cantonal authorities will treat the question of Mr. Townshend's domicil *administratively* or *judicially*.

If the inquiry is to be conducted *judicially*, I am of opinion that Her Majesty's Government is not at present called upon to give any assistance to the executors, but if the question is to be treated *administratively*, your Lordship may properly allow Mr. Farrer to communicate with your Lordship further on the subject, if he has any doubts as to the proceedings of the Cantonal authorities being at variance with the spirit of the Treaty of 1855.

I have, &c.
(Signed) TRAVERS TWISS.

1868

## Turkey.

### No. 172.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 4.)

*Temple, January* 3, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Mr. Francis, recently appointed Judge of Her Majesty's Consular Court at Constantinople (No 14, December 18), but who is still at Alexandria, and from Mr. Lane, who is temporarily acting at Constantinople, in Mr. Francis' place (No. 31, 9th December), stating the nature of the difficulties and objections which each of these officers have raised, to presiding at the trial of Mr. Calvert, which is fixed to take place at Constantinople on the 30th January.

And Mr. Hammond was to inform us that your Lordship had, previously to the receipt of Mr. Francis' despatch of the 18th instant, instructed him to return to Constantinople, in time to preside at the trial; but in view of the reasons advanced by Mr. Francis for not wishing to do so, your Lordship would be glad to be favoured with our opinion, whether they are of such a nature as to preclude Mr. Francis from presiding at the trial, and if so, whether it is expedient that Mr. Lane should undertake this duty.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That in our opinion the reasons advanced by Mr. Francis would not *preclude* him from trying Mr. Calvert. We do not think that what has occurred should make Mr. Francis doubt his ability to conduct with impartiality the trial, and direct the jury properly upon the evidence judicially before him on the points of law and fact, which may arise in the course of it. If, however, Mr. Lane be competent to conduct the trial, we think that your Lordship may, under the circumstances of the case, after having received from Mr. Francis so strong a representation of his impressions of Mr. Calvert's guilt, and of his consciousness that he would preside at the trial with a predisposition against the prisoner, as that which he has forwarded, properly relieve Mr. Francis from the duty of so presiding at the trial. And we think that if your Lordship should take this course, it will be better for Mr. Francis to be absent from Constantinople altogether and take no part in the trial. Mr. Lane, in his letter, appears to raise no objection to presiding as Judge, but only to appearing as prosecuting Counsel.

We have, &c.

(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 173.

*The Queen's Advocate to Lord Stanley.*—(*Received January* 6.)

*Temple, January* 4, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to me a letter from Messrs. J. L. Manasce and Sons, stating the circumstances under which they ask that instructions should be sent to Her Majesty's Consul at Alexandria, to support their correspondent at that place in their endeavours to recover the amount of certain bills accepted by His Highness Mustapha Fazil Pasha; and Mr. Hammond was pleased to request that I would furnish your Lordship with my opinion whether Her Majesty's Government would be justified in instructing Her Majesty's Consul to interfere in the case, and if so, to what extent.

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### No. 171*.

*The Queen's Advocate to Lord Stanley.*—(*Received November* 11.)

*Temple, November* 11, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Agent and Consul-General at Tunis, representing that certain clauses of the Treaty lately concluded between Italy and Tunis, of which a translation was inclosed, are at variance with the provisions of the Treaty between this country and Tunis, and Mr. Hammond was pleased to request that I would take Mr. Wood's despatch into consideration, and report to your Lordship my opinion on the points therein adverted to. A copy of the Convention between Great Britain and Tunis was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That it appears from the despatch of Her Majesty's Agent and Consul-General at Tunis that the paragraph of the Treaty lately concluded between the Italian and Tunisian Governments, which he considers to be at variance with the provisions of the Treaty between Great Britain and Tunis, has reference to the settlement of disputes which may arise in regard to immovable property in the Regency of Tunis between Italian and British subjects, and that he is of opinion that the Italian Treaty will work a hardship to British subjects in three respects:—

1. With regard to the Tribunals at Tunis, by which such disputes will have to be determined.
2. With regard to the law which such Tribunals will administer.
3. With regard to the right of appeal from the decision of such Tribunals.

The Italian Treaty provides as follows:—

"Si au contraire le différend surgirait entre deux Italiens, ou qu'il s'éleverait entre un Italien et un sujet d'une tierce Puissance, la partie qui aurait été citée par-devant le Tribunal de la Magistrature locale aura le droit de renvoi de cause par-devant l'autorité Consulaire respective pour y être jugée de la manière habituelle."

The British Treaty, on the other hand, whilst it provides for cases of litigation respecting immovable property between two British subjects, giving to either party the option of having the question "heard and determined by the British Consul," with the proviso that "his decision shall be governed by the laws and usages of the country, so far as they can be ascertained, and so far as the conditions expressed in the Contract will permit," does not contain any provision to meet cases of litigation which may arise respecting immovable property between British subjects and the subjects of another Christian Power. There is thus undoubtedly a variance between the British and Italian Treaties as respects the additional provision in the latter Treaty, which, however *primâ facie*, should work no hardship to British subjects, as the advantages or disadvantages resulting from it will be reciprocal, and it is framed after the practice which has hitherto prevailed in Tunis in disputes respecting personal property between the subjects of Christian Powers. Her Majesty's Agent, however, considers that the paragraph above recited of the Italian Treaty will deprive British proprietors of an essential part of the immunities and privileges which have been secured to them by Articles IV and XVII of the British Treaty. The former of those Articles, which refers in express language to matters in litigation ("choses en action"), has been already alluded to, and I am of opinion that the Italian Treaty will not interfere with any right accorded to British subjects under that Article. The latter Article, on the other hand, does not appear to me to be properly interpreted by Her Majesty's Agent, as I consider it not to have any application to the adjudication of disputes by legal Tribunals, but to refer to immunities, privileges, and rights as regards the enjoyment of property ("choses en possession"). Thus it provides that "British subjects, holding immovable property in the Regency of Tunis,

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shall, in conforming to the local laws and Regulations, exercise and enjoy the same immunities, privileges, and rights that are accorded to Tunisian proprietors," but if the term "rights" is to be construed in this Article as applying, amongst other things, to the legal Tribunals which are to adjudicate in disputes respecting immovable property, this Article will be in evident conflict with Article IV, under which the right of convening a British subject before a Tunisian Tribunal is secured to a Tunisian proprietor, but a British proprietor may be precluded from such right, the option being given to any British subject, who is defendant in a suit in which a British proprietor is plaintiff, to have the difference heard and determined by the British Consul.

The *second point*, however, to which Her Majesty's Agent has called your Lordship's attention with regard to the law, which the Consular Tribunals will administer in such disputes under the words of the Italian Treaty, "pour y être jugée de la manière habituelle," may involve a question of principle of no slight importance. If I understand rightly, the system under which the Consuls of Christian Powers at Tunis, and in other of the Barbary States, have been accustomed to entertain suits respecting personal property against the subjects of the Powers under whose Commission they respectively act, when the plaintiff is the subject of another Power, it has not been the result of any Convention; but a custom has grown up under the comity of nations *ob reciprocam utilitatem*, inasmuch as by no other means could the plaintiff obtain justice, the subjects of Christian Powers being, by Treaty, exempt from the jurisdiction of the local Tribunals. The general rule of the Roman Code, which is expressed in the maxim "Actor sequitur forum rei," has been applied to such cases, not upon the ground of showing more favour to the defendant than to the plaintiff, but in order that the adjudication might be made where it could be enforced. The authority, on the other hand, of the Consular Court to enforce its decisions against the subjects of that Power, under whose Commission it acts, is derived from the law of the domicil of the defendant, and thus it happens that in suits respecting personal property brought in the Consular Courts the law of the *forum* has been the law of the *domicil* of the defendant. There is no objection on principle to questions of *real* property between foreigners resident in the Regency of Tunis being heard or decided before the defendant's Judge, if in such cases the law of the *forum* is the law of the *country* where the property is situated. I do not, therefore, think that there is any violation of international law in the Government of Tunis allowing the Consul of the party defendant in a suit touching property within the Regency of Tunis to exercise jurisdiction, if the Consul is authorized by the Power under whose Commission he acts to decide the question in accordance with the laws and usages of Tunis. No stipulation, however, is found in the Italian Treaty that the decision of the Consul in such cases shall be governed by the law of Tunis; yet all jurists of note agree that the law of the *situs* exclusively governs as to immovable property. Pothier, as cited with approval by Mr. Justice Story, in his "Conflict of Laws," § 427, has laid down the rule in the most general form, that "real laws have an exclusive dominion over all things submitted to their authority, whether the persons owning them live within the territory, or without the territory" ("Coutumes d'Orleans," Ch. I, § 2); and Vattel has laid it down as a principle of international law that immovables are to be disposed of according to the laws of the country where they are situated ("Law of Nations," L. 11, § 110). All the authorities in England and the United States recognize this principle in its fullest extent, and it may be taken for granted that in a suit brought by a foreigner in an English Court against a British subject respecting real estate in a foreign country, the law of the *forum* would be the law of the *country* in which the property is situate. A British Consul would, therefore, I think, properly decide any suit brought before him against a British subject under the Italian Treaty according to the law of Tunis, but I am not aware whether Italian Courts would or would not administer the law of the *situs*.

Her Majesty's Agent seems to apprehend that they would apply the laws of Italy instead of the Tunisian laws. It will, therefore, be of importance to ascertain (1) whether the Tribunals of Italy differ in their practice from those of England; and (2) whether the parties to the Italian

Treaty contemplate that justice shall be administered in the Consular Courts according to a different rule from that which the Treaty provides in regard to the Tunisian Courts, namely: "Les lois à être appliquées pour la décision de la cause lorsque le différend devra être résolu par les Tribunaux et autorités du pays seront celles du pays même, pourvu qu'il ne s'agisse point d'établir l'état et la capacité personnelle de la partie Italienne, ni d'autres questions pour lesquelles il deviendrait nécessaire de recourir à d'autres législations, selon les règles et les distinctions du droit international privé communément acceptées."

I think that it would be matter of just complaint on the part of the British Government if the Tunisian Government has not secured for British proprietors holding land under the sovereignty of Tunis, who may be involved in litigation with Italian proprietors, the same measure of justice which it has secured for Tunisian proprietors as regards the *lex rei sitæ*. "Quæ realia aut mixta sunt, haud dubie locorum et rerum situm sic spectant, ut aliis legibus, quam territorii, judicari non possint." (D'Argentre, quoted by Story, § 426A, 4th edition.)

On the *third point* touched upon by Her Majesty's Agent with regard to the right of appeal from the decision of the Consular Courts, I am rather at a loss for information. I am not aware of any right of appeal from a British Consular Court to the Court of Queen's Bench, as seems to be suggested by Her Majesty's Agent. No such appeal has been given from any of the Consular Courts in the Barbary States by 6 and 7 Will. IV, c. 78 (Hertslet V, p. 503), and I am not aware of any Order in Council of Her Majesty regulating the course of proceedings in such Courts which grants any such appeal.

It is possible, however, that an appeal from the Italian Consular Courts in those States to the Supreme Court at Genoa may have been granted by some Italian Statute or Ordinance. It certainly would be a great hardship upon a British subject whose title to real estate in the Regency of Tunis had been acquired under the law of the country, if he could not obtain justice according to that law in a matter touching that estate against an Italian subject without being liable to have the suit carried by the defendant before an Appellate Court at Genoa. I should observe that 6 and 7 Will. IV, c. 38, above referred to, has been repealed by 6 and 7 Vict., c. 94, which empowers Her Majesty to exercise any jurisdiction which she may have acquired by Treaty within any foreign country in the same and as ample a manner as if Her Majesty had acquired such power and jurisdiction by the cession or conquest of territory.

Her Majesty may, therefore, by Order in Council, authorize the British Consul at Tunis to exercise the jurisdiction accorded to him by the British Treaty, and to administer the law of the country in all differences between British subjects touching immovable property there situated, and if jurisdiction over such differences, when they arise between a British subject and the subject of a Christian Power, should also be conceded to Her Majesty by a further Treaty, Her Majesty may also issue an Order in Council to empower the British Consul to exercise such jurisdiction. In the absence, however, of any such Order in Council, it may be doubtful whether the British Consul could be duly authorized to exercise the jurisdiction accorded by Article IV of the British Treaty, or by any Article of a further Treaty.

I venture to suggest to your Lordship that some further inquiry should be made as to the interpretation which the Tunisian and Italian Governments propose to give to the words "la manière habituelle" in the 4th paragraph of Article XXII of the Italian Treaty, as Great Britain, with all the other Powers whose subjects have acquired property under Treaties like the British Treaty, have a direct interest in the question. It may be that the provisions of the Italian Treaty are not intended to conflict with those of the British Treaty, but to supply a defect in it, in which case it may deserve your Lordship's consideration whether a supplemental Treaty may not be requisite to enable Her Majesty to entertain questions affecting the rights of foreigners, not British subjects, to land in Tunis.

I have, &c.
(Signed) TRAVERS TWISS.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That your Lordship would not, I think, be justified in instructing Her Majesty's Consul to interfere at present in this case.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 174.

*The Queen's Advocate to Lord Stanley.—(Received January 7.)*

My Lord, *Temple, January* 7, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to me the papers respecting a representation addressed to the Foreign Office by Messrs. Hall, in which they complain that the transit of gunpowder, destined for the Danubian Principalities, through the Straits of Constantinople, is prohibited by the Turkish authorities; and Mr. Hammond was pleased to request that I would take these papers into my consideration and favour your Lordship with my opinion as to whether Her Majesty's Ambassador at Constantinople is correct in considering that the Turkish Government are justified, under the XVth Article of the Treaty of Commerce with this country of 1861, in prohibiting the import of gunpowder into the Ottoman dominions.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That Her Majesty's Ambassador is, in my opinion, correct in considering the Turkish Government to be entitled under the XVth Article of the Treaty of Commerce of 1861 to prohibit generally the importation of gunpowder into the Ottoman dominions.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 175.

*The Law Officers of the Crown to Lord Stanley.—(Received January 13.)*

My Lord, *Temple, January* 11, 1868.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 3rd instant, stating that he was directed to transmit to us a despatch from Her Majesty's Consul-General at Bucharest, stating that a practice exists not only as regards the Government of the Principalities, but also as regards the Representatives of Powers, of calling upon foreign Consular Officers to communicate to persons residing in the countries which such Consular Officers represent, summonses, notices, and other papers connected with civil suits; and Mr. Murray was pleased to request that we would furnish your Lordship with our opinion as to the course which British Consular Officers should be instructed to pursue with reference to applications so made to them.

In obedience to your Lordship's commands we have the honour to report—

That it appears to us to be no part of the duty of Consular Officers to forward documents connected with civil suits, dishonoured bills, &c., to England through the Foreign Office.

The practice of doing this has, however, as we understand, prevailed for some time, and a similar practice is adopted by the Consuls of other countries. Whether it should be continued or not is a question of expediency. We, like the Consul at Bucharest, are ignorant as to the course adopted by the Foreign Office in communicating the documents forwarded to persons for whom they are destined in England, and the amount of trouble entailed on Government officials by the adoption of the practice. If it should be continued, we think that the Consuls should expressly intimate to all officials sending documents through them, that no responsibility is assumed, save that of seeing that the documents are sent off to England to the parties concerned, under cover to the Foreign Office.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 176.

*The Queen's Advocate to Lord Stanley.*—*(Received January* 29.)

*Temple, January* 28, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 23rd instant, stating that, with reference to my letter of the 2nd December last, he was directed by your Lordship to transmit to me a further letter which your Lordship had received from Mr. Petherick, stating the reasons why he considers the items of his account, which I then rejected, to be fairly claimable from the Egyptian Government; and Mr. Murray was pleased to request that I would take this letter, together with the former correspondence, into my consideration, and that I would favour your Lordship with my opinion as to the answer which should be returned to Mr. Petherick.

In obedience to your Lordship's commands I have taken this letter, and also the former correspondence, into consideration, and have the honour to report—

That, as it appears from Mr. Petherick's further letter, that the net produce of the merchandize embarked in the boats at Khartoum, which has been recently paid over to him, amounts only to 1,421*l.* 13*s.* 7*d.*, instead of 1,582*l.* 2*s.*, as calculated by him when he prepared the account transmitted in his letter of the 23rd November, 1867, the difference of 160*l.* 8*s.* 5*d.* in favour of Mr. Petherick may properly be added to the sum of 3,679*l.* 11*s.*, so that the total amount proposed to be claimed on his behalf will be 3,839*l.* 19*s.* 5*d.*

With regard to the reasons alleged by Mr. Petherick in the same letter, why he considers the other items of his account, which have been rejected as fairly and properly claimable from the Egyptian Government, his primary reason, namely, that "it was *solely* owing to the unjust and selfish conduct of the Egyptian Government that he was totally deprived of the value of the merchandize and accessories consigned by himself to his Agent at his stations on the White Nile," is not, in my opinion, borne out by the facts which have been elicited in the correspondence. I have had the honour to state to your Lordship the grounds of my opinion on this part of the case in my previous Report, from which I see no reason to depart. With regard to Mr. Petherick's further observation, that he is at a loss to see what difference can be made "between the seven items of his claim which have been rejected, and the eighth item, which your Lordship has been advised can be properly demanded from the Egyptian Government," if Mr. Petherick, on reconsideration, and from his own more accurate knowledge of the circumstances, feels satisfied that no valid distinction can be made between the eighth and the rejected items, such as I presumed to be intended by him when he attached to this item the words "consequent on the stoppage of supplies from Khartoum," as if to show that this item of expense had a distinctive character from the other items, I see no sufficient reason why any demand should be made upon the Egyptian Government for this item; but Mr. Petherick's attention may properly be called to the distinction which he has himself made in his account, before the item is struck out from the claim.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 177.

*The Law Officers of the Crown to Lord Stanley.*—*(Received February* 1.)

*Temple, January* 31, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th December, 1867, stating that, with reference to our Reports of the 15th of June and 16th of July, 1867, respecting the Law and Protocol recently promulgated by the Porte to enable foreigners to hold real property in Turkey, he was

directed by your Lordship to transmit to us a copy of a despatch from the Marquis de Moustier to the French Ambassador at this Court, in reply to a Memorandum founded on those Reports, which was communicated to the French Chargé d'Affaires last August, and which was also therewith inclosed.

Mr. Hammond was also pleased to transmit to us the previous papers, as well as the correspondence which has taken place since the date of our last Report; and to request that we would again take this question into our consideration, and favour your Lordship with such observations as we may have to offer thereupon.

We are also honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd of December last, stating that, with reference to his letter of the 26th of that month, he was directed by your Lordship to transmit to us the accompanying despatch from Mr. Elliot respecting the question of the tenure of land in Turkey by foreigners, and inquiring which clauses in the Protocol are considered objectionable by Her Majesty's Government; and to request that we would take this despatch into consideration, together with the papers then before us, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That when the papers relating to the proposed Projet de Loi and Protocol were before the Law Officers last year, it appeared from Lord Lyons' despatch of the 11th of April that both his Lordship and M. Bourrée had expressed strongly the opinion that all the concessions, in derogation of the Capitulations which were proposed in the Protocol, would be better omitted. That they appeared to Lord Lyons and M. Bourrée to have no necessary connection with the question of holding real property, and, trifling as they were, to be more likely to lead to embarrassment and inconvenience than to any practical result.

As far as appeared from the papers then before the Law Officers, the Capitulations, though of ancient date, had worked well and satisfactorily for the protection of British subjects in Turkey; and, having regard to the opinions of Lord Lyons and M. Bourrée, whose knowledge of the country to which the Capitulations applied, and of the practical effect of those Capitulations rendered their opinions eminently worthy of respect, the Law Officers advised that it would not be expedient to sanction such provisions of the Protocol as interfered with existing Capitulations.

The views of Her Majesty's Government upon the Protocol, referring to the objections of Lord Lyons and M. Bourrée, were embodied in the Memorandum sent to the French Ambassador, dated the 22nd July, 1867.

Since the Law Officers wrote their Report, Lord Lyons has left Constantinople, and a change in what was assumed to be the view of M. Bourrée has taken place, or, at all events, his Excellency states that the representation of Lord Lyons as to his opinion was founded on misconception. In his despatch of the 10th of December, 1867, to the Marquis de Moustier, he writes, "J'avoue humblement n'avoir rien trouvé de mieux que le Protocole auquel par erreur le Ministre Anglais me croit opposant."

M. Bourrée and the Chargé d'Affaires, M. Outrey, believing that the Projet de Loi will only become operative if the Protocol is agreed to in substance, now appear to be in favour of the Protocol. They believe that the Capitulations do not and would not work well; that they are defective in many respects; that the alterations effected by the Protocol will in the main be beneficial; and that the law as regards British and French subjects would, if the Protocol were assented to and adopted, be preferable to that by which the rights and privileges of subjects of the Treaty Powers are regulated under existing Capitulations.

It seems pretty clear that the Projet de Loi will only be in force in favour of the subjects of those Powers who assent to the Protocol, and it is admitted that the law on land tenure in Turkey, as it affects foreigners (including British subjects), is now unsatisfactory. But, as far as we are informed, notwithstanding all that is urged by M. Bourrée and M. Outrey, the privileges conferred upon British subjects resident in Turkey by the Capitulations have not been found otherwise than valuable or such as on slender grounds should be abrogated or altered.

In their former Reports the Law Officers, acting upon what they believed to be the reasonable views and opinions of Lord Lyons and M. Bourrée, thought that none of these well established privileges should be abandoned.

But in the present aspect of things the question whether they should be modified appears to be a question of policy.

As far as our limited knowledge of the state of things to be provided for in Turkey extends, the clauses of the Protocol do not seem, in themselves, objectionable.

Whether, for the sake of securing to British subjects the right to hold land on a safer and more secure footing than has hitherto been recognized, the privileges secured, not merely by the letter but by the well-established construction and working of the Capitulations, shall be abandoned or repealed and qualified by assent to the terms of the Protocol, is a question upon which it is beyond our province to advise.

That the rights of British subjects will be materially altered is obvious. It may be, as M. Bourrée seems to think, that an equivalent will be found in the security given to the holders of land in Turkey by subjects of a country assenting to the terms of the Protocol by the outlet for capital and by various other considerations to which he adverts.

Mr. Elliot expresses his opinion that a new state of things will be created to which the old Capitulations in their integrity will not be applicable, and considers that new laws will be necessary to meet the probable increase of foreigners in the Dominions of the Sultan.

In our opinion, if the Capitulations are not to be maintained in their integrity, it is not very material, as far as we can judge, whether the clauses of the Protocol stand as in the text or with the modification proposed by M. Bourrée in clause 15.

With respect to the 18th Article, it may be well to understand clearly what right Ottoman subjects have in the cases referred to by this Article, which it is proposed shall be equally enjoyed by foreigners. The 9th and 14th Articles give the Sublime Porte the right of making special rules and edicts to carry out the law, which we would suggest should be submitted to the foreign Powers agreeing to the Protocol before they are promulgated.

It may not be thought beyond our province to suggest that the opinion of Consuls of experience, and of British merchants and other British subjects resident in Turkey, might be useful in determining the question whether the working of the proposed law will be such as to render it expedient, under all the circumstances, to assent to and adopt it, notwithstanding its modifying effect on the existing Capitulations,

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 178.

*The Law Officers of the Crown to Lord Stanley.—(Received February 7.)*

*Temple, February 7,* 1868.

My Lord,

WE are favoured with your letter of the 6th February instant, stating that you were directed by Lord Stanley to inform us that he had received from Colonel Stanton a despatch, in which he reported that a settlement which he hoped would prove satisfactory, had been agreed to by the Egyptian Government in regard to the claims of the engine-drivers; and to request that we would return the papers on this subject which accompanied your letter of the 4th ultimo.

In compliance with the request contained in your letter, we have the honour to report—

That in pursuance of Lord Stanley's directions we return these papers without further report upon them.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 179.

*The Law Officers of the Crown to Lord Stanley.—(Received February 8.)*

*Temple, February 7,* 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 18th January, 1868, stating that he was directed by your Lordship to transmit

to us the accompanying correspondence regarding the imprisonment, by order of the British Consul at Scutari, of a British subject named Thomas Holroyd.*

Mr. Murray was also pleased to state that the circumstances which led to this person's imprisonment are detailed in Mr. Consul Reade's despatch of the 8th November last, and we could thereby see that Mr. Reade's proceedings were based on what he considers to be his magisterial or judicial powers.

Mr. Murray was further pleased to state that these, as we are aware, are regulated by the Order in Council of the 30th November, 1864, which is applicable to offences committed by British subjects in Ottoman dominions; and to request that we would favour your Lordship with our opinion upon the course which it will be proper for Her Majesty's Government to pursue in regard to the representation now made by Mr. William Bristow on behalf of Holroyd.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That Consul Reade and Mr. Holroyd differ so completely in their statements, as to the circumstances that led to the arrest, that it is difficult to form any clear opinion as to how far the Consul was in the wrong, and how far Mr. Holroyd brought upon himself, by alleged deception practised on the Consul, and by his own violent conduct, the imprisonment and other grievances of which he complains.

We think that, in the present state of things, all that your Lordship can do is to state, in answer to Mr. Bristow's letter, that Consul Reade has been called upon for an explanation of his conduct, and that his version of the affair is widely different from that maintained by Holroyd, and the *substance* of the Consul's explanation should, we think, be forwarded to Mr. Bristow, in order that it may be communicated to his client.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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## No. 180.

*The Law Officers of the Crown to Lord Stanley.—(Received March 2.)*

*Temple, February* 29, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th January last, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Lieutenant-Colonel Stokes, the British member of the European Commission of the Danube, urging the necessity for the establishment of a Tribunal to take cognizance of cases in which the Commission, in its corporate capacity, proceeds against vessels navigating that river.

A copy of Protocol No. 196 of the Danube, referred to by Colonel Stokes; a copy of the Treaty of Paris of 1856, under Article XIX of which Treaty certain Powers have the right to station vessels of war in the Danube; a copy of the Public Act by which the Police Regulations now in force on that river are determined; and a copy of the Order in Council of the 9th of April, 1866; and also a letter from the Board of Trade, concurring in this proposal, and containing suggestions respecting the constitution of the Tribunal,—were also inclosed.

And Mr. Hammond was pleased to request that we would take these papers into our consideration, and favour your Lordship with our opinion in regard to this matter.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That under the 17th section of the Treaty of Paris it is stipulated that a *permanent* Commission should be appointed, which should prepare regulations of *navigation and river police*, it being understood (Article XVII) that the European Commission (appointed under Article XVI) should have completed its task within the period of two years.

It appears, however, that the European Commission was continued and is still in existence, and that the Powers who signed the Treaty accorded to their delegates in the said Commission full powers to determine by an international Act "the duties and obligations arising under existing circumstances" (Protocol 28th March, 1866). The Conference then gave sanction and consent to the public Act signed by the Delegates at Galatz on 2nd November, 1865, with slight modifications.

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* Mr. Holroyd, October 8; to Mr Holroyd, October 22; to Consul Reade, October 22; Mr. Lewis, October 26; to Mr. Lewis, October 30; Consul Reade, No. 22, November 8; to Consul Reade, No. 7, November 27; Consul Reade, No. 24, December 12, 1867; Mr. Bristow, January 10, 1868.

We do not find, however, in any of the papers before us that any new powers have been conferred upon these Delegates, as Plenipotentiaries, to alter or amend the public Act before referred to, and in the absence of such power, the new réglement proposed by them appear to be wholly *ultra vires*.

The reasons for giving jurisdiction to try cases of collision, &c., to some independent Tribunal, such as that which it is proposed to establish, are no doubt cogent, but unless some power, of which we are unaware, has been conferred upon the European Commission to establish a new Court for such purposes, we think that Colonel Stokes should be informed that the réglements are considered to be unauthorized, and that such a Court as is contemplated would be illegal.

There are special objections to some of the réglements, which at present, and until we know under what authority, if any, the Commission assumes to act, it appears unnecessary to dwell at length.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 181.

*The Queen's Advocate to Lord Stanley.*—(*Received March* 23.)

*Temple, March* 21, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 13th instant, stating that he was directed by your Lordship to transmit to me a letter from Mr. Freshfield, in which he sets forth the particulars of a case in which he represents that certain parties with whom he is connected, are aggrieved by the terms and operation of a contract into which the Turkish Government have entered with Messrs. Charnaud, Barker, and Guarracino, and with a Company, which those gentlemen undertook to form, and since established under the name of the "Smyrna Quay Company," for the construction of a new quay at that port.

Mr. Egerton was pleased to request that I would take Mr. Freshfield's letter into my consideration, and report to your Lordship my opinion whether the case to which it refers, is one which calls for any or what interference on your Lordship's part.

In obedience to your Lordship's commands I have taken Mr. Freshfield's letter into consideration, and have the honour to report—

That it appears that the Ottoman Government has contracted for the erection of a new quay at Smyrna, which will extend to the seaward of and parallel to the whole existing seaboard of the town. Mr. Freshfield represents that the new quay will cut off certain existing wharves, one of which is the property of Mrs. Hanson, from their present communication with the sea. It appears further, that the Ottoman Government has provided that the owners of such wharves shall have a right of pre-emption in regard to the ground filled up in front of their respective properties, at a price based upon the prices of filled-up ground, which prevailed in 1864 and 1865. Mr. Freshfield represents that those years were years of great and unexampled prosperity, and that such a standard of price will be an aggravation of the injury inflicted by the Ottoman Government upon the owners of seashore property.

It is not suggested that the Ottoman Government is dealing with the seaboard of the town of Smyrna in a manner which violates any law upon which Mr. Hanson, when he constructed the wharf, was entitled to rely as securing to him the property of the foreshore in perpetuity, or that Mrs. Hanson's position as a British subject is in any way exceptional from that of Ottoman subjects who own existing wharves, which will be cut off by the new quay from their present communication with the seashore.

I am of opinion that this is not a case of grievance to a British subject, which calls for any interference on your Lordship's part.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 182.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 4.)

*Doctors' Commons, April* 3, 1867.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed to transmit to me the correspondence which has passed between the Foreign Office and Messrs. Cavan, Lubbock, and Co., and Colonel Stanton, respecting a claim preferred by the Société Agricole et Industrielle d'Egypte, against the Viceroy; and Mr. Hammond was to request that I would take the inclosed papers into consideration, and report to your Lordship our opinion as to the course which your Lordship should now take with regard to this matter.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that your Lordship should apprise Messrs. Cavan, Lubbock, and Co., that Her Majesty's Government cannot interfere further on their behalf than by directing Colonel Stanton to continue to use such good offices for the adjustment of their claims as in his discretion he may think expedient. That Her Majesty's Government cannot prefer any direct demand of positive right in this matter against His Highness the Viceroy of Egypt.

I have, &c.
(Signed) ROBERT PHILLIMORE.

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## No. 183.

*The Queen's Advocate to Lord Stanley.*—(*Received April* 6.)

*Temple, April* 6, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 28th ultimo, stating that he was directed by your Lordship to transmit to me, with reference to my letter of the 28th January last, a further letter your Lordship has received from Mr. Petherick, together with the former correspondence relating to his claim against the Egyptian Government; and Mr. Egerton was pleased to request that I would take this letter into consideration, and furnish your Lordship with my opinion whether the circumstances under which Mr. Petherick embarked in trade at Khartoum, and the obligations imposed upon him by his position as Her Majesty's Consul, were such as to entitle his claim to exceptional support from Her Majesty's Government, and if so, whether any other of the items in his account, besides those already allowed, should be included in the claim to be made on his behalf against the Egyptian Government.

In obedience to your Lordship's commands I have the honour to report—

That it does not appear from the documents submitted to your Lordship in Mr. Petherick's last communication, that he was induced in his official capacity by the suggestions of Mr. Consul-General Murray, to form his trading establishments on the White Nile.

Mr. Petherick appears to have had the conversations with Mr. Consul-General Murray, to which he alludes in his letter of 28th ultimo, prior to his first appointment as Her Majesty's Consular Agent at Khartoum, and although he may have accordingly proceed to Kordofan in October 1849, his appointment taking place in the following month of May, to establish himself as a trader in the hitherto monopolized commercial productions of the Soudan, under the encouragement given to him by the expression of Mr. Consul-General Murray's views of the importance of British subjects commencing trade there, I am of opinion that that circumstance does not in any way support his claim to be repaid or indemnified by the Egyptian Government in the full amount of the losses sustained by him in respect of his establishments on the White Nile.

In fact, the formation of those establishments were beyond the scope of Mr. Consul-General Murray's suggestions, and unless Mr. Petherick's business as trader may be taken to be quite independent of his duties as Consular Agent, the formation of those establishments would have been at variance with the instructions conveyed to him on his appointment in the latter capacity, which limited his duties to the southern boundary of the regions which were under the Egyptian Government.

With regard to the further topic in Mr. Petherick's letter, where he says that he could not with honour to himself, or in justice to Her Majesty's Government, follow the course which the other European traders adopted in order to save their property, your Lordship will probably be better able than myself to appreciate the view which Mr. Petherick takes of his position at Khartoum in relation to Her Majesty's Government; but as far as I can form an opinion from the general intructions conveyed to him by Mr. Consul-General Murray in 1850, the obligations imposed upon him by his position as Her Majesty's Consul at Khartoum would not warrant your Lordship in making any additional claim on his behalf against the Egyptian Government in respect of losses incurred by him as a trader, however much those losses, if they were incurred by him from a sense of public duty, might recommend him to the generous consideration of Her Majesty's Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 184.

*The Law Officers of the Crown to Lord Stanley.—(Received April 15.)*

My Lord,

*Temple, April* 13, 1868.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 2nd of April instant, stating that, on the receipt of our Report of the 7th of February, upon the subject of the imprisonment of an engineer named Holroyd by order of Her Majesty's Consul at Scutari, your Lordship caused a communication to be addressed to Mr. Bristow in accordance with our recommendation; and Mr. Murray was now to transmit to us the accompanying reply which has been received from Mr. Bristow, in which he contradicts the statements of Consul Reade and reasserts those of Mr. Holroyd.

Mr. Murray was also to inclose for our more complete information, the previous correspondence connected with this matter;* and to request that we would favour your Lordship with our opinion, whether it is incumbent on Her Majesty's Government to take any, and what, further steps in this matter.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That it appears to us that the documents annexed to Mr. Bristow's letter have but little bearing upon the subject of Mr. Holroyd's complaints, and that they do not support, to any material degree, his statements that he had duly settled with the Turks, that his resignation had been accepted, &c.

As might be expected Holroyd's account of the whole transaction differs widely from that of Mr. Reade, and it is very unlikely that your Lordship will ever be able to arrive at any certain conclusion, as to where the truth really lies. Holroyd, however, now makes further serious charges affecting the Consul, which he ought, as we submit to your Lordship, to have the opportunity of answering or explaining.

He (Holroyd) alleges that he had no notice of any money claim being lodged against him before he was sent to prison; that the Consul had been consulted by Holroyd about the claim spoken of, and had advised him not to pay it; that he remained at Scutari a week after his release, and during that time had no notice of any claim, and that he believes that no claim was lodged against him until after he had left Scutari; that the Consul sent to him after he had left, and informed him that he must go back to Scutari unless he paid the debt; and that under those circumstances he paid it, amounting to 258 piastres, He concludes by saying that all the ill-treatment was inflicted upon him because Consul Reade was annoyed at Holroyd's refusal to take the Consul's nurse to England free of expense.

Probably all this story is utterly groundless, but as the charge has been made, your Lordship may think it should be answered.

The assertion that the claim for the debt had not been lodged until after Holroyd had left Scutari, may probably be capable of being refuted by the creditor who lodged the claim. Holroyd's violence at the Consulate may be confirmed by an independent person, and the nurse may assist Mr. Reade in refuting the charge of motive which Holroyd imputes.

We think that Mr. Bristow should be informed that the charges now made for the first time against Consul Reade of having acted in bad faith, and of having made

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* Mr. Holroyd, October 8; to Mr. Holroyd, October 22; to Consul Reade, October 22; Mr. Lewis, October 26; to Mr. Lewis, October 30; Consul Reade, No. 22, November 8; to Consul Reade, No. 7, November 8; Consul Reade, No. 24, December 12, 1867; Mr. Bristow, January 10; to Mr. Bristow, February 13, 1868.

statements for the purpose of misleading, are of a grave character, of which your Lordship will try and ascertain the truth by further investigation. That the motive to which Holroyd attributes treatment on the part of the Consul, which as Mr. Bristow states, would, unless motive existed, doubtless appear to be incredible, will also be made matter for further investigation.

The substance of Mr. Bristow's letter might be communicated to Mr. Consul Reade, with directions to him to offer such explanation as he thinks fit, with any corroborative statements which he may deem it desirable to forward.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 185.

*The Law Officers of the Crown to Lord Stanley.—(Received April 28.)*

My Lord,

*Temple, April* 27, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th February last, stating that he was directed to transmit to us the accompanying draft of an instruction founded upon our Report of the 31st January last, which your Lordship proposes to address to Her Majesty's Ambassador at Constantinople upon the question of the tenure of land in Turkey by foreigners; but that, before transmitting the instruction in question to Mr. Elliot, your Lordship would be glad to be furnished with our opinion thereupon.

We are also honoured with Mr. Hammond's letter of the 1st instant, stating, that, as it appears from the accompanying despatch from Lord Lyons (No. 313) that the French Government are desirous of learning the decision of Her Majesty's Government upon the question of the tenure of land in Turkey by foreigners; he was directed to request that we would furnish your Lordship with our opinion thereupon at our earliest convenience.

In obedience to your Lordship's commands we have the honour to report—

That we have made alterations in the draft despatch which we now return. It seems desirable that British subjects should be chargeable only with pecuniary, and not with personal services, which might be imposed on Turkish subjects in respect of lands held by them.

As regards *offences* committed on the land, we would suggest that there is no reason for making British subjects amenable to the ordinary Turkish tribunals, unless the offences are connected with the tenure of land.

In respect of offences, which in their nature are unconnected with the tenure of land, such for instance as assaults, we think that it is reasonable that they should still be judged according to the capitulations. As an exception to the rule, that entry is not to be made on the lands of British subjects in Turkey, possibly it may be considered right that entry in the particular cases which we have referred to in a paragraph in page 7 might properly be allowed. We presume that it is not considered desirable to consult the Consul or British merchants on the question, whether a British subject should be allowed of his own motion to submit himself to the jurisdiction of Turkish tribunals.

We have added a few words in page 10 which may induce those, whose opinion is asked, to view the question submitted to them in a liberal spirit, so that they may not advise opposition to modifications of the Capitulations on insufficient grounds, or simply because they oppose changes in the law applicable to British subjects in Turkey.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 186.

*The Law Officers of the Crown to Lord Stanley*—(*Received April* 30.)

*Temple, April* 30, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th of April instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul-General and Judge of the Consular Court at Constantinople, dated the 23rd ultimo, in which he suggests for various reasons, that Mr. Calvert, who has been recently tried and convicted of swindling before that Court, should be removed from Constantinople to Malta, to undergo his sentence.

Mr. Hammond was also pleased to state that your Lordship considers as sufficient the reasons given by Mr. Francis for making this suggestion; but as it appears from the annexed despatch from Mr. Lane, who presided at Calvert's trial as Acting Judge in the absence of Mr. Francis, that Mr. Lane decided upon Constantinople as the proper place of imprisonment, Mr. Hammond was to request that we would favour your Lordship with our opinion whether or not Mr. Francis can properly be authorized to send the prisoner to Malta.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That Mr. Calvert, having been convicted before a Consular Court in the Ottoman Dominions, it is, we think, within the power of the Judge of the Supreme Consular Court by virtue of Art. 66, of the Order in Council of the 30*th November*, 1864, to cause him to be sent to Malta in order that the sentence may be carried into effect there.

The approval of Her Majesty's Secretary of State to this course is not required, and we think therefore that a formal approval should not be given.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 187.

*The Queen's Advocate to Lord Stanley.*—(*Received May* 9.)

*Temple, May* 8, 1868.

My Lord.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th March last, stating that he was directed by your Lordship to transmit to me the accompanying letter, dated the 13th March last, from Messrs. Elmslie, Forsyth, and Sedgwick, animadverting on the course pursued by the Turkish Government in regard to the claim of their client, M. de Matto, against the Ottoman Artillery Department. Mr. Hammond was pleased also to transmit a despatch from Her Majesty's Ambassador at Constantinople (No. 77) inclosing a copy of the note received from Fuad Pasha, in reply to a communication which, after the receipt of my Report of the 5th October last and a reference to Mr. Francis, the Legal Vice-Consul in Egypt (who was at that time in this country) in regard to the *lex loci solutionis*, upon which I was of opinion M. de Matto's claim for interest depended. Mr. Elliot was instructed to make to the Turkish Government on the subject.

The former papers connected with this case were also annexed, and Mr. Hammond was pleased to request that I would take them, together with the additional papers referred to, into my consideration, and report to your Lordship my opinion as to the course which should now be taken in this matter.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it would appear from the note of his Excellency Fuad Pasha, that the Administrative Department of Tophané has represented to his Excellency that the sum of money which it paid into the Ottoman Bank to the account of M. de Matto was paid by it in full discharge of all claims on the part of M de Matto, whilst the solicitors of M. de Matto have represented to your Lordship that the agent of M. de Matto declined at first to receive the money on that understanding, but ultimately took it out of the Bank reserving the right to claim interest, and that he lodged a protest to that effect with Her Majesty's Chargé d'Affaires, which was brought forthwith to the notice of Aali Pasha, the then Minister of Foreign Affairs.

His Excellency Aali Pasha seems at once to have objected to the payment of any interest, on the grounds that the contract contained no stipulation for interest, and that the rate of interest ("taux d'intérêt") demanded by M. de Matto was exorbitant.

It appears, however, from the Report of Mr. Francis, that if the claim of M. de Matto under a similar contract had been made against a Turkish subject in a Turkish Commercial Court, interest would have been allowed by the Court, and also that the rate of interest claimed by M. de Matto is not excessive, according to the current rate at Constantinople.

That some interest should be paid to M. de Matto by the Ottoman Government seems to be consistent with general principles of equity, seeing that, by the terms of the contract, the purchase-money was to be paid within twenty-one days from the delivery of the coals.

Of the breach of this engagement on the part of the Ottoman Government, his Excellency Aali Pasha seems not to have taken sufficient note.

Looking, however, to the position originally taken up by his Excellency Aali Pasha, and the position now taken up by his Excellency Fuad Pasha, I am of opinion that it would be useless for Her Majesty's Government to press any further M. de Matto's claim for interest unless under an overture of reciprocity, and that, in return for the concession which the Ottoman Government must make in point of principle, if they are to entertain M. de Matto's claim at all, M. de Matto ought to be prepared to authorize Her Majesty's Government to make an equitable concession on his behalf in the rate of interest claimed by him.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 188.

*The Queen's Advocate to Lord Stanley.*—(*Received May* 20.)

*Temple, May* 20, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed by your Lordship to transmit to me a letter from Mr. J. Hughes, dated the 12th instant, stating the circumstances under which he entered into an engagement with the Egyptian Government, and complaining of the breach of the terms of that engagement; and Mr. Hammond was pleased to request that I would take Mr. Hughes' letter into consideration, and report to your Lordship my opinion as to the course which it would be proper for him to take in the matter.

In obedience to your Lordship's commands I have taken Mr. Hughes' letter into consideration, and have the honour to report—

That Mr. Hughes may be properly requested to furnish your Lordship with a copy of the agreement with the Société Agricole et Industrielle d'Egypte, which he states that he executed before he left England under the belief that, as regards the Société, it was only nominal or a mere matter of form, and that, truly or substantially, he was engaged in the service of the Viceroy of Egypt.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 189.

*The Queen's Advocate to Lord Stanley.*—(*Received June* 3.)

*Temple, June* 3, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 13th ultimo, stating that he was directed by your Lordship to transmit to me a despatch and its inclosures from Her Majesty's Consul-General in Egypt, respecting a decision which had been given in the Egyptian Naval Court at Alexandria, in a case of collision between an English vessel, the "Mogul," and an Egyptian steamer, the "Mussr," which case had been pending for a considerable time, owing to the delay of the Egyptian Government. That it is asserted that the judgment given by the Court in this case against the owner of the "Mogul" is not in accordance with evidence;

and Mr. Murray was pleased to request that I would favour your Lordship with my opinion whether Her Majesty's Government would be justified in taking any and what steps in favour of the owner of the "Mogul."

The correspondence which led to Colonel Stanton's Report was annexed.

I am also honoured with a further letter of the 20th ultimo, relative to this case, transmitting a further despatch from Her Majesty's Consul-General upon this subject.

In obedience to your Lordship's commands I have the honour to report—

That as the claim of the owner of the "Mogul" has been heard by a Naval Court, which *primâ facie* was fairly constituted, and the Viceroy has declared that he cannot cancel the decision, but is willing that the question should be referred to some other tribunal, it is advisable, in my opinion, that your Lordship should accept the proposal of the Viceroy, and that the case should be referred, if possible, to another mixed tribunal, constituted, as suggested by Her Majesty's Consul-General, of five members, of which two should not be open to any imputation of sympathy with either side by reason of ther common nationality.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 190.

*The Queen's Advocate to Lord Stanley.—(Received June 5.)*

*Temple, June* 5, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 28th ultimo, stating that, as it appeared from my Report of the 8th ultimo that I considered it would be useless for Her Majesty's Government to press on the Porte any further M. de Matto's claim for interest, unless under an overture of reciprocity, he was now directed by your Lordship to transmit to me the accompanying reply which has been received to the communication, which was addressed to Messrs. Elmslie, Forsyth, and Sedgwick on that subject, from which I should perceive that M. de Mattos declines to accept any proposal involving a lower rate of interest than 7 per cent, which was what Sir H. Bulwer proposed in 1865, and was rejected by the Porte; and Mr. Egerton was pleased to request that, under these circumstances, I would report to your Lordship my opinion as to the course which should now be taken in regard to M. de Matto's claim.

The former papers connected with this case were inclosed for reference.

In obedience to your Lordship's commands I have the honour to report—

That, as M. de Matto declines to accept any proposal involving a lower rate of interest than 7 per cent., which was proposed by Sir H. Bulwer, and rejected by the Porte in 1865, I think it would be desirable for your Lordship to direct further inquiry to be made whether there is any positive law in Turkey under which interest is payable account of delay of payment of a simple contract debt in the absence of any express contract as to the payment of interest.

I observe that Mr. Francis states that "M. de Matto would have the *right* to demand interest under his contract, and a Turkish tribunal would be *entitled* to give interest on the class of cases of which that of M. de Matto forms one." As Mr. Francis does not say that a Turkish tribunal would be *bound* by Turkish law to award interest, it is possible that it is only under the *equity* of the Commercial Courts that interest in such cases could be awarded.

It is only within a comparatively recent period that the law in this country has been settled by 3 and 4 Wm. IV, c. 42, section 28, under which a jury is authorized to allow interest upon all debts or sums payable at a certain time. Prior to this Statute there had been apparently conflicting decisions in the Common Law Courts on this subject; and Lord Ellenborough had laid it down so recently as in 1810 (Gordon *v.* Swan, 12 East., p. 419), that the giving of interest should be confined to bills of exchange, and such like instruments, and to agreements reserving interest. It will be important, therefore, to ascertain whether the refusal of the Turkish Government to pay interest to M. de Matto is countenanced by any positive rule of the *lex loci solutionis*, it being assumed that the goods were to be paid for at the place of delivery and not in England.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 191.

*The Queen's Advocate to Lord Stanley.—(Received June 20.)*

*Temple, June* 20, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to transmit to me the accompanying letter from Messrs. Baxter, Rose, Norton, and Co., requesting the assistance of Her Majesty's Government in regard to a claim upon the Egyptian Government arising out of an alleged breach of a contract on its part, for raising a loan entered into with MM. Cartaret and Co; and Mr. Hammond was pleased to request that I would take this matter into consideration, and report to your Lordship my opinion as to the course which it would be right and proper to pursue in regard to it.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. Baxter, Rose, Norton, and Co. have requested your Lordship to submit to the Egyptian Government the claims of certain parties for whom they are interested, in respect of their having undertaken to associate themselves with M. Cartaret, a French subject, in carrying out a contract which he had entered into in Paris with the Egyptian Minister of Finance, and which contract is in abeyance.

I am of opinion that your Lordship cannot properly accede to the application.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 192.

*The Law Officers of the Crown to Lord Stanley.—(Received June 26.)*

*Temple, June* 25, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd February last, stating that, during the stay of the Viceroy of Egypt in this country, Nubar Pasha pressed upon Her Majesty's Government His Highness' desire that the Powers of Europe should concur in an alteration of the judicial system prevailing in Egypt, in cases where natives and foreigners were concerned; that the question had been previously mooted, as we would find in some of the papers sent to us; and after his return to Paris from this country Nubar Pasha communicated through Her Majesty's Ambassador there, in more specific terms, the wishes of the Viceroy; that your Lordship thereupon addressed to Her Majesty's Agent and Consul-General in Egypt, on the 18th October, a despatch explaining the willingness of Her Majesty's Government to take part in an inquiry to be held with the view of ascertaining how far foreign Powers could comply with the wishes of the Egyptian Government, and a copy of that despatch was communicated through Her Majesty's Representatives to the different Powers of Europe.

Mr. Hammond also stated that much correspondence, as we would perceive, had since ensued, partly between Her Majesty's Government and other Powers and partly between them and the Egyptian Government; but at present Her Majesty's Government had declined to express any further opinion as to the course which should be pursued until the Commission of Inquiry should be established.

That the French Government, however, had instituted an inquiry for themselves, the result of which is contained in the printed pamphlet, and they express great anxiety to learn the views of Her Majesty's Government on the conclusions contained in that pamphlet. These, however, your Lordship had hitherto declined to set forth, but your Lordship thought it desirable to ascertain the opinion of Her Majesty's servants in Egypt on the French Memorandum, the result of which opinion is set forth in Colonel Stanton's despatch No. 10 of the 28th January; that we would see by Lord Lyons' despatch No. 181 of the 20th February that the French Government still pressed for some expression of opinion on the part of Her Majesty's Government, but although your Lordship had not decided upon the question of giving one in the present stage of the business, you would be glad to learn what view we take not only of the question generally, but also of the principles set forth in the French Memorandum; and on the receipt of our opinion your Lordship would decide what course can best be taken at the present time.

We are also honoured with further letters from Mr. Hammond in reference to this same subject bearing dates respectively the 4th and the 13th March and the 1st, 12th, and

25th May last, and the 5th, 6th, 13th, 15th, and 16th days of June instant, and containing further papers for our consideration.

In obedience to your Lordship's commands we have the honour to report—

That, with the papers originally laid before us, and which included the print of the Report of the French Commission of Inquiry, we were directed to express an opinion not only on the question of the necessity for alterations of judicial reforms in Egypt, but also on the principles set forth in the French Memorandum.

Since these papers were sent to us they have been supplemented from time to time by additional papers, correspondence, and despatches; and the chief matter upon which our opinion now seems to be required is whether the Capitulations alone, or the Capitulations and the usages which have sprung up in Egypt, and which are said to have been a departure from the letter and spirit of the Capitulations, should be taken as the basis for an inquiry, with a view to an alteration of the judicial system in Egypt.

It appears to us that it is unnecessary to discuss at length the grounds upon which the necessity for judicial reform in Egypt rests. That necessity is fully admitted in your Lordship's despatch of the 18th October, 1867, and appears to be recognized by Colonel Stanton and Mr. Francis.

Nubar Pasha agrees with many of the conclusions arrived at by the French Commission, and a Memorandum dated the 4th June, 1868, sets out in opposite columns these conclusions and the answers of his Excellency, showing how far the opinion of the Viceroy coincides with the views of the Commission.

To the conclusion of the French Commission that, as regards suits between foreigners and natives, the legal maxim *actor sequitur forum rei* should, to a certain extent only be abandoned on conditions mentioned by them. His Excellency replies: "The Viceroy cannot accept the maxim of *actor sequitur forum rei* as applicable to the question at issue. He may, by the force of circumstances, be obliged to submit to abuses against which he has not the power to contend, but cannot consent to confirm such abuses, &c.

In his letter to Lord Lyons of the 9th May, 1868, Nubar writes, "Le Vice-Roi demande que le Gouvernement de Sa Majesté la Reine ait la bonté de se prononcer sur le point suivant:—'Les Capitulations réservent-elles, oui ou non, au tribunal territorial le jugement de tous les procès qui peuvent survenir entre indigènes et étrangers indifféremment, demandeurs ou defendeurs?'"

In his letter of the 25th May, 1868, dated London, his Excellency is equally anxious to obtain the specific declaration that the Capitulations alone should regulate judicial proceedings in which foreigners are concerned in Egypt, and that usages by which a foreigner defendant can withdraw himself from the jurisdiction of the native tribunal and insist upon being tried by his Consul are abuses which ought not to be recognized or insisted on as forming, either with or without the Capitulations, the proper basis for discussing judicial reform.

Your Lordship having, as we understand, required us to state our views as to the validity of these usages as regulating the relations of foreigners with the Egyptian Government, we beg to express our opinion that, whilst usages which have been in existence and acted upon for many years past, and apparently sanctioned by the Rulers of Egypt, may properly be considered as binding on the Government, notwithstanding they may establish a state of things not in accordance with the letter of the Capitulations themselves, still such usages as have sprung up in recent times (and it is said that most of them have come into existence in the last fifteen years) not only without the sanction, but against the consent of the Viceroys, who, however, have been powerless to prevent usurped jurisdiction, cannot be put forward as constituting the basis upon which inquiry into the judicial system with a view to its reform ought to be made.

But we ought to add that we feel the great inconvenience that may arise from stating to Nubar Pasha, or to the French Government, in terms, that Her Majesty's Government consider particular usages as mere usurpations. If any attempt to reform the judicial system were to break down it would be difficult henceforth to insist upon usage which had been formally admitted to have originated in abuse; and we would venture to suggest that the prudent course to adopt would be to take as the basis of the proposed inquiry the Capitulations and such well-established usage as may appear to have been adopted and sanctioned, as the exposition of, or substitute for, the exact letter of the Capitulations.

We think that if, on inquiry, it should be found that tribunals such as Nubar Pasha contemplates, fitted to administer justice in such manner as that foreigners would be constrained to admit their independence and competence, could be established, it would be just and right that a foreigner should be bound to submit to the jurisdiction of such

tribunals. The complaints of Nubar Pasha appear to us to be only too well founded; the usurped Consular jurisdiction which the Viceroy cannot prevent, is necessarily most galling and offensive to him, and subject to the above remarks. The French proposal duly considered and matured in all its details, might we think be advantageously adopted as a basis for a new system of judicial procedure in Egypt.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 193.

*The Law Officers of the Crown to Lord Stanley.—(Received June 27.)*

*Temple, June* 27, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed to transmit to us the accompanying despatch, with its inclosures, from Her Majesty's Ambassador at Constantinople, containing information respecting an alleged project of a British subject, named Palmer, for destroying the Turkish fleet at Candia; and to request that we would take these papers into our consideration, and report to your Lordship whether, in our opinion, Her Majesty's Government would be justified in taking any, and if so, what, steps in this matter.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That, in our opinion, Her Majesty's Government can take no steps beyond those which have already been taken by Mr. Elliot with reference to Mr. Palmer. It will be quite right that Mr. Palmer's movements should be strictly watched by the British Consul, and Her Majesty's Government be furnished with any information that may be obtained as to his alleged project and his communications with the Cretan Committee.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 194.

*The Law Officers of the Crown to Lord Stanley.—(Received June 29.)*

*Temple, June* 29, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th of June instant, stating that, with reference to our Reports of the 31st of January and 27th of April last, upon the question of the tenure of land by foreigners in Turkey, he was now directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Ambassador at Constantinople, containing observations respecting an "Acte Spécial," of which a copy was inclosed, under which French subjects will be admitted to the power of holding real property in Turkey; and to request that we would take these papers into our consideration, and report to your Lordship at our earliest convenience, our opinion as to the course which we consider it would be right and proper that Her Majesty's Government should now take in this matter.

The previous papers were also inclosed therewith.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That it appears to us that the practical question now is, whether assent should be given to the Protocol as it now stands? for having regard to the fact, that it has been adopted by the French, and that the Austrian and Swedish Ambassadors are prepared to assent to it, it cannot, we think, be reasonably expected that, at the instigation, or on the request of Her Majesty's Government, any alteration will be made in its provisions. We do not find that any merchants or British subjects (other than

Mr. Elliot, Mr. Francis, and Mr. Cumberbatch) have expressed any opinions upon this law. The views of such merchants and British subjects, would nevertheless be deemed valuable by your Lordship if they could be obtained, in order to enable a decision to be arrived at, upon what appears to us to be a question of policy.

It seems clear, that British subjects will not be entitled to the benefits of the land law, except upon the terms of their giving up some of the advantages and privileges now secured to them by Treaty, and the question resolves itself into this, whether, the right to hold lands according to the new law is so valuable as to make it worth while to concede and yield up, as a consideration for such privilege, some of the immunities, safeguards, and protection, reserved to foreigners under existing circumstances?

The expediency of giving up these immunities, in return for the power of holding land, is a matter upon which our opinion is probably not expected. Mr. Francis appears to be in favour of the adoption of the Protocol. We agree with that gentleman, and with Mr. Elliot, that the clause giving power to foreigners to render themselves amenable to the ordinary tribunals without Consular assistance has no necessary connection with the question of the tenure of property; but we venture to suggest that, if any alteration could be obtained in this clause (which seems improbable), Her Majesty's Government would hardly like to insist upon the alteration suggested by Mr. Elliot, and then give such directions to the Consuls as will render the altered clause a dead letter.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 195.

*The Queen's Advocate to Lord Stanley.*—(*Received July 2.*)

*Temple, June* 30, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed to transmit to me the accompanying correspondence which has taken place since the receipt of my predecessor's Report of the 3rd April, 1867, respecting the claim of Messrs. Cavan, Lubbock and Co., against the Viceroy of Egypt in connection with a company called the "Société Agricole et Industrielle d'Egypte;" and Mr. Hammond was to request that I would again take this case into consideration, and report to your Lordship my opinion thereupon.

I am also honoured with Mr. Hammond's letter of the 11th instant, transmitting further correspondence in connection with this case.

In obedience to your Lordship's commands I have the honour to report—

That it will be proper for your Lordship, in reply to the communication of Messrs. Cavan, Lubbock, and Co., of 2nd June, 1868, to apprize them that Her Majesty's Government cannot direct Colonel Stanton to support their increased demand against the Viceroy of Egypt of payment in full for their shares in the Société Agricole et Industrielle d'Egypte.

On the other hand, the request which has been made to your Lordship by the Directors of the Egyptian Commercial and Trading Company, in their letter of the 15th May, 1868, that Her Majesty's Consul-General in Egypt may "be instructed to give his good offices with the Viceroy to appoint a competent tribunal before which the case of the shareholders in the Société Agricole et Industrielle d'Egypte may be fairly and impartially heard," may, I think, be so far favourably entertained by your Lordship, that your Lordship may direct Colonel Stanton to intimate to the Viceroy your satisfaction that he has avowed his readiness to have the question of his liability submitted to a tribunal at Constantinople. If the constitution of that tribunal should be matter of mutual arrangement, as proposed by the Viceroy, between the Ambassadors of the foreign Powers and the Sultan's Minister of Foreign Affairs, it is obvious that it will be a more satisfactory Court than any which the Viceroy could himself appoint, as suggested by the Directors of the Egyptian Commercial Company. Meanwhile it may be proper for your Lordship to apprize the Egyptian Commercial Company that His Highness the Viceroy has intimated his willingness to have the question of his liability submitted to a tribunal at Constantinople to be agreed upon between the Ambassadors of the foreign Powers and the Sultan's Minister of Foreign Affairs; and that your Lordship will instruct Her Majesty's Representatives in Egypt and at Constantinople to co-operate with the Representatives of other foreign Powers in bringing about such a result.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 196.

*The Queen's Advocate to Lord Stanley.*—(*Received July 9.*)

*Temple, July* 8, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to me the accompanying document signed by Messrs. Cavan, Lubbock, and Co., and others, requesting the assistance of Her Majesty's Government in support of their claims against the Viceroy of Egypt, in connection with the Company called the "Société Agricole et Industrielle d'Egypte;" and Mr. Hammond was pleased to state that, before acting upon the opinion contained in my Report of the 30th ultimo, upon the papers which had already been submitted to me in reference to this question, your Lordship would be glad to be informed whether the statements contained in this further document will in any way affect that Report; and also what, in my opinion, would be a proper answer to return to the Memorialists.

In obedience to your Lordship's commands I have the honour to report—

That I have carefully considered the statements contained in the Memorial signed by Messrs. Cavan, Lubbock, and Co., and other British shareholders in the Société Agricole et Industrielle d'Egypte, and I do not find any new fact in those statements which would induce me to vary my previous Report to your Lordship.

I am unable to concur with the Memorialists in their view, that "the sole fact of the infringement of the statutes of the Society," by the Directors in entering upon undertakings foreign from the object for which the Society was constituted, "would be sufficient to justify them in demanding, as their right, to be reimbursed by the Egyptian Government for the capital which they have invested in the Society, with interest to the date of payment;" but I think that, if it can be established as suggested by the Memorialists, that everything took place at the instigation of the Viceroy, and that he has been benefited by the misfeasance of the Directors at the expense of the shareholders, when his Government ought to have appointed a Commissioner on its behalf to prevent the Directors doing anything against their statutes, they may have an equitable claim against him, and that the question of the liability of the Viceroy in respect of such claim may be properly submitted to the Tribunal of Arbitration proposed to be constituted at Constantinople. I think your Lordship may so far accede to the prayer of the Memorialists as to promise to instruct Colonel Stanton to support a reference of any claim on their part to the Tribunal of Arbitration, if it should be constituted as proposed by the Viceroy at Constantinople.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 197.

*The Law Officers of the Crown to Lord Stanley.*—(*Received July 29.*)

*Temple, July* 29, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that, with reference to our Report of the 29th February last, in which we advised Her Majesty's Government not to concur in the recommendation of the European Commission of the Danube for the establishment, in the manner proposed in Protocol No. 198, of a tribunal to take cognizance of cases in which the Commission proceeds against vessels navigating that river, he was directed by your Lordship to transmit to us, together with the previous papers, and the draft of an Instruction which was founded on our Report which was addressed to Colonel Stokes, the accompanying despatch and Protocol No. 210, inclosed therein, setting forth the manner in which the Commission now proposes to attain the object in view; and Mr. Hammond was pleased to request that we would take this matter into consideration, and furnish your Lordship with our opinion thereupon, and as to the instructions with which Colonel Stokes should be furnished.

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In obedience to your Lordship's commands we have the honour to report—

That the new regulations are made professedly under the power conferred by Article 112 of Annex A, to the Public Act, relative to the navigation of the mouths of the Danube as a "modification" of the regulations contained in that Annex. No new tribunal is established as was previously contemplated, and though it is only perhaps by a liberal interpretation of Article 112 that these new regulations can be considered as "modifications" of the réglements of March 1865, we think that, as all the members of the Commission have assented to them, Her Majesty's Government need not disapprove of them.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 198.

*The Law Officers of the Crown to Lord Stanley.—(Received August 21.)*

My Lord,
*Temple, August* 20, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th June last, stating that the papers which he then sent us by your Lordship's direction, would explain to us what had lately been passing between certain Powers and the Government of the Danubian Principalities, with reference to the wish of the latter to be released from the operation of the Turkish Capitulations in matters of civil and criminal jurisdiction.

Mr. Hammond also stated that the last papers consisted of a communication made to your Lordship by the French Ambassador, inclosing a memorandum explanatory of the concessions which the Russian Government are prepared to make to the Principalities in that respect, and stating the views of the French Government on the subject; and a despatch from Her Majesty's Agent and Consul-General at Bucharest commenting on them.

That your Lordship would be glad to receive from us our opinion as to how far it might be prudent or possible for Her Majesty's Government to depart from insisting on the strict observance in the Principalities of the provisions of the Turkish Capitulations in matters of jurisdiction.

In obedience to your Lordship's commands we have the honour to report—

That, from a perusal of the papers before us, we cannot fail to be struck with the very unsatisfactory state of things existing in the Danubian Principalities, with reference to the Capitulations, and the rights, privileges, and immunities claimed for foreigners under them, but practically refused to be recognized; nor is it possible to disagree from Mr. Elliot's conclusion in his despatch to your Lordship, dated the 18th January, 1868, that there is a great want of dignity in the position occupied by Great Britain in the Principalities with reference to the Capitulations.

To put a stop to this state of things would, as it appears to us, be very desirable, and, as far as we can judge from all the papers before us, a departure from insisting on the strict observance in the Principalities of the provisions of the Turkish Capitulations in matters of jurisdiction might afford a relief from existing difficulties if this departure could be safely conceded.

But if we are right in understanding your Lordship as desiring to know our opinion, whether it would be prudent or possible not to insist on the strict observance of the Capitulations tacitly only, and without any Treaty or arrangement as to the jurisdiction which is to be permitted to the native tribunals, or the extent to which observance of the Capitulations may be waived, we think that it would be a very inexpedient course to adopt. The applicability of the Capitulations to the provinces, though denied by their Government, has always been insisted upon by Her Majesty's Government, and unless and until those Capitulations have been duly abrogated or modified, British subjects in the provinces who claim the right to live in them clothed with the immunities or privileges conferred by the Capitulations, might, as it seems to us, justly feel aggrieved if they were left to the mercy of the territorial tribunals, and stripped of the protection to which they claim to be entitled, without any Treaty being made which would define their true position, obligations, and privileges, or secure to them any new rights in lieu of those which are surrendered by them.

The Russian Memorandum, we observed, suggests an "International Convention" to regulate the rights, privileges, and obligations of Russian subjects in the Principalities.

Speaking generally, we think that this memorandum might usefully form the basis of a fresh arrangement with the Porte and the Principalities; but we agree with the view expressed by Mr. Green in his letter of the 22nd May, 1868, that the "system of reciprocity" in enforcing judgments is a measure which, in the existing state of the law of this country, could not be carried into effect here.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 199.

*The Queen's Advocate to Lord Stanley.—(Received August 29.)*

My Lord,
*Temple, August* 28, 1868.

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 20th ultimo, stating that he was directed by your Lordship to transmit to me the accompanying letter, which had been received from Messrs. Cavan, Lubbock, and Co., in reply to a letter, of which the draft was inclosed, which was addressed to them after the receipt of my Report of the 8th ultimo, on the subject of their claim against the Viceroy of Egypt, in connection with the Société Agricole et Industrielle d'Egypte. Mr. Egerton was pleased also to inclose the accompanying further papers which had been received on the subject since the date of my Report; and to request that I would take those papers into my consideration, together with the former ones therewith inclosed, and report to your Lordship my opinion as to the course which Her Majesty's Government should now take in the matter.

I am also honoured with Mr. Hammond's letters of the 13th and 15th instant, inclosing further papers on the same subject.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the amended claim of the English shareholders in the Société Agricole et Industrielle d'Egypte, which has been submitted to your Lordship in their letter of 6th August, 1868, differs very materially from their original claim, which your Lordship instructed Colonel Stanton to bring to the notice of the Viceroy, and which his Excellency Raghib Pasha discussed with Colonel Stanton. Their original claim, as stated in their letter of 28th July, 1867, was that, inasmuch as "their shares were scarcely negotiable at a loss of 50 per cent. on the amount paid up, and this depreciation had been entirely caused by the acts of the Viceroy, the Viceroy should relieve them of their shares, reimbursing to them the amount paid on them, as they did not wish to make any claim that was not founded upon the strictest justice." After Messrs. Cavan, Lubbock, and Co. had been informed by your Lordship of the result of Colonel Stanton's interviews with the Viceroy, and with Raghib Pasha, and of Colonel Stanton's private opinion that the Egyptian Government would probably consent to purchase the shares of the different holders at half-price to put an end to all further contestation, Messrs. Cavan, Lubbock, and Co., in their letter of 30th March, 1867, stated to your Lordship that they had refused indirect offers of more than half-price for their shares, and concluded by saying that "they felt assured that ere long, with the kind assistance of Colonel Stanton, the Viceroy will recognize that, in merely asking to be relieved of their shares, without making any claim for interest (although they had to lay out their money through a period during which they could easily and without risk have been making 12 per cent. with it here), they are only asking what is reasonable."

Your Lordship directed this second letter to be forwarded to Colonel Stanton, and informed Messrs. Cavan, Lubbock, and Co., that Colonel Stanton would be instructed to continue to use his good offices to procure the adjustment of their claim. It would appear from a subsequent letter of Messrs. Cavan, Lubbock, and Co. of 24th June, 1867, that several French shareholders, in the same position as the English shareholders, "were making strong representations to the Viceroy, calling upon him to take over the shares at par." No progress, however, towards a settlement seems to have been made, when on 4th May, 1868, Messrs. Cavan, Lubbock, and Co. renewed their application to your Lordship, requesting your Lordship to inform Colonel Stanton that, "the Austrian Government had instructed its Consul-General at Alexandria, to obtain from the Viceroy, the recognition of a similar claim to their own on behalf of an Austrian subject," and suggesting that the present, would seem to be a favourable moment for again pressing the matter on the attention of the Viceroy.

Colonel Stanton was thereupon instructed by your Lordship on 8th May, 1868, "to take such further steps to assist their claim, as in his discretion he might see fit," and it would appear from the memorandum drawn up for your Lordship on May 26, 1867, with reference to the motion of Mr. Neville Surtees in the House of Commons, that the claim was then considered to be a claim "to recover from the Viceroy the amount of the shares paid up by the shareholders."

Colonel Stanton appears to have reopened the question with the Viceroy, upon this basis. The Viceroy, however, persisted an denying his liability, stating that he had himself been a victim of the bad management, if not bad faith, of the Directors; but at a later interview, the Viceroy consented to have the question of his liabiliy submitted to any tribunal at Constantinople, that might be agreed upon between the Ambassadors of the foreign Powers, and the Sultan's Minister of Foreign Affairs.

Meanwhile certain Directors of the Egyptian Commercial and Trading Company addressed a Memorial to your Lordship stating, that they had been instrumental in forming the Société Agricole et Industrielle d'Egypte, and soliciting on its behalf the good offices of Her Majesty's Government, "to appoint a competent tribunal, before which the case of the shareholders might fairly and impartially be heard, in which case the shareholders would be prepared to send out a delegate to act on their behalf;" and your Lordship directed this Memorial to be transmitted to Colonel Stanton on the 5th of June last, before his despatch had arrived in England announcing the proposal of the Viceroy to have the question of his responsibility referred to a tribunal at Constantinople; and your Lordship instructed him to represent the case of the Société Agricole to the Egyptian Government, as set forth in the Memorial. Colonel Stanton appears, by his despatch of July 3, 1868, to have read this Memorial to Cherif Pasha, who replied that "he could give him no other answer than the Viceroy had already made, mamely, that his Highness was ready to submit the question of his liability to any tribunal at Constantinople, that might be agreed upon between the Ambassadors of the Foreign Powers, and the Minister of Foreign Affairs at the Porte.

It appears to me to be a matter of the last importance in this stage of the case, to provide against any misunderstanding, as to the question to be submitted to the tribunal at Constantinople, for the English shareholders have raised a new question of responsibility against the Viceroy which had not been raised by Colonel Stanton, when the Viceroy proposed to refer the question of his liability to a tribunal at Constantinople, and they have also set up a claim not merely to be indemnified for the value of their shares at par, but for damages on the ground of loss of probable profits and interest on their money. With regard to their claim to be indemnified for their shares at par, I consider that the shareholders may be justified in contending, that the proposal which they made to Nubar Pasha "that if he would settle the matter at once, they would accept 75 per cent." should be without prejudice to them, and that, as Colonel Stanton has always demanded on their behalf that, the Egyptian Government should purchase their shares at par, that such a claim may be properly held to be their original demand; but I consider that a very serious question may arise upon the demand which they have made for damages and interest in the final statement of their claim as set out in their printed pamphlet.

Their grounds for advancing this demand, had been submitted to your Lordship in their letter of 16th July last, namely, that "if a reference to arbitration should be persisted in, as in such a reference a claim cannot be increased and may be reduced, it is not just that the shareholders should demand only the lowest sum to which they could possibly be entitled, *i.e.*, the payment in full of their shares; but should be allowed to add interest and such damages for the delay in settlement, as the tribunal may think reasonable."

Your Lordship will readily perceive, on perusing the pamphlet, that there are principles involved in this demand which are materially different from the principles involved in the original claim, and that the Viceroy, who was willing to refer the original question as raised by Colonel Stanton to a Tribunal at Constantinople, namely, whether he was responsible for the miscarriage of the Company and, in *equity*, liable to indemnify the shareholders for their *actual* losses, may reasonably decline to go to arbitration upon a demand which is a departure from the original claim and will be at variance with the demand made by the Consuls of France and Austria on behalf of French and Austrian shareholders which, as I understand the proposal of the Viceroy, is to be referred to a common Tribunal.

I venture to suggest that it would be extremely hazardous to disturb the basis upon which the negotiations for a reference have been hitherto conducted, not merely on the ground that it would be a departure from the original understanding and might furnish a reasonable excuse to the Egyptian Government for receding from their present engagement, but that I consider the final statement of the shareholders' claims to proceed upon principles of *legal right*, which an arbitrator might well hold not to be applicable to the question between the shareholders and the Viceroy. The inquiry into facts as regards this final statement would also be of a most complicated character, whereas the question as it is most conveniently raised in the first letter of the Egyptian Commercial and Trading Company will admit of an easy solution, as regards the matter of fact, whether the directors of the society were guilty of a gross fraud against the shareholders, for which the remedy of the shareholders is against the Directors, or whether the Viceroy was guilty of a palpable breach of faith with the Directors and is in equity bound to indemnify the shareholders.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 200.

*The Queen's Advocate to Lord Stanley.—(Received August* 31.)

*Temple, August* 29, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 25th ultimo, stating that he was directed by your Lordship to transmit to me, together with the previous papers, the accompanying despatch from Mr. Elliot, in reply to the inquiry contained in my Report of the 5th June last, as to the bearing of Turkish law on the question of interest claimed from the Porte by M. de Matto; and Mr. Egerton was pleased to request that I would again take this case into consideration and report to your Lordship my opinion as to the course which your Lordship should now pursue in regard thereto.

In obedience to the commands of your Lordship I have again taken this case into consideration, and have the honour to report—

That it appears from Consul-General Francis' Report that the objections raised by his Excellency Aali Pasha to the payment of interest to M. de Matto on the two-fold ground that his contract with the Ottoman War Department was silent on the subject of interest, and that the rate of interest claimed by M. de Matto was exorbitant, would not have prevailed if M. de Matto could have sued the chief of the War Department before the Tidjaret Court. Your Lordship will, therefore, be fully justified in instructing Her Majesty's Minister at Constantinople to renew the application which Sir H. Bulwer made to the Ottoman Government in 1865 if a favourable opportunity should present itself, more particularly, as it appears to have been originally stated by the Turkish authorities, that the payment of the principal sum had been delayed owing to financial difficulties which may have passed away, or, at least, may no longer be such as to constrain the Ottoman Government to refuse a demand which is consistent with natural equity, and which it appears that their own Courts would have enforced if M. de Matto had dealt with a subject of the Porte and not with a Department of the Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 201.

*The Queen's Advocate to Lord Stanley.—(Received September* 8.)

*Temple, September* 7, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to me the accompanying despatch from Colonel Stanton (No. 95, August 12), respecting a claim advanced by the Suez Canal Company for the exemption from Customs dues of all stores imported for use or consumption within the territory occupied by the Company, and for the exemption from search of goods conveyed through the canal. A copy of the Convention of the 22nd February, 1866, referred to in these papers, was also inclosed; and Mr. Hammond was pleased to request that I would take this matter into consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That it appears from the note of M. de Lesseps of the 12th May, 1866, addressed to Ismail Bey, Governor of the Isthmus, that he claims in favour of all private persons who may have established themselves on the isthmus, within the dependencies of the canal, an exemption from the payment of duties of any kind upon articles imported from abroad, and in support of the claim he cites Article 13 of the Act of Concession of the 5th January, 1856, the text of which is as follows:—

"Le Gouvernement Egyptien exonère la Compagnie de tous droits de Douane, d'entrée et autres, pour l'introduction en Egypte de toutes machines et matières quelconques, qu'elle fera venir de l'étranger pour les besoins de ses divers services en cours de construction ou d'exploitation."

It further appears from the same note that the Company itself originally imported from abroad whatever stores were required for the support of its workpeople, but that at the present time private individuals of various nationalities have formed establishments on the isthmus, and supply many articles in the ordinary way of commerce to the workpeople. M. de Lesseps contends, that as the liberty of importing such articles duty free was granted to the Company with a view to keep down the cost of constructing the canal, it is in accordance with that *principle* that no duties should be levied upon any stores imported on private account for consumption on the isthmus, inasmuch as the ultimate incidence of such duties will be upon the labourer, and thereby the price of labour will be enhanced to the Company.

The difficulty seems to have arisen in consequence of the establishment of a Custom-house at Port Said in pursuance of Article XI of the Convention of the 22nd February, 1866, through which I gather that all goods landed at that place are required to pass, and the question now raised would seem to be whether articles imported by private persons from abroad and intended for consumption on the isthmus, as distinguished from articles intended to be carried inland, and to be consumed beyond the dependencies of the canal, should be allowed to passed through that Custom-house duty free.

If the determination of this question rested solely upon the interpretation to be given to Article 13 of the Act of Concession of the 5th January, 1856, I should be of opinion that M. de Lesseps was not warranted in the application which he contends should be given to it by the Egyptian Government, as I consider that Article was intended to establish a *corporate* exemption in favour of the Company, and not to create a *territorial* privilege in favour of the isthmus. In fact, the exemption is not limited to articles imported into the isthmus, but it applies to articles imported by the Company into any part of Egypt, provided they are required for the support of the services of the canal. M. de Lesseps, however, in his note of the 18th April, 1868, addressed to Voisin Bey, the Director-General of Works, rests the claim upon another ground, to which he likewise calls Colonel Stanton's attention in his note of August 8, 1868, when he says:—

"Tout ce qui passe ou se consomme dans l'Isthme est affranchi de tout droit, moyennant la charge du prélèvement de 15 pour cent en faveur du Gouvernement Egyptien sur les produits de la Compagnie, pendant toute la durée de sa concession."

The position here taken up by M. de Lesseps would seem to be independent of Article 13 of the Act of Concession of the 5th January, 1856, and I gather from his letter to Colonel Stanton, that he relies for the support of it upon certain Conventions between the Company and the Egyptian Government on the subject of Customs duties, which are not before me, and upon the construction of which I am unable to offer any opinion to your Lordship, as to whether, if there be any such composition as suggested between the Company and the Egyptian Government, it would constitute an exemption of any other kind than a *corporate* exemption in favour of the Company itself. I may, however, observe that the composition is represented by M. de Lesseps to be in force for the entire period of the concession of the canal; and if the construction, which M. de Lesseps has put upon the Conventions, be correct, the effect of it would be virtually to constitute Port Said, with its dependencies, a free port for the whole of that period. Colonel Stanton has pointed out that Port Said already "instead of being a simple workshop for the Company, has grown into a considerable town, having a commerce of its own," and that if the claim of M. de Lesseps be well founded, "its inhabitants will be permitted to enjoy privileges which are not extended to other parts of the country." Of the international advantages of such a result, as regards the rapid development of Port Said, your Lordship will be best able to judge; but I do not agree altogether with Mr. Stanton, in holding that the claim of M. de Lesseps, as long as it is confined to import duties, and does not extend to general taxes, which, however, his reasoning embraces, is so much at variance with the stipulations of Article XII of the Final Convention of the 22nd February, 1866, as to be on that ground inadmissible. That Article provides as follows:—

"Dans l'intérêt du commerce de l'industrie ou de la prospère exploitation du canal, tout particulier aura la faculté, moyennant l'autorisation préalable du Gouvernement, et en se soumettant aux réglements administratifs ou municipaux de l'autorité locale, ainsi qu'aux lois, usages et impôts du pays, de s'établir soit le long du Canal Maritime, soit dans les villes élevées sur son parcours."

I think that the obligation which is by this Article imposed upon private persons establishing themselves within the dependencies of the canal to submit to the laws, usages, and taxes of the country points rather to taxes to be levied upon persons or their property, not to duties on goods passing through the Custom-house; but I should agree with Colonel Stanton in holding that this Article, so far as it implies that private persons must submit to the taxes of the country, as a condition of being allowed to establish themselves on the isthmus for the purpose of retail commerce, is at variance with the *principle* upon which M. de Lesseps relies, in claiming for them an exemption from import duties, on the ground that such charges would tend to raise the price of labour to the Company.

The question then which remains to be solved, as regards the first division of M. de Lesseps' claim, is the proper interpretation to be given to the Conventions, under which he asserts that, in consideration of a preference charge of 15 per cent. in favour of the Government upon the returns of the Company during the entire period of the Commission, all articles consumed within the isthmus are exempted from all duty.

With regard to the second division of M. de Lesseps' claim in favour of goods passing along the canal from sea to sea being exempted from Customs duties. I consider that he is justified in that claim under the XIIIth Article of the Final Convention of 22nd February, 1866, which maintains the privilege of free transit along the canal in favour of all vessels without any distinction or preference of person or nationality. It will, therefore, be unnecessary to consider what may be the effect of any previous Conventions in their bearing on this division of M. de Lesseps' claim, unless a difficulty should be raised in regard to the interpretation to be given to the Final Convention.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 202.

*The Queen's Advocate to Lord Stanley.—(Received October 17.)*

*Temple, October* 16, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 12th instant, stating that he was directed to transmit to me the accompanying despatch which has been received from Her Majesty's Agent and Consul-General in Egypt, containing observations in reply to the instruction which was addressed to him on the 14th of September, founded upon my Report of the 7th ultimo, in regard to the claim of the Suez Canal Company for exemption from Customs dues of all stores imported for the use of the Company within the territory occupied by them; and Mr. Egerton was pleased to request that I would furnish your Lordship with any observations I may have to offer upon the claim of the Company after the perusal of Colonel Stanton's despatch. That I should perceive from the accompanying despatches from Lord Lyons and Colonel Stanton that an arrangement has been made for submitting the claim of the Suez Canal Company to a Commission.

In obedience to your Lordship's commands I have the honour to report—

That I agree with Colonel Stanton in his view that the XVIIIth Article of the Act of Concession of January 5, 1868, appears to strengthen the position that Article XIII of the Act of Concession of January 5th, 1856, was intended to establish a corporate exemption in favour of the Canal Company, that is, an exemption in favour of the Company as a corporate body, and not to create a territorial privilege in favour

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of the isthmus, or, in other words, an exemption which should apply to all persons inhabiting the isthmus.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 203.

*The Queen's Advocate to Lord Stanley.*—(*Received November* 17.)

*Temple, November* 16, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter of the 23rd September last, stating that he was directed to transmit to me the accompanying letter from Messrs. Lubbock, King, and Saunders, containing observations in reply to a letter which was addressed to them on the 11th September, founded on my Report of the 28th August, on the subject of the claim of the Société Agricole et Industrielle d'Egypte, against the Viceroy; and to request that I would take this letter into my consideration, together with the former papers, and report to your Lordship my opinion as to the course which it would now be right and proper to take in this matter.

I am also honoured with Mr. Egerton's letter of the 14th instant, stating that he was directed to call my attention to a further letter, 11th November, from Messrs. Lubbock, King, and Saunders, respecting this case, and requesting that I would furnish your Lordship, at my earliest convenience, with my opinion thereupon, before your Lordship grants Messrs. Lubbock, King, and Saunders, the interview which they now request.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship cannot well allow the Committee of Shareholders to take up a different position from that which Her Majesty's Agent and Consul-General at Cairo has, with great difficulty, as appears from his despatch of 28th May, made good for the shareholders represented by Messrs. Cavan, Lubbock, and Co. If the Committee represent other shareholders, as is probable, in addition to those who were represented by Messrs. Cavan, Lubbock, and Co., the interveners may, I think, be properly informed that your Lordship cannot at this stage of the negotiation with the Egyptian Government shift the basis of it, and that the interveners, as in a Court of Justice, must be content to take the case as they find it at the time of their intervention. It is entirely foreign to the question for the Committee to observe in their letter to your Lordship of 21st September, 1868, that their statement "cannot properly be considered as an amended statement *so far as that Committee is concerned*," and to insist that the statement of the Committee has to be considered on its own merits apart from any statement put forth by previous Memorialists." They have themselves described it as an amended statement of the *claims of the shareholders* against the Viceroy of Egypt; and I gather from their letter of 6th August, in which they state that they had the honour of submitting to your Lordship an amended statement of those claims, that Mr. Egerton had, in his interview of 21st July, intimated his willingness to receive from the Committee a statement more clear and complete in its details, but not a statement of which the merits were to be considered apart from any previous statement. It is possible that the Committee may not be aware that your Lordship has only undertaken to use your *good offices* with the Viceroy, as it is at present by no means clear that the shareholders have not been the victims of a fraud on the part of the Directors, for which their proper remedy would be against the Directors.

With regard to the subsequent letter addressed to your Lordship on 11th November by the Committee of Shareholders, in which they state that they have not as yet learnt either by information from your Lordship, or otherwise, that any initiatory steps has been taken by the Viceroy of Egypt, your Lordship may, I think, properly inform the Committee, that Her Majesty's Agent and Consul-General at Cairo was instructed by your Lordship in last July to press, that the Court should be constituted without further delay, and that he had obeyed your Lordship's instructions, and had informed your Lordship that he feared some further delay would be experienced, as the French and Austrian Governments had not at that time accepted the Viceroy's proposal of referring his liability to a Tribunal.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 204.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 10.)

*Temple, December* 9, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 2nd October last, stating that, with reference to our Reports on the question of the tenure of land by foreigners in Turkey, he was directed by your Lordship to transmit to us the accompanying despatch and its inclosures from Her Majesty's Ambassador at Constantinople, calling attention to the difference of opinion which appears to exist in regard to the interpretation put by the French Ambassador upon the Protocol permitting foreigners to hold real property in Turkey, and that given to it by the Porte; and to request that we would take this question into consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That although the Protocol may be open to the interpretation put upon it by M. Bourrée, it appears to us that it is susceptible of the meaning attributed to it by the Turkish Government—namely, that certain of the stipulations in the Protocol apply to all the subjects of a Power which has signed such Protocol, and not merely to those of its subjects which may have availed themselves of the law empowering them to hold real property. We may add that, having read through the correspondence and documents placed before us, it appears to us that, taking such documents and correspondence, with one exception, which we advert to presently, Her Majesty's Goverment and Her Majesty's Representatives in Turkey understood the terms of the Protocol in the sense in which Fuad Pasha interprets them; and the Attorney-General for himself desires to state that he personally considered the proposal of the Turkish Government to be that, in consideration of the boon offered by the Turkish Government of granting the right or permission to the subjects of a foreign Power to hold land, provided that the foreign Power agreed to the terms of the Protocol, the foreign Power so agreeing imposed on *all* its subjects in Turkey, and not merely on those who availed themselves of the real property law, the obligations applicable to them imposed by the Protocol, so that, for instance, any British subject—and not merely a British subject who was a holder of land under the Projet de Loi—might waive the right of having the assistance of the Consul in certain cases.

The exception to which we refer is the draft letter dated 2nd July, 1868, from your Lordship to Mr. Elliot (No. 280), in which it is stated "that only those British subjects who take the benefit of the new arrangement and become landed proprietors, are called upon to renounce any of the present privileges." On the whole, however, we venture to submit that this is not the true interpretation of the Protocol.

We have. &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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## No. 205.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 10.)

*Temple, December* 9, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 7th ultimo, stating that, with reference to Mr. Egerton's letter of the 2nd October last, on the question of the tenure of land in Turkey by foreigners, he was directed by your Lordship to transmit to us a further despatch from Mr. Elliot on the subject.

In obedience to your Lordship's commands we have the honour to report—

That the formalities enjoined by the Turkish Government, and which, Mr. Elliot states, have been referred to Mr. Francis, who considers them unobjectionable, appear to us to be such as call for no special remark from us. They appear sufficiently clear and reasonable.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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No. 206.

*Law Officers' Report, December* 23, 1868.

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## United States.

No. 207.

*The Law Officers of the Crown to Lord Stanley.*—(*Received January* 14.)

My Lord,
*Temple, January* 11, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed to transmit to us a letter and its inclosures from the Colonial Office, relative to the abduction of two British subjects from the Province of New Brunswick into the territory of the United States; and to request that we would take these papers into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That it will be desirable for your Lordship to await the further information for which Lord Monck has written, in explanation of the part which the chief of the police and the police magistrate at St. John's have taken in furthering the removal of the applicants from British territory. At present, no justification for the invasion of British territory is disclosed in the documents forwarded, and we think that Lord Monck has done right in promptly calling the attention of the Chargé d'Affaires at Washington to the circumstances of the case, with a view to his communicating with the Secretary of State of the United States, and asking for investigation into them.

We have, &c.
(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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No. 208.

*The Queen's Advocate to Lord Stanley.*—(*Received February* 15.)

My Lord,
*Temple, February* 14, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st ultimo, stating that, with reference to the Law Officers' Report of the 23rd March, 1864, he was directed by your Lordship to transmit to me a letter from Mrs. Blackie, dated 13th January, in regard to her claims, as one of the heirs of the late Mr. Purvis, against the United States' Government, for compensation for the destruction of their property near Vicksburg during the late civil war in America. The previous correspondence respecting this case was also transmitted; and Mr. Hammond was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That there are no grounds which would justify your Lordship's official interference in support of the claims of the heirs of the late Mr. Purvis; and, with regard to the good offices of Her Majesty's Government, it would be unadvisable, in my opinion, for your Lordship to direct Her Majesty's Minister at Washington to press the matter again upon the attention of the United States' Government, as there are no circumstances in this case which would operate to take it out of the rule laid down by the Act of Congress, which prohibits compensation being made for any damage done by the military authorities or troops of the United States within the limits of any State, which was declared to be in insurrection by the President's Proclamation of July 1, 1862, or which by an Ordinance of Secession, attempted to withdraw itself from the Government of the United States.

I have, &c.
(Signed) TRAVERS TWISS.

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No. 209.

*Law Officers' Report, February* 21, 1868.

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No. 210.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 11.)

My Lord,
*Temple, March* 11, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th March instant, stating that he was directed by your Lordship to transmit to us a Treaty recently concluded between Prussia and the United States on the subject of naturalization, and which had been confidentially communicated to Her Majesty's Government; and to request that we would consider the same and report to your Lordship at our earliest convenience whether there would be any objection to Her Majesty's Minister at Washington being instructed to conclude a Treaty between this country and the United States in terms identical with those of the Treaty between Prussia and the United States.

In obedience to your Lordship's commands we have the honour to report—

That it appears to us that it would not be expedient to instruct Her Majesty's Minister at Washington to conclude a Treaty between this country and the United States, in terms identical with those of the Treaty between Prussia and the United States.

We think that the stipulation that five years' residence, with naturalization, shall alter the nationality of the person naturalized, though clear enough as regards such person, leave open very material questions which ought to be determined by express regulation. What, for instance, is to be the status of a child born after naturalization, and before the expiration of the five years; and what is to be the status of a child born *after* naturalization, and *after* the lapse of five years, whose parent afterwards goes back to and becomes again a citizen of his own or of a third country?

These cases and many others are left unprovided for.

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The IIIrd Article would, of course, not be adopted, as it is inapplicable to a Convention between England and the United States.

The IVth Article is objectionable in consequence of the doubt to which it would give rise.

It would be most difficult to ascertain in many cases whether a particular person, at a particular period after his return to his original country "had renewed his residence without intent to return" to the country of his naturalization, and the concluding paragraph of that Article providing that the intent not to return *may* be held to exist where the person naturalized in the one country resides more than two years in the other country, by which we understand that such residence would only be *primâ facie* evidence of intent, would leave open questions most doubtful and difficult of solution in each case where a claim to, or denial of, nationality was raised.

It seems to us, too, very doubtful, whether it would be deemed proper to admit an American naturalized in this country, and resident therein for five years, to all rights of citizenship—even to being a Member of the Privy Council and Members of Parliament—as if he were by origin a British subject.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 211.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 11.)

My Lord,
*Temple, March* 11, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed to transmit to us a despatch from Her Majesty's Minister at Washington, respecting an Order recently issued by the United States' Government, recommending all citizens, native or naturalized, about to visit this country or Ireland, to furnish themselves with passports while the Habeas Corpus Act remains suspended in the latter country, and requesting to be furnished with instructions as to the course he should pursue as regards affixing the visa of Her Majesty's Legation to the passports of British subjects who may have become naturalized subjects of the United States, who may apply for it. Mr. Hammond was also pleased to state that your Lordship proposes to authorize Mr. Thornton to grant the British visa, should it be asked for; but that before doing so, your Lordship would be glad to be furnished with our opinion as to whether any inconvenient effect might arise therefrom; and he was therefore to request that we would take Mr. Thornton's despatch into immediate consideration, and furnish your Lordship, at our earliest convenience, with our views upon this subject.

In obedience to your Lordship's commands we have the honour to report—

That we believe that at this moment no passport is required by British law to enable an American subject or citizen to enter the United Kingdom; and, if passports are granted by the United States during the suspension of the Habeas Corpus Act in Ireland, for the purposes, and with the objects mentioned in the Order or Notifications sent to us with these papers, the force and effect which they should have in the United Kingdom, should, we think, rest upon the fact of their being issued by the American authorities, and not upon the ground of their being viséd by Her Majesty's Minister at Washington. It appears to us that the avowed object of the issuing these passports by the United States is to impress upon the bearers of them the character of Americans, and, if issued for this purpose, and afterwards viséd by Her Majesty's Minister at Washington, such visa would, we think, be used in Great Britain, as a recognition of the nationality of the bearer, a course which, as it appears to us, might probably lead to embarrassment and inconvenience.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 212.

*The Law Officvrs of the Crown to Lord Stanley.*—(*Received March* 14.)

*Temple, March* 14, 1868.
My Lard,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th March instant, stating that, with reference to our Report of the 11th instant, he was directed by your Lordship to transmit to us the draft of a despatch which you propose to address, by the mail of this day, to Her Majesty's Minister at Washington, on the subject of the overture made to him by Mr. Seward, for the conclusion of a Naturalization Treaty; and Mr. Hammond was pleased to request that we would take the same into our consideration, and report to your Lordship our opinion whether it may be properly sent on.

In obedience to your Lordship's commands we have taken the despatch into our consideration, and have the honour to report—

That we see no objection to the despatch proposed to be sent to Mr. Thornton. We suggest, however, a slight alteration in the wording of one sentence, which we have made in the margin of the draft.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 213.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 14.)

*Temple, March* 14, 1868.
My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that, with reference to our Report of the 11th instant, he was directed by your Lordship to transmit to us therewith the draft of a despatch which your Lordship purposes to address by the mail of to-day to Her Majesty's Minister at Washington, on the subject of visèing passports issued by the United States' Government to Americans, whether native or naturalized, visiting the United Kingdom during the suspension of the Habeas Corpus Act in Ireland; and Mr. Hammond was pleased to request that we would take the same into our immediate consideration, and report to your Lordship our opinion whether it may properly be sent on.

In obedience to your Lordship's commands we have taken the draft despatch into our consideration, and have the honour to report—

That we think it would be better that the proposed certificate should not be added to a passport given by the American authorities, and we would suggest the omission of the instructions respecting such certificate. In other respects we see no objection to the draft despatch.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 214.

*The Law Officers of the Crown to Lord Stanley.*—(*Received March* 20.)

*Temple, March* 20, 1868.
My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th March instant, stating that he was directed by your Lordship to transmit to us the despatch on the subject of Naturalization Treaty, which, altered as we suggested in our Report of the 14th instant, was forwarded to Mr. Thornton by the mail of Saturday night.

That your Lordship had, however, received another telegram from Mr. Thornton strongly urging the importance of taking advantage of the present favourable disposition of the Government of the United States, to dispose of a question which at any moment may become one of serious importance; and, as your Lordship fully concurs in that view of the question, you directed him to state to us that your Lordship would be much obliged to us to consider whether it is not possible to frame on the basis of the Prussian Treaty, which Mr. Hammond was pleased to return to us for the purpose, a Draft of Convention which might be proposed to the Government of the United States, and which would obviate the difficulties arising, on the one hand, out of the claims of the United States in behalf of naturalized citizens, and those, on the other hand, which we consider would attend the acceptance of the Prussian Treaty as it now stands.

Mr. Hammond further stated that it might perhaps be possible to provide that the status of children of naturalized persons during the whole period of their minority should be regulated by and follow that of their father for the time being; and continue to do so afterwards, unless on their obtaining their majority they elected specially for one or other nationality, and recorded their election by some formal act, leaving it open to them thereafter, notwithstanding their acquiescence in the status of their father, or their subsequent election of a different status, themselves to go through the process of naturalization with similar consequences as regards their own descendents, the succession of property being regulated accordingly.

And, further, Mr. Hammond was pleased to say that your Lordship suggests also that the other difficulty specified by us might perhaps be met by applying to the question of proof of intention to resume original allegiance, principles similar to those which may be applicable to questions of domicil; and lastly, Mr. Hammond stated that your Lordship had desired him to throw out those suggestions for what they may be worth, but that you would be glad to receive from us, at an early day, a draft of Convention, if, after giving the matter full consideration, we should see our way to framing one.

In obedience to your Lordship's commands we have the honour to report—

That we have prepared a Draft of a Treaty as nearly as possible in the terms of the Prusso-American Treaty with some alterations, the object of which we have explained briefly in notes annexed to the draft.

It appears to us of great importance that the effect of such a Treaty, if it is to be made, should be fully considered before it is concluded. It is difficult to foresee without much consideration all the consequences which would flow from the recognition of British-born or descended persons as temporary aliens, and we have pointed out some out of many considerations which appear to us to bear materially on the question as to the propriety of entering into a Treaty, and the terms in which it should be framed.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## Inclosure in No. 214.

*Draft Treaty between Great Britain and the United States, respecting Naturalization.*

HER Majesty, &c.

### ARTICLE I.

SUBJECTS of the British Crown[a] who have become and are[b] or shall hereafter become naturalized citizens of the United States of America, and (in each case) shall have resided or shall reside uninterruptedly five[c] years within the United States, shall be held by Great Britain to be American citizens,[d] and shall be treated by Great Britain[e] as such.[f]

Reciprocally, citizens of the United States who have become and are or shall hereafter become naturalized British subjects, and shall (in each case) have resided or shall reside uninterruptedly five years within the British dominions, shall be held by the United States to be subjects of Great Britain, and shall be treated by the United States as such.

The mere declaration[g] of an intention to become a citizen or subject of the one or the other country has not for either party the effect of naturalization.

### ARTICLE II.

Any such[h] naturalized subject or citizen of the one party on return to the territory of the other party, remains liable to punishment for acts or offences punishable by the laws of his original country, and committed before his emigration, saving always the limitations (if any) established by the laws of his original country.

### ARTICLE III.

If a British subject naturalized in America renews his residence in British dominion, after such naturalization *and residence*,[i] as mentioned in Article I without the intent to return to and reside[j] in America, *with intent to remain in the British dominions*, he shall be deemed to have renounced his American naturalization, and shall no longer be treated by Great Britain as a citizen of the United States.[k]

Reciprocally, if an[l] American naturalized as aforesaid renews his residence in the United States, after such naturalization and residence as before mentioned, without the intent to return to and reside in the British dominions, *with intent to remain in the United States*, he shall be held to have renounced his British naturalization, and shall no longer be treated by the United States as a British subject.

### ARTICLE IV.

Each party to this[m] Treaty shall issue to its naturalized subjects or citizens who have resided the required period, *certificates* in such form and under such authority as each such party may direct, evidencing such naturalization and residence.

### ARTICLE V.

(Duration of Treaty.)

J. B. K.
W. B. B.
T. T.

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[a] The Treaty is intended to apply, we presume, to all British subjects abroad and in the Colonies, as well as in the United Kingdom.

[b] The Treaty is intended, we presume, to be retroactive, but the words in the Prussian draft are vague, and we have altered them so as to make them more specific.

[c] It is believed that the *present* law in the United States requires five years' residence to *complete* naturalization. This law may be altered to-morrow, but we presume that five years' residence is still to be required. Our law does not enjoin five years' residence.

[d] "Citizens" is a vague term, as the Americans admit that they cannot define a "citizen." Still, we presume, no other word would be acceptable to them.

[e] We have added the words "by Great Britain," which, we believe, is in accordance with the German text, though not found in the translation. The words are needed, as it is not, we presume, intended that *America* should stipulate that these naturalized citizens are to be treated as American citizens to all intents and purposes. Probably they have, or will have, special laws to regulate their status.

[f] The full effect of this must be very carefully considered. Great Britain agrees to treat the persons as *American* citizens, and *therefore* cannot treat them as British subjects also. Now many Statutes of the United Kingdom, and probably of the Colonies, prescribe laws for "British subjects," and "natural-born *subjects*." Are these persons to cease to be within the Statutes, and temporarily, at all events, to be aliens? Are they, in British dominions, to be entitled to a jury *de medietate linguæ*, as aliens; and would they be eligible as "aliens" on a jury *de medietate linguæ?* With reference to the laws of property, also important questions may arise, which will require very careful consideration with reference to our laws and the alterations which it might be requisite to make in them to meet the cases of these "temporary aliens."

[g] This seems to apply only to the present law of the United States. In this country no "declaration of intention" is required.

[h] The word "such" is added to limit it to persons *naturalized and resident*. This clause, so far as England is concerned, only stipulates for that which could be done at present, for a British subject, naturalized in America and returning to this country, would be punishable for all crimes committed before he left. This Article makes him punishable whether he return *animo manendi* or not.

[i] This is probably intended, though it is not so stated in the Prussian Treaty.

[j] This will always raise a most difficult question, but it cannot be avoided. The words "and reside" have been added, so that the mere intention to return *temporarily* shall not be sufficient to prevent his renunciation. The words "return to America" do not meet the intended cases. We think that the words we have substituted would better attain the desired object. It will probably be necessary to declare by Statute what is to be the effect of this return and renunciation.

[k] These words which are added seem to be necessary, as the mere renouncing by the person naturalized might not, as between the two contracting Governments, justify the country, of which the person was a natural-born subject, from declining to treat him as a subject of the adopted country.

[l] The proviso has been omitted because it appears to us to be so vague that it would only give rise to difficulties.

[m] This Article is new, but it seems very essential to have some such document to refer to, in order to ascertain whether a person has become naturalized, so as to be within the Treaty. If a British born person is naturalized in America, and has resided the required period, and happens to be in Hong-Kong or in China, or elsewhere, where Her Majesty has jurisdiction by Statute and Treaty over British subjects, it would be most difficult to ascertain whether such a person was liable to British jurisdiction or not.

J. B. K.
W. B. B.
T. T.

### No. 215.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 4.)

My Lord,
*Temple, April* 4, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that, with reference to our Report of the 20th ultimo, he was directed by your Lordship to transmit to us a copy of a despatch which your Lordship had received from Her Majesty's Minister at Washington, inclosing a draft of Convention on Naturalization which Mr. Seward is prepared to sign, should it be approved by Her Majesty's Government; and to request that we would take these papers into our consideration and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That the proposed Convention appears to us to be framed in language somewhat more precise and distinct than that which was lately entered into between the United States and Prussia.

The Ist Article applies to Great Britain and Ireland and all other parts of the British Dominions, thus including the Colonies.

The IIIrd Article in its first clause uses the word "abode," and its second, "residence," as equivalent terms. The word "residence" should be adopted in each. Upon this Article we would call attention to the remarks we made upon the draft Article drawn up by us by your Lordship's directions, and which accompanied our Report of the 20th ultimo.

The IVth Article applies to Great Britain and the Colonies. No such Article is to be found in the Treaty with Prussia. The rights and privileges which, according to its provisions, would be conferred upon naturalized subjects in this country and in the Colonies are very large; but the Article is silent as to whether they are to cease upon renunciation of naturalization or upon the cesser of the Treaty.

The difficulties in the way of entering into a Convention on this subject until it has been more fully considered with reference to the laws of the United Kingdom and the Colonies have been pointed out by us in former Reports, and it appears to us to be a question of much importance whether, until the extent of the alterations which may be required in those laws has been carefully considered and ascertained, any Convention on this subject should be entered into.

Should any Convention be agreed upon we would suggest that it might contain a clause similar to that to be found in the Convention with France in 1852 (9 Herts., 281, clause 15), so as to make the Convention operative only when an Act of Parliament has been passed to carry its provisions into execution.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 216.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 8.)

My Lord,
*Temple, April* 7, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th March ultimo, stating that he was directed by your Lordship to transmit to us a letter which you had received from the Secretary of State for the Colonies forwarding copies of a correspondence which has passed between the Governor-General of Canada and Her Majesty's Legation at Washington in regard to a demand made by the United States' Government for the extradition from Canada of a man named Freeman B. Smith, who is charged with forgery; and to request that we would take these papers into our consideration and favour your Lordship with our opinion as to whether the conclusion arrived at by the Governor-General of Canada on this case was right and proper.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That we are of opinion that the conclusion arrived at by the Governor-General of Canada on this case was right and proper—the offence with which Freeman B. Smith was charged not being forgery within the meaning of the Extradition Treaty.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 217.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 8.)

My Lord,
*Temple, April* 8, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that, with reference to his letter of the 25th ultimo, he was directed by your Lordship to transmit to us a further letter dated the 28th ultimo, from the Colonial Office, relating to a demand made by the United States' Government for the extradition of a man named Freeman B. Smith, and to the judgment delivered by the Canadian Court in his case; and Mr. Hammond was pleased to request that we would take this paper into our consideration and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this further paper into consideration, and have the honour to report—

That the judgment delivered by the Canadian Court in this case appears to us to have been in accordance with law.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 218.

*The Law Officers of the Crown to Lord Stanley.*—(*Received April* 21.)

My Lord,
*Temple, April* 20, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd March ultimo, stating that he was directed by your Lordship to transmit to us a letter from Messrs. I. and W. Parr respecting their claim against the Government of the United States for injuries and losses which they sustained during the late civil war in America, and requesting that we would take the case into our consideration and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That the injuries and losses of the petitioners appear to have been sustained by them during the civil war in America, during which Isaac Parr was forced to take up arms and join the militia in the State of Texas.

We think that in these cases Her Majesty's Government cannot interfere to support a claim for indemnity and compensation for such losses from the United States' Government. We infer from the involved and obscure statements of the petitioners that the losses they sustained were chiefly in respect of personal property and damage to timber and landed property during the war; but in William Parr's letter of the 14th January he speaks of "property which at the surrender of the war passed into the hands of the United States' Government, and they sold it." If this was *real* property which belonged to Parr, and which was thus seized and sold by the United States, *possibly* Her Majesty's Government might, if Parr was really forced into the Confederate army against his will, properly apply to the United States' Government for favourable consideration on his behalf, but certainly no interference could be made until further and fuller explanation on this point has been given to Her Majesty's Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

## No. 219.

*The Law Officers of the Crown to Lord Stanley.*—(*Received June* 1.)

*Temple, June* 1, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th April last, stating that, with reference to our letter of the 4th April he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Washington forwarding a Report which has been drawn up by Mr. Carlisle, the Legal Adviser of the Legation, on the bearing upon the laws of the United States of the Treaty respecting naturalization recently signed between that country and Prussia; and to request that we would take this paper into consideration and furnish your Lordship with our opinion as to whether, under the statements contained in it, it might not be possible to frame a Treaty with the United States.

In obedience to your Lordship's commands I have the honour to report—

That, having read the papers now furnished to us, we venture still to doubt the expediency of doing that which Mr. Seward desires, namely, entering into a Treaty which should lay down the "great principle of expatriation and naturalization," and leave all other details for a future Convention, more especially as Her Majesty has now appointed a Commission to inquire into the state of the law connected with these matters, and the expediency of allowing British-born subjects to expatriate themselves, and renounce their allegiance to the Sovereign.

Probably the fact of the Commission having been appointed would of itself make your Lordship hesitate to instruct Mr. Thornton to conclude even a provisional Treaty recognizing the principle of expatriation. We still continue to think that it is important that the changes necessary in our own Municipal Law should be fully considered and determined upon before a British subject has his *status* so completely altered, as it would be if a Treaty were concluded and confirmed by Statute, whereby he may be made capable of renouncing his allegiance altogether and becoming a subject of another country. Mr. Carlisle, indeed, appears to entertain the idea that Her Majesty's Government contemplate some adaptation of the Municipal Laws of the two countries to the new condition to result from the Treaty, though he adds "if this had not been indicated, it would not have seemed to me to be necessarily, or even actually connected with the mere recognition of the principle of expatriation under such limitations as the Treaty should prescribe." Now we by no means think that it is necessary, as supposed by Mr. Carlisle, that stipulations with reference to the civil rights of expatriated persons need be "mutual or reciprocal;" but it is important, at least, that our own Municipal Laws should be moulded to meet the many new cases which will arise and have to be provided for in the event of a British-born subject being permitted to expatriate himself, or of an American citizen becoming to all intents and purposes by naturalization a British subject.

We observe that Mr. Seward, after having promised a Lawyer's Report on the bearing of the provisions of the Treaty of Naturalization between the United States and the North German Confederation, upon the laws of America, confesses his inability to comply with Mr. Thornton's wishes for the reasons pointed out by the despatch of the 13th April; and yet Mr. Seward still presses for a simple Treaty engagement on the great principles of expatriation and naturalization, the discussion and negotiation of further details to be deferred to a later period, when experience may have thrown more light on the subject.

In furtherance of our view as to the inexpediency of entering into any such Treaty as proposed by Mr. Seward at this moment, we would remark, that the admission of "the great principles of expatriation and naturalization," if made, would probably be used at once in support of the requests which are made for the release of Warren and other Fenians claimed by the United States as American subjects.

We think that such a Treaty as suggested, entered into even provisionally, might cause embarrassment and difficulty; and in our opinion it will be better to wait until the subjects, which the Commissioners are directed to inquire into, have been considered, before any Convention or Treaty is arranged or concluded.

We have, &c.

(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 220.

*The Law Officers of the Crown to Lord Stanley.*—(*Received July* 4.)

*Temple, July* 2, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th of June ultimo, stating that he was directed by your Lordship to transmit to us a letter (2nd June), from the Colonial Office, and a despatch from Her Majesty's Minister (No. 156, 18th May), at Washington, relating to an application made by the United States' Consul-General in Canada, on behalf of a prisoner named Felix Callaghan; and to request that we would take these papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That it seems probable, from Mr. Thornton's letter, that the request made by the United States' Consul will not be renewed.

But if it should be, we think that it should not be complied with. The only ground upon which the request appears to be made is, that Callaghan, who is a British-born subject, and who for three years previous to and at the time of his arrest had been and was resident in Canada, had been previously naturalized in the United States, and according to the law of that country had become a citizen thereof. In our opinion, the right of the United States to interfere in the proceedings against such a person, ought not to be admitted; but if Mr. Seward does renew the request already made, the matter should be reported at once to Her Majesty's Government.

We have, &c.

(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 221.

*The Attorney- and Solicitor-General to Lord Stanley.*—(*Received July* 9.)

*Temple, July* 8, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th April last, stating that he was directed by your Lordship to inclose, for our information, and for any observations which we might have to make upon it, a despatch (No. 74), from Her Majesty's Minister at Washington, forwarding a decision of the Supreme Court of the United States in the case of a claim against underwriters on account of the capture of a vessel by a Confederate cruizer in May 1861.

In obedience to your Lordship's commands we have perused the papers transmitted to us, and have the honour to report—

That it appears to us that the judgment of the Supreme Court pronounced by the majority of the Judges, affirming the judgment of the District Court (Chief Justice Chase and Mr. Justice Selwyn having, on grounds which are not stated, dissented from the judgment of the Supreme Court), is in accordance with the law as recognized by the Prize Courts and Common Law Courts of this country. The judgment is not unimportant, inasmuch as it recognizes the existence of a state of belligerency between the United States and the "so-called" Confederate States, which are admitted "to have been in possession of many of the highest attributes of Government, sufficiently so to be regarded as the ruling or supreme power of the country."

We have, &c.

(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.

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## No. 222.

*The Law Officers of the Crown to Lord Stanley.*—(*Received July* 22.)

*Temple, July* 21, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th day of February last, stating that, with reference to the Report of the late Law Officers, he was directed by your Lordship to transmit to us a letter, dated 5th

February, with its inclosures, from Mr. Forbes Campbell, the agent and attorney for the owners of the cargo of the "Springbok," requesting that Her Majesty's Government will make a demand on the Government of the United States for compensation to the owners of that vessel on account of the seizure, sale, and condemnation of their property in 1863.

Mr. Hammond was also pleased to say that, for convenience, he transmitted to us the whole of the correspondence in regard to the case; and to request that we would take all the papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers transmitted to us into our consideration, and have the honour to report—

That we are of opinion that the request made by Mr. Forbes Campbell, who describes himself as the agent and attorney for the owners of the cargo of the "Springbok," that Her Majesty's Government will, on the strength of documents which he forwards, demand compensation on their behalf from the United States' Government for the unlawful seizure, sale, and condemnation of their property, and which he suggests should be taken at 66,378*l*. 11*s*. 11*d*. sterling with interest, costs, and damages, is one which should not be complied with.

Mr. Campbell, who is himself one of the owners of the cargo condemned, relies in support of his application on the joint opinion of Mr. Mellish and Mr. Vernon Harcourt, and on declarations of witnesses for the purpose of showing that the Supreme Court came to a conclusion which was erroneous and unjust; and that, in the condemnation and forfeiture of the cargo of the "Springbok" there was a miscarriage of justice. The Memorialists, Thomas Sterling Begbie and Messrs. Saul Isaac, Campbell, and Co., who describe themselves as owners of the cargo, allege that the Judgment of the Supreme Court rests upon nothing but groundless suspicion, misapprehension, illogical and unfair inferences, and the unjustifiable imputations to the claimants of intentions which they never had.

We think that the Memorialists are justified in insisting that there may be circumstances under which a State may, notwithstanding a decree of condemnation by its own tribunals, make restitution or compensation on the demand of the Sovereign of the claimant if justice or policy requires it; but we think that the Sovereign of the claimant would only be justified in making such a demand after a regular sentence of condemnation pronounced upon due inquiry by a competent Prize Court, when the adjudication is plainly against right, and where manifest wrong has been done by such condemnation of the property. (Vattel 11, c. 18, s. 350.)

In a case like the present, therefore, it is, in our opinion, necessary that the claimant should prove to the satisfaction of your Lordship not merely that there are errors in some of the premises, or in some of the conclusions, upon which the judgment is founded, but that there has been upon the whole case presented to the Supreme Court and on which that Court decided, a failure of justice; or that new facts and circumstances brought to notice since the judgment was pronounced, which for good reasons were not submitted to the Prize Court, show that the sentence is contrary to the justice of the case.

It cannot be denied that "the judgment of the Supreme Court, bears marks of want of care and accuracy which certainly disfigure it, and diminish its authority, and some of these faults are pointed out and commented upon by the Counsel whose opinion is relied upon in the Memorial of the owners of the cargo.

In the judgment of the Supreme Court after comments upon certain concealments on the part of the claimants, it is said:—"We are next to ascertain the real destination of the cargo, for these concealments do not of themselves warrant condemnation. If the real intention of the owners was, that the cargo should be landed at Nassau, and incorporated by real sale into the common stock of the island, it must be restored notwithstanding this misconduct. What then was that real intention?" And the Court comes to the conclusion, that the cargo was shipped in England by the shippers, with the intention of its being transhipped at Nassau for the purpose of being run through the blockade, and not for *bonâ fide* importation into Nassau.

The learned counsel say, "We assume for the purpose of this opinion, that the law is correctly laid down in the judgment of the Supreme Court, and that if the cargo was shipped in England with the original intention of being transhipped at Nassau for the purpose of being run through the blockade, the sentence of condemnation is right. If on the other hand, the cargo was shipped as the claimants contend, deliverable to the order of an agent in Nassau, to be there sold in the open market to *bonâ fide* purchasers, the cargo could not be condemned even though it was of a contraband character and though the purchasers in Nassau might have bought, with the distinct intention of running the goods through the blockade.

They find fault with the judgment, because one ground taken by the Court as justifying the conclusion, that Nassau was not the real destination of the cargo, is derived from the form of the bills of lading and manifest, the bills of lading not disclosing the contents of the packages, and no consignee being named; but the cargo being deliverable to "order or assigns," circumstances which the Court alleges show concealment of the real destination of the cargo. The counsel proceed to state, "We have before us a statement of some of the principal sworn brokers of London, which accords with our own experience, that the bills of lading are in the usual and regular form of consignments to an agent for sale at such a port as Nassau."

No doubt the form is usual in time of peace; but the learned counsel overlook the circumstance to which we think the Court was really referring, viz.: that a practice which may be perfectly regular in time of peace under the municipal regulations of a particular state, will not always satisfy the requirements of the laws of nations in time of war, more particularly when the voyage may expose the ship to the visit of belligerent cruizers.

It may well be, that at the immediate commencement of a war it would be too much for a belligerent captor to assume, that every omission of a wise precaution on the part of a neutral merchant is evidence of a fraudulent intention (the "Primus," 1 Spinks, 356,) but the late learned Judge of the Admiralty Court (Dr. Lushington), in the case of the "Abo" (1 Spinks, p. 350), which came before him in the late Russian war, after conceding so much to the shippers of cargo, observes, that "if cargo has been shipped, to use the expression of Lord Stowell, *flagrante bello*, the bills of lading ought on the face of them to have expressed, for whose account and risk, the property was shipped." Further, the ship's manifest was equally silent on the subject, and the master, in his examination *in preparatorio*, in his answer on oath to the 16th interrogatory, says, "The goods were to be delivered at Nassau for *account and risk* of Begbie and Company, the charterers; I know nothing of the qualities, quantities, or particulars of the goods, or to whom they would belong if restored and delivered at the destined port."

The evidence of Mr. Hart, who now makes a declaration, was not, it must be remembered, before the Court, and it was *upon the evidence as it stood* that the Court says "that some other destination than Nassau was intended may be inferred from the fact that the consignment shown by the bills of lading and the manifest was to order or assigns. Under these circumstances it must be taken as a negation that any sale had been made to any one at Nassau. It must also be taken as a negation that any such sale was intended to be made there, for had such a sale been intended, it is most likely that the goods would have been consigned for that purpose to some established house named in the bills of lading."

It appears, therefore, that the question under the consideration of the Court was whether any such sale of the cargo at Nassau was intended, as would constitute a *bonâ fide* importation—not a mere colourable sale, which would not be a *bonâ fide* importation according to the decisions of British and American Prize Courts (the "William," 5 Ch. Rob., pp. 388 and 396; the "Stephen Hart," Blatchford's Reports, p. 407), and they considered that the bills of lading would probably—if a *real* importation into Nassau on a sale of the goods was intended—have disclosed the name of the consignee there, and that the absence of the name of the consignee was, under all the circumstances, a matter from which they might draw the inference that a *bonâ fide* importation was not intended.

The argument by the Court on this point, though weak, is not, we think, wholly untenable, especially when regard is had to the many other circumstances relied upon to show that the claimants were engaged in blockade running and importation of contraband into the blockaded ports, and that all trade carried on ostensibly to Nassau was of a most suspicious and doubtful character.

The letter of instructions addressed to the master by Spyer and Haywood, as agents of the charterer, is one of the circumstances of suspicion relied on by the Court.

The next argument of the learned Counsel—viz., that the character of the cargo, being fitted for blockade-running, was a proof that it was destined for Nassau, which was the great entrepôt for contraband of war, is one of very little weight.

The Court thought that there was evidence to satisfy them that these goods, fitted for blockade-running, were from the first intended to be carried, after a colourable importation, into Nassau to blockaded ports.

The claimants who now say, as we understand, that the goods were sent to Nassau with the full knowledge and intention that they should find their way to a blockaded port, gave no explanation *by evidence* as to what was to become of the goods on their arrival at Nassau, and under all the circumstances of time and place, and in the absence of any such evidence, we think that the Court was entitled to draw the inference that the consigners of the goods, when they were taken out of the "Springbok" at Nassau, intended to be parties to their immediate transhipment and importation into a blockaded port.

The learned Counsel then deal with a statement made by the Court, which was undoubtedly an error of fact, viz., that the "Gertrude" was in the harbour of Nassau with the undenied intent to run the blockade about the time when the arrival of the "Springbok" was expected there. Mr. Justice Betts was more near the truth when in the District Court he observed that the "Gertrude" might have been expected to arrive in due course at Nassau a few days after the "Springbok." As a fact, her voyage appears to have been delayed, but when she did arrive at Nassau, after the capture of the "Springbok," she took on board a contraband cargo, the marks and numbers upon which were, to some extent, in correspondence with certain marks and numbers on many packages on board the "Springbok," and she was captured and condemned, without any attempt being made to resist such condemnation.

Having regard to the whole tenor of the observations with reference to the "Gertrude" by the Supreme Court, we think that the Court did not base their decision upon the ground that the "*Gertrude*" was to carry on the goods from Nassau. The Court finds "that the owners of the cargo intended that it should be transhipped at Nassau in *some vessel* more likely to succeed in reaching safely a blockaded port than the 'Springbok,' but it does not find that the 'Gertrude' was the intended vessel."

The Supreme Court comments on the fact that, notwithstanding all the circumstances of suspicion in the case, "not only has no application been made by the claimants to furnish some explanation of these circumstances, but that no claim sworn to personally by either of the claimants has ever been filed," and it certainly does appear to us most extraordinary that Mr. B. W. Hart, who now makes a declaration for the purpose of showing that he was the agent at Nassau to sell the goods for the claimants *there*, so that *they* should absolutely cease to have *any* interest in the goods upon a sale out and out at Nassau, never attempted to support the case of the claimants in the Prize Court, and that even now none of the claimants make declarations for the purpose of explaining any of the suspicious circumstances of the case, although in general terms, in their Memorial, they complain of being victims of unjust suspicions, and of being subjected to unjustifiable imputations of intentions which they never entertained.

As regards Mr. B. W. Hart, the Counsel, whose opinion is relied on by the claimants, say, "It is, no doubt, a very unfortunate circumstance for the claimants that the statement of Mr. B. W. Hart was not put in evidence in the District Court, for had it been so, we consider that the cargo of the 'Springbok' could not have been condemned. But it must be remembered that at the time the proofs were taken, the doctrine of continuous voyages had not been carried to the full extent to which it was ultimately pushed. And the claimants probably thought that when they had proved the vessel had a *bonâ fide* destination to a neutral port, the cargo was, in all events free. The materiality of the question of the sale at Nassau was consequently, at that time, not so apparent as it afterwards became." But this, after all, is a mere suggestion of Counsel, uncorroborated by the claimants or by Hart, who gave no explanation of their reasons for keeping silence *at the trial*, or throw any light on the numerous circumstances of suspicion tending to show that they were engaged in blockade-running; and in the result, though, as we have said, we do not consider the judgment of the Supreme Court to be a careful, accurate, or well-considered judgment, we are not satisfied, having regard to all the circumstances of the case, that the Court came to a wrong conclusion on the evidence before it, or that the declarations and statements, which are mere *exparte* statements unsifted by cross-examination, now relied upon, establish completely and fully the innocence of the owners of the cargo, which in the present state of the matter ought to be made out clearly by them.

We cannot think that in any view the case set up by the claimants themselves is one entitling them to much sympathy or support, even if it were fully established.

The right of a neutral to trade in time of war to a neutral port is, it is true, a well established right; but the trade with Nassau during the war was so peculiar and exceptional that, having regard to its character and to the fact that there was really no market at that port except with Confederate agents and blockade-runners, who, we believe, generally transhipped almost directly, and ran, or attempted to run the blockade, it may be open to doubt whether such trade could be properly considered *bonâ fide* neutral trade within the rule, so as to be protected ("Thomyris," 1 Edwards 17).

The judgment of the Court, however, proceeded on other grounds.

If, therefore, your Lordship should adopt the view which we have expressed, that the new statements and declarations made by and on behalf of the claimants are insufficient under all the circumstances of the case to satisfy your Lordship that the shippers of these goods were not engaged in prohibited trade, in respect of these goods with the Confederate States, we think that Her Majesty's Government will not feel that, upon a full consideration of the whole case, they can, on the materials before them, make any claim for compensation or damages upon the United States' Government as requested by Mr. Campbell.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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## No. 223.

*Law Officers' Report, August* 31, 1868.

## No. 224.

*The Law Officers of the Crown to Lord Stanley.—(Received September 8.)*

My Lord, *Temple, August* 31, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th April last, stating that he was directed to transmit to us the accompanying correspondence respecting the case of the "Pearl," a British steamer which was captured by a United States' cruizer in January 1863 for an alleged intended breach of the blockade of the Confederate ports; that the release of the vessel was ordered by the American Prize Court; but the United States' Government having appealed against that decision, Her Majesty's Minister at Washington was informed in August 1864, on the recommendation of the then Law Officers of the Crown that the result of the appeal remained to be seen, and that meanwhile Her Majesty's Government did not consider that there was any reason for official interference on their part on behalf of the "Pearl;" that several applications have been, since that date, received from persons interested in the "Pearl," but that no action has been taken on them, as Her Majesty's Government had received no information of the Supreme Court having given judgment on the appeal; that that judgment, however, appears to have been delivered in December 1866, and a copy of it has now been received from Mr. J. Johnson, which we should find inclosed in his letter of the 4th April last; and Mr. Hammond was pleased to request that we would take these papers into consideration, and furnish your Lordship with our opinion as to whether any steps should now be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, for some unexplained reason, the judgment on appeal in this case pronounced in December 1866 has only recently been brought to the attention of Her Majesty's Government by Messrs. Johnson, who appear in the character of claimants of the vessel and cargo, and have been treated as owners in the correspondence that has taken place upon the subject of the capture and the proceedings in the Prize Court, although Mr. George Wigg has also been recognized as owner. Whether Messrs. Johnson had any, and if any, what, interest in the vessel and cargo, or either of them, we know not; but it appears that, in the proceedings in the Prize Court, George Wigg was put forward as the owner of the ship, and Adderley and Co., of Nassau, as consignees and owners of the cargo, although in a declaration made on oath by George Wigg (dated the 23rd June, 1863, he positively swears that he was the owner of the ship and cargo, and that Adderley and Co. were merely his agents for sale of the cargo at Nassau. Captain Maxted, on the 6th May, 1863, makes a positive affidavit that Wigg was the sole owner of the ship. On the 25th May, 1863, Judge Marvin, in the District Court, made the following order:—

"It is ordered that the claimant of the ship in this case be allowed to produce further evidence by his oath and otherwise touching his interest therein, and the use he intended at the time of the capture to make of the vessel after her arrival at Nassau, the trade or business he intended she should be engaged in, and for what purpose she was going to that port, and that the claimant of the goods have time to produce an affidavit of his right and title thereto, and to produce such other proof of neutral ownership as he may be advised."

It appears that, notwithstanding this order, no further explanation as to the interest in the vessel was given by Mr. Wigg, or as to the purpose for which the vessel was to be used after reaching Nassau, and no affidavit was made by Adderley and Co., the claimants of the goods, as to their right to them, probably because, if Mr. Wigg's statement be true, they had no interest in them and were only agents for sale.

Although this order was not obeyed it appears that a new judge, Mr. Fraser, made a decree that the ship and cargo be restored to the claimant upon payment by the claimant of expenses of captors and costs of proceedings. This order was dated 12th February, 1864, and the only additional evidence (as far as we can gather) before Judge Fraser consisted of two Colonial Government Notices of the 13th July, 1861, and the 4th July, 1863, which appear to have been put in by consent in corroboration of Maxted's affidavit, and which, as we understand their bearing upon the case, appear wholly inconsistent with his statement, namely, "that the steamer was purchased by George Wigg to carry mails for the British Government between the West India Islands and Cuba under proposals offering 5,000*l.* per annum for three years." We have pointed out the dates of these Notifications, which do not refer to steamers, but to fast sailing-vessels: and the "Pearl," a paddle-steamer, was purchased by George Wigg on the 24th September, 1862, more than a year after the first Notification and ten months before the second.

The United States' Government and the claimants appealed against the Judgment of the District Court, and the Supreme Court, upon the grounds stated in its Judgment, has condemned both ship and goods. If this application of Messrs. Johnson, as parties alleging themselves to be interested in ship and cargo, be that your Lordship shall make a claim upon the United States' Government on the ground that the vessel and cargo have been unjustly condemned, we beg to state that we think that such an application should not be complied with. There were circumstances of suspicion attaching to the vessel which (without going into details) gravely affect her character, ownership, and destination; and having regard to the absence of any affidavit by way of further proof of Mr. George Wigg in pursuance of the order of the Court and the unsatisfactory character of Maxted's affidavit, which is wholly uncorroborated by any proof, and other matters in the case, we think there were grounds for condemning the vessel and cargo, and that Her Majesty's Government should not interfere in the matter.

We have, &c.  
(Signed) JOHN B. KARSLAKE.  
TRAVERS TWISS.

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## No. 225.

*The Attorney-General to Lord Stanley.—(Received October 3.)*

*Temple, October* 3, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Egerton's letter to the Law Officers of the 1st instant, stating that he was directed by your Lordship to state that since the arrival of the new American Minister in this country, he had been in verbal communication with him on the question of the naturalization laws of this country and the United States, Her Majesty's Government are exceedingly anxious, with a view to the promotion of good relations between the two countries, that an arrangement should be come to upon this subject, and that your Lordship had prepared the inclosed sketch of a Protocol intended to be signed by yourself and Mr. Reverdy Johnson, in order to place on record the intentions of the two Governments, subject, of course, to the action of Parliament, which may be expected to take up the matter when the forthcoming Report of the Commission on the Laws of Naturalization shall have been presented.

Mr. Egerton was also pleased to state that your Lordship requested that we would take the inclosed draft into consideration, and report to you at our earliest convenience our opinion thereupon. Should we be of opinion that it requires alteration, you would be glad if we would suggest such amendments as we might think desirable.

In obedience to your Lordship's commands I have the honour to report—

That I have perused the Protocol submitted to the Law Officers, and which it is considered desirable to perfect at the present moment, although the Report of the Commission upon the naturalization laws, has not yet been presented.

Subject to the alterations which I have made in the draft, I think that it is suitable for the object proposed; and, as the matter required immediate attention, I have, in the temporary absence of the Solicitor-General and the Queen's Advocate, returned the draft with alterations proposed by me, without waiting to discuss the papers with my colleagues.

I have, &c.  
(Signed) JOHN B. KARSLAKE.

I have the honour to state to your Lordship that I fully concur in the Report made by the Attorney-General. (Signed) RICHARD BAGGALLAY.

*October* 5, 1868.

I have the honour to report to your Lordship my concurrence in the Report made by the Attorney-General. (Signed) TRAVERS TWISS.

*October* 14, 1868.

## No. 226.

*The Law Officers of the Crown to Lord Stanley.—(Received November 7.)*

My Lord, *Temple, November* 7, 1868.

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us the accompanying Memorandum, showing the result of a conference between your Lordship, the Attorney-General, and Mr. Reverdy Johnson, the United States' Minister at this Court, at which a proposal was made by Mr. Reverdy Johnson on behalf of his Government, for the settlement of the British and American claims arising out of the late civil war in the United States, was taken into consideration.

That this Memorandum has been seen and provisionally approved by the Lord Chancellor and Mr. Disraeli, and a Protocol has been drawn up of which a draft was inclosed embodying the principles contained in the Memorandum; and Mr. Egerton was to request that we would take this draft into consideration, and furnish your Lordship with our opinion, at our earliest convenience, whether it is right and proper.

In obedience to your Lordship's commands we have the honour to report—

That we have suggested some alterations in the draft sent us, which we submit to your Lordship.

The addition in the preamble is made in order to give time to present claims. It will be found in substance, to be similar to the provisions contained in the Convention of 1853.

In Article I, we have struck out the words "under Section 3" as qualifications are contained in other sections as well.

The alterations in Article II are merely formal.

In Article III, we have altered the description of the "Alabama" claims, as the words "*other similar claims*" may, as it appears to us, give rise to discussions and difficulty.

We propose that clauses 5 and 6, shall be transposed, as clause 6 relates exclusively, like those immediately preceding it, to "Alabama" claims.

In other respects we think that the draft carries out the terms of the Memorandum.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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### Inclosure in No. 226.

*Draft of Protocol.*

THE Undersigned, Edward Henry Lord Stanley, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, and Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, being respectively authorized and empowered to place on record the bases on which Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, are prepared to effect a settlement of all claims on the part of subjects of Her Britannic Majesty upon the Government of the United States, and of all claims on the part of citizens of the United States upon the Government of Her Britannic Majesty, which have been presented to either Government for its interposition with the other, or which may be so presented within six months after the first meeting of the Commissioners hereinafter referred to, or within an extended period not exceeding three months after the expiration of such six months, in any case where reasons for delay shall be established to the satisfaction of the Commissioners hereinafter referred to, arising out of any transaction of a date subsequent to the exchange of the ratifications of the Convention concluded on the 8th of February, 1853, for the settlement of claims then outstanding, have agreed upon the following Protocol:—

I. The two Governments shall, in the first place, name Commissioners, two on each side, who shall meet in London, and who shall have power to determine all such claims as aforesaid (whether or not arising out of the late civil war in the United States), subject to the several qualifications hereinafter mentioned.

II. The said Commissioners shall, before they proceed to any other business, agree upon an arbitrator, to whose final decision shall be referred any claim (except as hereinafter mentioned), upon which the Commissioners may differ in opinion. If they should not be able to agree upon an arbitrator, the Commissioners on either side shall name a person as arbitrator; and in each case in which the Commissioners may not be able to come to an unanimous opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be the arbitrator in that particular case.*

III. The said Commissioners shall have power to adjudicate upon the class of claims referred to in the official correspondence between the two Governments as the "Alabama" claims; but before any of such claims is taken into consideration by them, the respective Governments shall fix upon some Sovereign or Head of a friendly State as an arbitrator in respect of such claims, to whom such class of claims shall be referred in the event of any disagreement between the Commissioners upon the same.

IV. In the event of a decision on any of such last-mentioned claims being arrived at by such arbitrator, involving a question of compensation, the amount of such compensation shall be referred to the Commissioners for adjudication; and, in the event of their differing, it shall then be decided by the arbitrator who shall have been appointed, or determined by lot, as the case may be, under section 2.

V. In regard to the beforementioned "Alabama" class of claims, it is agreed that neither Governments shall make out a case in support of its position, but that the questions at issue, as set forth in the official correspondence between the two Governments, shall be referred to the Commissioners; and in the event of their so disagreeing as aforesaid, then to the arbitrator, without argument or the production of further evidence, unless such evidence or argument shall be called for by the Commissioners unanimously, or by the arbitrator, as the case may be.

VI. The awards of the Commissioners in all cases shall be unanimous, otherwise the matter in dispute shall be decided by the arbitrator.

J. B. K.
R. B.
T. T.

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## No. 227.

*The Law Officers of the Crown to Lord Stanley.—(Received November 24.)*

*Temple, November* 24, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th November, stating that he was directed to transmit to us a letter from Messrs. Roscoe, Field, and Francis, requesting to be informed, what time the British Government decided that the belligerent character of the so-called Confederate States had ceased, and by what Proclamation, if any, or other Act such decision was witnessed. A sheet of the "London Gazette" containing a letter from Earl Russell to the Admiralty and other Departments, dated June 2, 1865, announcing that Her Majesty's Government were of opinion that neutral nations could not but consider the Civil War in America at an end, and also some papers laid before Parliament on the same subject, were also inclosed; and Mr. Hammond was pleased to request that we would favour your Lordship with our opinion, as to whether the parties might not properly be referred for the information they require, either to the "London Gazette" alone, or also to the Papers presented to Parliament.

In obedience to your Lordship's commands we have the honour to report—

That the parties may properly be referred by your Lordship for the information which they require to the "London Gazette" of June 6, 1865, as a public notification that, on the second of that month, the British Government declared that the Civil War was at an end, and acted upon that decision by the instructions issued to the Admiralty and other Departments.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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* This was the arrangement in the Convention of 1853.

## No. 228.

*The Law Officers of the Crown to Lord Stanley.*—(*Received November* 28.)

My Lord, *Temple, November* 25, 1868.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd ultimo, stating that with reference to the Law Officers' Report of November 18, 1865, he was directed to transmit to us for our perusal a despatch which has been received from Her Majesty's Consul at New York, together with one from Her Majesty's Minister at Washington, reporting the decision come to by the Supreme Court of the United States in regard to the steamer "Wren," which vessel was seized and condemned in 1865, on the ground of her having run the blockade of Galveston and of being enemy's property.

In obedience to your Lordship's commands we have the honour to report—

That it appears to us, so far as we can gather the facts of this case from the judgment of the Supreme Court, that a fair and just decision has been arrived at by that Court.

There seems to have been no ground for holding that the "Wren" was, at the time of her capture, engaged in blockade-running, and as the evidence which might be properly taken into consideration, satisfied the Court that the vessel was *bonâ fide* British-owned, the Court acted rightly in reversing the judgment of the District Court. No doubt the former Law Officers of the Crown, who advised that the "Wren" was not *bonâ fide* a British vessel, had statements before them which fully justified that opinion; but, speaking only of the case as it comes before us now, we think that the Supreme Court had good grounds for arriving at a conclusion favourable to the claimant.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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## No. 229.

*The Law Officers of the Crown to Lord Stanley.*—(*Received November* 30.)

My Lord, *Temple, November* 28, 1868.

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 13th ultimo, stating that he was directed to transmit to us a despatch from Her Majesty's Minister at Washington requesting authentic information as to the rights of aliens having claims against the English Government to guide him in similar cases of British subjects having claims against the Government of the United States; and Mr. Egerton was pleased to request that we would take this despatch into consideration and furnish your Lordship with our opinion as to the answer which should be returned to Mr. Thornton.

In obedience to your Lordship's commands we have the honour to report—

That we think that an answer should be sent to Mr. Thornton to the effect that the mode in which subjects of the Crown maintain suits against the British Government is by petition of right, a remedy the proceedings in which have been greatly simplified and improved by a recent statute known as the "Petitions of Right Act, 1860." (23 & 24 Vict., c. 34.) A Petition of Right is, to quote the words of the Lord Chief Justice in a recent case (Feather *v.* the Queen, 6 Best and Smith, 257), "open to the subject when land, or goods, or money of a subject have found their way into the possession of the Crown, and the purpose of the Petition is to obtain restitution, or, if restitution cannot be given, compensation in money; or when the claim arises out of a contract, as for goods supplied to the Crown, or for the public service." (See also Tobin *v.* the Queen, 16 Common Bench, N. S. 310.)

But to mere "torts" or wrongs committed under colour of authority from Government the Petition of Right is not applicable.

In such cases, if the Act complained of be not adopted by the Government, the party injured would be entitled to an action of the ordinary character against the actual wrong-doer. If such an Act were adopted by the Government the action would not be sustainable, and there would be no remedy in the Courts of Law. Such a case would have to be dealt with (as an act of State), in a case where an alien friend was the complaining party, between the two Governments.

In this country an alien friend is, as regards his power of maintaining suits against the Crown, in the manner and subject to the limitations and restrictions above-mentioned, in as good a position as a British subject.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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## No. 230.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 7.)

*Temple, December* 7, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Egerton's letter of the 8th September last, stating that, with reference to our letter of the 21st of July last, he was directed to transmit to us a further letter from Mr. Forbes Campbell urging the claims of the owners of the "Springbok" to the interference of Her Majesty's Government on their behalf; and to request that we would take this paper into consideration and furnish your Lordship with a report thereupon.

The previous papers were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That the letter of Mr. Forbes Campbell to your Lordship, in answer to Mr. Egerton's letter of the 24th July (and which appears to have been written by a professional adviser), enters into lengthy arguments in support of the statement that the Judgment of the Supreme Court rests on "groundless suspicion, misapprehension, illogical and unfair inference, and the unjustifiable imputation of intentions which the claimants never had."

We have already pointed out that the Supreme Court in dealing with this case acted upon some premises which appeared to be unfounded; but, in our view, the question whether your Lordship should treat the sentence of that Court as one contrary to justice and right, and therefore void, and thereupon demand compensation on behalf of the claimants for the unlawful seizure, sale, and condemnation of their property, depended, not simply on whether the sentence was founded in some degree on incorrect assumptions of fact, but whether the claimants satisfied your Lordship that upon the whole there had been a failure of justice, or that new facts and circumstances brought to notice since the sentence was pronounced, which for good reasons were not submitted to the Court, show that the sentence was contrary to the justice of the case.

Mr. Campbell proceeds to deal with the statements in Mr. Egerton's letter by way of offering some explanations and making some observations in reply thereto. It would hardly serve any useful purpose if, in our Report on this letter, we were to enter into counter arguments on every point urged by Mr. Campbell; but there are some matters to which we think it right to advert in support of the opinion which we entertain that Mr. Campbell is not successful in showing that the Judgment of the Supreme Court is manifestly contrary to justice and right upon the facts before the Court, or that new facts which for satisfactory reasons were not brought before the Court show that such sentence cannot be justified.

First, Mr. Campbell states the grounds on which, as he says, it was not thought necessary to call as a witness Mr. B. W. Hart, the consignee of the goods at Nassau—a circumstance which was deemed "unfortunate" by the learned Counsel, whose opinion was forwarded to your Lordship, and which they accounted for in their own way. Notwithstanding Mr. Campbell's explanation, we think that in *any* view of the case, and whether for the purpose of exempting the ship or the cargo, or both, from condemnation, Mr. Hart was obviously a most important witness. If the cargo had been *bonâ fide* destined for Nassau, there to be incorporated into the stock of the country, proof of this fact by Mr. Hart would have gone far to exculpate the ship, as well as to save the cargo; but when it was seen by the Court from evidence in the case that Mr. Hart was the person to whom the captain was to report himself at Nassau, and from whom he was to receive orders as to the delivery of the cargo, and any further information he might require, and Mr. Hart was not called as a witness and subjected to cross-examination, the Court might well comment on his absence as a most suspicious circumstance against the claimants. Mr. Hart's *ex parte* deposition, made since the sentence, for the purpose of inducing your Lordship to act in accordance with Mr. Campbell's request of treating the sentence as void, does not strike us as satisfactory. No explanation has ever been given as to the circumstance under which large quantities of brass buttons which, to use Mr. Hart's words, "were stamped with initial letters and devices," found their way to Nassau, or what these initial letters and "devices" meant, or how they came to be manufactured in England, and sent to Nassau. It was said by the captors in the Prize Courts that these were to be used for Confederate uniforms. It was *suggested* by the claimants that this was not necessarily the case, but no special proof as to these goods was given, and even now no explanation is given except that, while afloat, they were "*sold* to one J. A. Weston." Are these part of the goods which Mr. Campbell, in paragraph 4, suggests *might* have found their way to Matamoras or any other market? There is certainly nothing in Mr. Campbell's explanations to show that these buttons were not, as alleged, expressly manufactured for the Confederates. He is silent altogether on this point, contenting himself with alleging that everything on board was to be sold at Nassau, at which place the claimants would cease to have any interest in or control over them. With regard to Mr. Campbell's explanation as to the "Gertrude" in paragraphs 2 and 3, we would only remark whether Judge Betts' references to the "Gertrude" were made in his judgment (and we understood that what is said now to have been a "pamphlet or apology written by Judge Betts," was an extended judgment), or not, the information now given about the "Gertrude" is extremely meagre. Mr. Begbie, her former owner, simply makes a statutory declaration, in which, without giving any detailed account of the "Gertrude," he states as a fact that she reached Queenstown on the 31st January 1863, and was there on the 3rd February following. We think it needless to notice or reply at length to Mr. Campbell's observations about the case of the "Abo," or to express our opinion on the question whether the "Springbok" was seized simply because she was on the "black list," or to discuss or comment at length on the whole of the evidence and arguments adduced *and not adduced* before the American Courts. We would suggest that a reply should be sent to Mr. Campbell, simply stating that, after full consideration of his letter, your Lordship does not feel justified, upon the depositions forwarded by him, or the arguments pressed upon your Lordship, in insisting that the sentence of condemnation of the cargo is contrary to justice and void, and making a claim upon the United States' Government for compensation.

We believe that the Convention recently signed by your Lordship and Mr. Reverdy Johnson has not technically been made public, but if carried into effect it will probably be open to Isaac, Campbell, and Co. to bring forward their claim in respect of the alleged improper condemnation of the cargo of the "Springbok" before the Commission appointed for determining the claims of British subjects, in which event they and Mr. B. W. Hart, and all other witnesses whom they might desire to produce, could be examined and cross-examined fully, so that the truth might be satisfactorily ascertained. Whether your Lordship may think it right to refer to this Convention in the answer to be returned to Mr. Campbell will probably depend upon your Lordship's opinion as to whether it can be properly referred to at the present moment.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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## No. 231.

*The Law Officers of the Crown to Lord Stanley.*—(*Received December* 12.)

*Temple, December* 10, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Westhead and Co. inclosing a copy of a deed by which they claim to be in a position to treat for the settlement of the claims on Her Majesty's Government of a Mr. J. A. Machado, a United States' citizen, whose vessels the "Mary Varney" and "Thomas Watson," were detained by British cruizers off the African coast in the years 1854 and 1857 on suspicion of being engaged in the Slave Trade; and to request that we would take those papers into our consideration and favour your Lordship with our opinion whether, Mr. Machado having failed to carry out his part of the agreement as set forth in the inclosed deed, Her Majesty's Government will be justified in proceeding to a settlement of those claims with Messrs. Westhead, and if not, what answer should be returned to Messrs. Westhead's letter.

In obedience to your Lordship's commands we have the honour to report—

That, in the absence of any statement as to whether John Albert Machado has made and is prosecuting against the British Government such claims as are referred to in the recital of the deed, it is difficult to advise fully as to the course to be taken by Her Majesty's Government.

If, as seems probable, such claims, if advanced at all, have been made by Mr. Michado through his own Government, we think that Her Majesty's Government should in no wise recognize any right on the part of Messrs. Westhead to interfere in the negotiation of a settlement of such claims, except through the intervention of the Government of the United States.

Further, we are of opinion that, *under any circumstances*, Her Majesty's Government, though they may acknowledge the receipt of Messrs. Westhead's letter and of the deed inclosed, should inform Messrs. Westhead that further evidence must be given that, under the terms of the deed, the rights of Messrs. Westhead have attached, and that, for this purpose, it will be desirable for them to obtain a duly verified statement from the assignor, John Albert Machado, that they have duly become entitled to the benefits claimed by them under the deed.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
TRAVERS TWISS.

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## No. 232.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received December* 17.)

*Temple, December* 17, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th December instant, stating that he was directed by your Lordship to transmit to us therewith a Memorandum which had been placed in his hands by the United States' Minister respecting the case of James Anderson, an American seaman, now undergoing his sentence of imprisonment for manslaughter, under the circumstances set forth in the Memorandum, and at page 574 of the sessions paper sent therewith; and Mr. Hammond was pleased to request that we would take the case into immediate consideration and report to your Lordship whether the circumstances of it are such as would admit of your Lordship recommending to the Secretary of State for State for the Home Department that a free pardon should be granted to James Anderson.

In obedience to your Lordship's commands we have the honour to report—

That, with respect to the Memorandum submitted by the United States' Minister, we have to observe that the assertion that Anderson "acted in self-defence" cannot be assented to; the verdict and the sentence must be accepted as conclusive; that he was guilty of manslaughter; and further that it must be taken as admitted at the trial, and found by the jury that this manslaughter was committed on board a British ship by a seaman employed in such ship "in tidal waters." This being so, it appears to us that the fact of Anderson being an American by birth in no way affects the jurisdiction of the Central Criminal Court to try him. However that may be, it appears that a case was reserved by the Judge for the Court of Criminal Appeal. If the prisoner failed, (as we are disposed to infer) to prosecute this Appeal which was open to him, the United States' Minister would have no good reason to complain of the miscarriage of our tribunals, even if the verdict were wrong. We are not, indeed, informed that any formal complaint or remonstrance, or even request, has been urged on Her Majesty's Government, and in the absence of further information do not feel that sufficient grounds are established for recommending the pardon of Anderson.

We have, &c.
(Signed) R. P. COLLIER.
T. D. COLERIDGE.
TRAVERS TWISS.

## No. 233.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received December 22.)*

*Temple, December* 22, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that a Convention for the settlement of British and American claims was signed by Lord Stanley and the United States' Minister on the 10th November last, and further stating that shortly after the Convention was received at Washington objections were raised to its terms by the United States' Government, and that the nature of those objections was set forth in Mr. Thornton's despatch therewith sent to us; and further stating that a copy of the Convention as signed was also sent to us, and that we should find in the margin of the several Articles the observations and suggestions which the United States' Minister was directed to make on them; and further stating that your Lordship had in consequence prepared a fresh Draft of Convention to be substituted for the signed Convention, which embodied the greater part thereof, but in which amendments were inserted in italics to meet the difficulties raised by the Government of the United States, and generally to provide an arrangement for the settlement of the claims of the respective countries; and that he was to request that we would take the said draft into our consideration, and report to your Lordship our opinion as to the sufficiency of such draft to provide for the object the two Governments have in view.

In obedience to your Lordship's commands we have taken this case into our consideration, and have the honour to report—

That, in our opinion, the Draft Convention with your Lordship's amendments substantially provides for what we assume to be the objects which the two Governments have in view. We have ventured to suggest in the margin one or two verbal alterations.

We have, &c.
(Signed) R. P. COLLIER.
T. D. COLERIDGE.
TRAVERS TWISS.

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### Inclosure in No. 233.

*Draft of Convention between Great Britain and the United States of America for the Settlement of all Outstanding Claims.*

WHEREAS claims have at various times since the exchange of the Ratifications of the Convention between Great Britain and the United States of America, signed at London on the 8th of February, 1853, been made upon the Government of Her Britannic Majesty on the part of citizens of the United States and upon the Government of the United States on the part of subjects of Her Britannic Majesty; and whereas some of such claims are still pending, and remain unsettled; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a Convention, and have named as their Plenipotentiaries to confer and agree thereupon, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Edward Henry Stanley, commonly called Lord Stanley, a Member of Her Britannic Majesty's Most Honourable Privy Council, a Member of Parliament, Her Principal Secretary of State for Foreign Affairs;

And the President of the United States of America, Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

### ARTICLE I.

The High Contracting Parties agree that all claims on the part of subjects of Her Britannic Majesty upon the Government of the United States, and all claims on the part of citizens of the United States upon the Government of Her Britannic Majesty, which may have been presented to either Government for its interposition with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the Convention concluded between Great Britain and the United States of America, at London, on the 8th of February, 1853, and which yet remain unsettled; as well as any other such claims which may be presented within the time specified in Article III of this Convention, whether or not arising out of the late civil war in the United States, shall be referred to four Commissioners, to be appointed in the following manner, that is to say: two Commissioners shall be named by Her Britannic Majesty, and two by the President of the United States, *by and with the advice and consent of the Senate*. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act as such, Her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as Commissioner in the place or stead of the Commissioner originally named.

The Commissioners so named shall meet at *Washington* at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn Declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all such claims as shall be laid before them on the part of the Governments of Her Britannic Majesty and of the United States, respectively; and such Declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some person to act as an arbitrator or umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an arbitrator or umpire, the Commissioners on either side shall name a person as arbitrator or umpire; and in each and every case in which the Commissioners may not be able to come to a decision, the Commissioners shall determine by lot which of the two persons so named shall be the arbitrator or umpire in that particular case. The person or persons so to be chosen as arbitrator or umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such arbitrator or umpire, another person shall be named, in the same manner as the person originally named, to act as arbitrator or umpire in his place and stead, and shall make and subscribe such declaration as aforesaid.

### ARTICLE II.

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective Governments. *The official correspondence which has taken place between the two Governments respecting any claims shall be laid before the Commissioners, and* they shall, *moreover*, be bound to receive and peruse all *other* written documents or statements which may be presented to them by or on behalf of the respective Governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each Government, as Counsel or Agent for such Government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the arbitrator or umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such arbitrator or umpire, after having examined *the official correspondence which has taken place between the two Governments, and* the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the Commissioners, shall decide thereupon finally and without appeal.

*If, however, it shall appear to the Commissioners, or any two of them, that, from the nature of any particular claim in regard to which they may have been unable to come to a decision, it is desirable that a Special Arbitrator or Umpire shall be named, to whose decision such claim shall be referred, the Commissioners shall report to that effect to their respective Governments, who shall thereupon, within six months, agree upon some Sovereign or Head of a friendly State who shall be invited to decide upon such claim, and before whom shall be laid the official correspondence which has taken place between the two Governments, and the other* *written documents or statements which may have been presented to the Commissioners in respect of such claims.*

The decision of the Commissoners, and of the Arbitrator or Umpire, shall be given upon each claim in writing, and shall be signed by them respectively and dated. *The decision of the Arbitrator or Umpire on any particular claim so referred to him shall rule any other claims of the same class.*

In the event of a decision, involving a question of compensation to be paid, being arrived at by a special Arbitrator or Umpire, the amount of such compensation shall be referred back to the Commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the Arbiter or Umpire appointed by them, or who shall have been determined by lot.

It shall be competent for each Government to name one person to attend the Commissioners as Agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, hereby solemnly and sincerely engage to consider the decision of the Commissioner, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by him or them respectively, and to give full effect to such decision without any objection or delay whatsoever.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the Convention of the 8th of February, 1853, shall be admissible under this Convention.

### ARTICLE III.

Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, or of the Arbitrator or Umpire, in the event of the Commissioners differing in opinion thereupon: and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners, or for the Arbitrator or Umpire if they differ, to decide in each case whether any claim has or has not been duly made, preferred, or laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this Convention.

### ARTICLE IV.

All sums of money which may be awarded by the Commissioners, or by the Arbitrator or Umpire, on account of any claim, shall be paid in coin or its equivalent by the one Government to the other, as the case may be, within *eighteen* months after the date of the decision, without interest.

### ARTICLE V.

The High Contracting Parties engage to consider the result of the proceedings of this Commission as a full and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commission, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled and barred, *and thenceforth inadmissable*.

### ARTICLE VI.

The Commissioners *and the Arbitrator or Umpire appointed by them* shall keep an accurate record and correct minutes or notes of all their proceedings with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them.

The Secretary shall be appointed by Her Britannic Majesty's Representative at Washington, and by the Secretary of State of the United States, jointly.

Each Government shall pay the salaries of its own Commissioners. All other expenses, and the contingent expenses of the Commission, including the salary of the Secretary, shall be defrayed in moieties by the two Parties.

### ARTICLE VII.

The present Convention shall be ratified by Her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the day of , in the year of our Lord one thousand eight hundred and sixty- .

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## Venezuela.

### No. 234.

*The Law Officers of the Crown to Lord Stanley.—(Received January* 8.)

*Temple, January* 7, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st January instant, stating that he was directed by your Lordship to transmit to us Mr. Smith's letter of the 13th September, inclosing the statement of the Captain of the "Bolivar," and other documents, which was referred to our consideration in his letter of September last, but which was accidentally omitted to be sent us in his further letter of the 16th November; and Mr. Hammond was pleased to request that we would inform your Lordship, whether the statement of the Captain would in any way lead us to alter the opinion as to the claims of the officers and crew of the "Bolivar" on Her Majesty's Government, as expressed in our Report of the 30th ultimo.

In obedience to your Lordship's commands we have the honour to report—

That the statement of the Captain and the other documents sent to us (and of which we had a general recollection when we wrote our former Report) do not lead us to alter the opinion which we expressed on the 30th ultimo.

We have, &c.

(Signed) JOHN B. KARSLAKE.
C. J. SELWYN.
TRAVERS TWISS.

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### No. 235.

*The Queen's Advocate to Lord Stanley.—(Received January* 28.)

*Temple, January* 28, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed to transmit to me a despatch which your Lordship has received from Her Majesty's Chargé d'Affaires to the Republic of Venezuela, inclosing the draft of an Agreement for the settlement of British claims upon the Government of the Republic by means of a Mixed Commission. The draft of the answer, which your Lordship proposes to address to Mr. Fagan in reply, with an amended draft of Agreement was also transmitted; and Mr. Hammond was pleased to request that I would take these papers into consideration, and report to your Lordship my opinion upon the drafts proposed to be to be sent to Mr. Fagan. Mr. Hammond was further pleased to state that your Lordship would be glad to receive my Report in time to enable your Lordship to write to Mr. Fagan by the mail of the 1st February.

In obedience to your Lordship's commands I have the honour to report—

That the draft Agreement as amended may, I think, with some further alteration in Article II, be approved by your Lordship.

It would be advisable that some words should be introduced in Article II, to provide that the promissory note should be forthwith transmitted to the British Legation.

Mr. Fagan's experience may possibly satisfy him, that a promissory note, drawn in the form suggested by him, will be payable at the proper time, otherwise, I should have been disposed to suggest a provision, that the goods should not be allowed to be cleared at the Custom-house, except upon the production of a receipt or certificate of payment from the British Legation.

With regard to the letter proposed to be addressed to Mr. Fagan I would suggest the substitution of the word "either," for "one" of the Commissioners.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 236.

*The Queen's Advocate to Lord Stanley.—(Received April* 8.)

My Lord,
*Temple, April* 7, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th September last, stating that he was directed by your Lordship to transmit to me the accompanying Memorandum drawn up in the Foreign Office, together with several papers relating to the claim of Mrs. Ackers-Cage upon Her Majesty's Government, which has been repeatedly before my predecessors; and Mr. Hammond was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion thereupon. The previous papers were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it appears to me that a clear line of distinction exists between the old account and the new account given in by Mr. Bingham; that up to the period when the Venezuelan Court decided in favour of Miss Ackers' right of succession to her natural father's estate, as Mr. Bingham's conduct in taking possession of Miss Acker's estate on behalf of the Crown had been approved by Her Majesty's Treasury under their Minute of 5th April, 1855, Her Majesty's Government would, in my opinion, be responsible towards Miss Ackers for the account delivered by Mr. Bingham, and that if there are any charges in that account for expenses incurred officially by Mr. Bingham in the management of the estate, or in defending the supposed rights of the Crown, which cannot properly be charged against Miss Ackers, Her Majesty's Government ought, I think, to make them good to Miss Ackers. Whether Mr. Bingham should be called upon by your Lordship to re-imburse Her Majesty's Government would depend upon the *bona fides* of the charges. If charges were incurred *bonâ fide* by Mr. Bingham in the course of his duty, I think Her Majesty's Government ought not to call upon him to defray them. These remarks would apply to the charge to which Miss Ackers objects on aceount of medical attendance on J. Rivas, who may have been a sub-agent or factor employed in the charge of the estates, and to certain law expenses incurred in opposing Miss Ackers' claim.

With regard to Mr. Bingham's charges for fees and commission, Miss Ackers clearly ought not to be called upon to pay them, inasmuch as it proved that Her Majesty's Consul had no legal right whatever to have intermeddled with the succession of Mr. Ackers. I do not understand on what pretext Mr. Bingham has charged a commission as well as fees. There may be some pretext for the fees under 6 Geo. IV, c. 87, but none for the commission; and, as regards the fees, it must depend on the *bona fides* of Mr. Bingham whether the Crown would allow them. I may observe there is a mistake in the account of 220 dollars, which ought to be rectified and placed to the account of Miss Ackers.

The new account, which extends from January 1857 to December 1858, appears to me, if I rightly understand the intricacies of the case, to come under very different considerations as regards Her Majesty's Government, inasmuch as Mr. Bingham's management of the estate during this period was conducted under some kind of private agreement or understanding with Miss Ackers, to which Her Majesty's Government were in no way a party. I consider, therefore that Her Majesty's Government is not under any obligation to re-imburse Miss Ackers for any undue charges which Mr. Bingham may have set down in the new account against Miss Ackers, and that her only remedy is by proceedings at law or equity against Mr. Bingham himself. There is, however, a difficulty in respect of the new account, inasmuch as the balance of the old account in favour of Miss Ackers has been transferred to the new account. If this was part of the new understanding between Mr. Bingham and Miss Ackers after the decision of the Venezuelan Court in favour of Miss Ackers' succession, Her Majesty's Government would clearly not be responsible to Miss Ackers for it. But if it has been arbitrarily transferred to the new account without Miss Ackers' consent, then I think Miss Ackers is entitled to look to Her Majesty's Government, as it is a balance for which Her Majesty's Government will be responsible. Under the latter view of the case, Her Majesty's Government would be entitled to call upon Mr. Bingham to make good this amount, and if Mr. Bingham should be in receipt of any pension, Her Majesty's Government may, I think, properly deduct this sum and the charge for commission from Mr. Bingham's pension.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 237.

*The Queen's Advocate to Lord Stanley.—(Received April* 23.)

*Temple, April* 23, 1868.
My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Caracas, inclosing a copy and translation of a Decree issued by the Venezuelan Government, which establishes a blockade of the State of Nueva Barcelona; and Mr. Hammond was pleased to request that I would, if it appeared to me necessary that a notification of the same should appear in the "London Gazette," prepare a form for insertion accordingly.

In obedience to your Lordship's commands I have the honour to report—

That I have prepared a form for insertion in the "London Gazette," announcing that your Lordship has received an official copy of the Decree of the Venezuelan Government, declaring the coast of the State of Nueva Barcelona to be in a state of blockade. The translation which has been forwarded with the official copy of the Decree, does not appear to me to be sufficiently accurate for insertion in the Gazette. I have made several pencil notes in the margin of it, and should suggest an amended version of it. I beg at the same time to call your Lordship's attention to the Vth Article of the Decree, providing that the captor may release a captured vessel carrying articles contraband of war, upon the master of such vessel delivering up such Articles to the captor. This provision may possibly be in accordance with Treaty stipulations between the Venezuelan Government and some of the Transatlantic States; but it is at variance with the practice of European Nations, and is open to grave objections. No obligation is imposed upon the captor by the Decree, to take the cargo so delivered up into port for adjudication, so as to enable the owner to claim it if it has been illegally captured, and improperly given up, and a door will be open to grave irregularities, if bulk is allowed to be broken by the captors on board of a neutral ship on the pretext of separating contraband articles from the rest of the cargo.

I have, &c.
(Signed) TRAVERS TWISS.

### Inclosure in No. 237.

*Notification of Blockade.*

*Foreign Office, April* , 1868.

IT is hereby notified that the Right Honourable Lord Stanley, M.P., Her Majesty's Principal Secretary of State for Foreign Affairs, has received from Her Majesty's Chargé d'Affaires at Caracas a despatch inclosing an official copy of a Decree issued on the 9th March, 1868, by the Venezuelan Government, declaring the Coast of the State of Nueva Barcelona from the mouth of the River Uchire, to Point Conoma, to be in a state of blockade.

The following is the official copy of the said Decree, with a translation thereof.

[Here insert *verbatim* a copy of the official copy of the Decree of the Venezuelan Government, with the translation of the same.]

T. T.

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### No. 238.

*The Law Officers of the Crown to Lord Stanley.—(Received May* 11.)

*Temple, May* 11, 1868.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st April ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch and its inclosures from Her Majesty's Chargé d'Affaires at Venezuela, relative to a violent outrage committed by some soldiers in the service of that Republic, upon a British subject named Hipolite Noel which resulted in his death; and Mr. Hammond was pleased to request that we would take the same into our consideration, and favour your Lordship with our opinion as to any instruction which should be given to Her Majesty's Chargé d'Affaires with regard to the matter.

In obedience to your Lordship's commands we have the honour to report—

That we think that Mr. Fagan has acted properly in instructing Mr. Joel to watch the proceedings of the Court, and to report upon them to Her Majesty's Government.

Until the *whole* facts are before Her Majesty's Government, and an accurate account furnished as to the history of the deceased, the circumstances under which the injuries were inflicted upon him which are said to have caused death, whether he left a family dependent upon him for support, and other like matters, it is, we think, impossible for Her Majesty's Government to decide whether any claim for indemnity should be made as mentioned in Mr. Fagan's letter.

In case any reluctance or remissness should be shown in bringing the offenders to justice, a strong remonstrance should be addressed to the Venezuelan Authorities insisting upon a full and fair investigation of the case.

We have, &c.
(Signed) JOHN B. KARSLAKE.
WM. BALIOL BRETT.
TRAVERS TWISS.

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### No. 239.

*The Queen's Advocate to Lord Stanley.—(Received July* 3.)

*Temple, June* 30, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that, with reference to a Report of Her Majesty's Advocate-General of the 12th January, 1866, he was directed to transmit to me, together with the papers referred to, two despatches from Her Majesty's Chargé d'Affaires at Caracas, relative to the arrest and imprisonment of Mr. O'Callaghan, who was born in Venezuela of British parents. That Mr. O'Callaghan, as I should perceive, has been set at liberty by the Authorities at Venezuela, but that the question of the nationality of persons born of British parents in that Republic has again been raised; and Mr. Hammond was pleased to request that I would take Mr. Fagan's note to Señor Arvelo into consideration, and furnish your Lordship with my opinion whether his views on this point are right and proper,

In obedience to your Lordship's commands I have the honour to report—

That your Lordship cannot properly dispute the right of the Venezuelan authorities, in the absence of any Treaty engagements to the contrary, to hold all persons born of British parents within the territory of that Republic to be natural-born citizens of it, although there may have been a practice and usage prior to the Constitution of 1864, to treat the children of foreigners, though born in Venezuela, as foreigners. The case of Mr. Michael O'Callaghan does not appear to me to form any exception to the general rule, and the document which he has in his possession signed by his Excellency Marshal Faleon, in which he is described as a British subject, cannot avail against the admitted fact of his birth, to relieve him from his obligations as a Venezuelan citizen under the altered state of the law. The document had an intelligible object prior to the Constitution of 1864, as a certificate of his title to enjoy all the privileges granted at that time to the children of foreigners. At present it has no legal value, except as an acknowledgment on the part of the Venezuelan authorities of his British origin, and so far of Mr. Fagan's title to use his good offices on his behalf.

It does not appear from the correspondence transmitted by Mr. Fagan, upon what charge Mr. O'Callaghan was arrested and imprisoned by the Venezuelan authorities; but if he was arrested arbitrarily by the President without any warrant of Venezuelan law, as is suggested by Mr. Fagan, I think that Mr. Fagan was justified in demanding that he should be set at liberty.

With regard to other persons who are in the same position as Mr. O'Callaghan, in respect of their nationality, and respecting whom Mr. Fagan is anxious to receive some instructions from your Lordship as to how he should conduct himself, it may, I think, be advisable for your Lordship to instruct him that he should confine himself to the exercise of his good offices on their behalf, so long as they are allowed the full advantages of Venezuelan law.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 240.

*The Queen's Advocate to Lord Stanley.—(Received November* 24.)

*Temple, November* 24, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed to transmit to me the accompanying letter and its inclosures from the Colonial Office, relative to a claim of 2,000*l.* made upon the Venezuelan Government by Dr. R. Bakewell, a public officer of Trinidad, for his alleged wrongful detention at Cumana; and to request that I would take the same into consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That it appears from Dr. Robert Bakewell's letter, that he landed at Cumana on 14th July last, upon a medical mission of inquiry authorized by the Governor of Trinidad, and that after completing his inquiry he prepared to return to Trinidad by a steam-vessel which plied between Caracas and La Guayra, calling at Cumana. Unfortunately however for Mr. Bakewell, Caracas was at war with Cumana, and the steamer, not being allowed by the authorities of Caracas to touch at Cumana, passed that port on 10th August, without calling for passengers. Dr. Bakewell thereupon obtained a passport for himself from the Prefect of Cumana for Barcelona, but was unable to obtain a license for a boat and crew to take him to that place. No reason seems to have been given by the Prefect for the refusal of the license; but it appears that Cumana had been declared by Caracas to be under blockade, and that the crew of the boat were themselves afraid of being captured by the Caracas flotilla. It further appears that on the 29th August, Dr. Bakewell obtained a passage in a schooner from Cumana to Carupano, and that the schooner narrowly escaped capture by the enemy's cruizers.

Under these circumstances Dr. Bakewell proposes to claim 2,000*l.* from the Venezuelan Government in compensation for his detention at Cumana, and for the great inconveniences and dangers to which he was exposed in consequence of Cumana having been twice in a state of siege.

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I am of opinion that Dr. Bakewell has made out no case which would justify your Lordship's interference with the Venezuelan Government in support of his claim for compensation from that Government. The refusal of his license for a boat to leave the port of Cumana may have been most proper by way of precaution on the part of the Prefect for the protection of the boatmen, whilst Dr. Bakewell appears merely to have undergone mental alarm, and to have suffered no personal violence or ill-treatment during the state of siege.

I have, &c.
(Signed) TRAVERS TWISS.

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*Printed for the use of the Foreign Office. December 1873.*

**CONFIDENTIAL.**

# REPORTS

FROM THE

# LAW OFFICERS

OF THE

# CROWN.

1869.

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*Printed for the use of the Foreign Office. December* 1873.

CONFIDENTIAL.

# LAW OFFICERS' REPORTS: 1869.

## Abyssinia.

### No. 1.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 10.)

My Lord, *Temple, June* 9, 1869.

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 28th ultimo, stating that he was directed by your Lordship to transmit to me the accompanying correspondence, arising out of a representation made by the French Chargé d'Affaires at this Court, respecting a claim to redress and compensation on the part of a French muleteer named Ravolet, employed in the Abyssinian Expedition, who was flogged by order of a British officer; and Mr. Otway was pleased to request that we would take these papers into our consideration, and favour your Lordship with our advice as to the course to be pursued in this matter.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That on the merits of this case we should be of opinion that credit is to be given to Captain Bartholomew, whose letter, transmitted through the Indian Government, appears satisfactorily to explain the circumstances and occasion of the punishment inflicted on the French subject, and entirely to justify him in inflicting it. But as Ravolet himself appealed to the English Consular Court, and there brought an action, it seems to us that it is hardly necessary to go into the original merits of the case, which Ravolet made the subject of a law suit He chose his mode of redress, and is not entitled to apply to the English Government, unless the action of the English Court was in some way unjustly impeded by Captain Bartholomew, or by the English authorities acting in concert with him and in his interest. Of this there seems no evidence. We do not very clearly discover whether the Judge had or had not discretion under the circumstances to insist, or not to insist, on security for costs. If he had not, but was bound to require security, of course the case fails. But if he had, he appears to have exercised it moderately and reasonably; and Ravolet failed according to the regular course and practice of the Court. Neither, therefore, upon the original merits, if it be necessary to consider them, nor upon the conduct of the Judge in the suit, does it appear to us that any valid claim for compensation on his part can be sustained against Her Majesty's Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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# Africa.

## No. 2.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 6.)

My Lord, *Temple, January* 5, 1869.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 17th ultimo, stating that he was directed by your Lordship to transmit to us a correspondence relative to the intention of the late Government to bring a Bill into Parliament for repealing the so-called "Aberdeen Act," which was passed in the year 1845, with a view of putting an end to the African Slave Trade in Brazil, and to inquire whether, if Her Majesty's present Advisers should determine upon introducing into Parliament a measure having the same object, we concur with the late Law Officers of the Crown in considering the annexed draft of a Bill to be proper and effectual for that purpose.

In obedience to your Lordship's commands we have perused and considered the papers in this case, and have the honour to report—

That in the event of Her Majesty's Government coming to the determination that the "Aberdeen Act" should be repealed, as to the policy of which determination we do not understand our opinion is asked, the draft Bill sent to us will be proper and effectual for repealing it.

We are, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 3.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received February* 17.)

My Lord, *Temple, February* 17, 1869.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 3rd instant, stating that, with reference to the Law Officers' Report of the 10th of December last, respecting Mr. Machado's claim on Her Majesty's Government, he was directed by your Lordship to transmit to me the draft of a letter which was addressed to Messrs. Westhead and Co. on the 23rd of December, together with the reply which had been received from them on the subject, from which I should perceive that Messrs. Westhead wish to be informed—

1st. Whether they are to infer that, in addition to the claim being arranged through the United States' Government the amount that may be awarded is also to be paid through the same channel, or if, on substantiating their claim, they can receive the amount direct from Her Majesty's Government; and,

2ndly. Whether, owing to their ignorance as to where Machado is now to be found, and their consequent inability to procure any document from him, setting forth that his debts to Messrs. Westhead are not discharged, it will be sufficient for them to make an affidavit to that effect; and Mr. Otway was pleased to request that I would take these papers into my consideration, and favour your Lordship with my opinion as to the answer which should be returned to Messrs. Westhead's letter.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That Messrs. Westhead and Co. should be informed that any amount that may be awarded them will have to be paid through the United States' Government, and that Her Majesty's Government cannot accept an affidavit from Messrs. Westhead and Co. in lieu of the evidence specified in your Lordship's communication.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 4.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 29.)

My Lord, *Temple, March* 27, 1869.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 3rd instant, stating that, with reference to my Report of the 17th ultimo upon the subject of the claim of Messrs. Westhead to be in a position to treat with Her Majesty's Government for the settlement of the claims of Mr. Machado, he was directed by your Lordship to transmit to me, together with the former papers relating to this case, a further letter from Messrs. Westhead, inquiring whether Her Majesty's Government will be prepared to treat with them as principals, through the medium of the United States' Government, in the event of their being able to discover Mr. Machado, and to procure from him the required document in proof of their claim, and Mr. Otway was pleased to request that I would favour Lordship with my opinion as to the answer which should be returned to Messrs. Westhead's letter.

In obedience to your Lordship's commands I have the honour to report—

That it would not be advisable for your Lordship to consent to the proposal of Messrs. Westhead and Co., to treat with them as principals in the event supposed by them.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 5.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 14.)

My Lord, *Temple, April* 14, 1869.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 13th April instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. Hook, dated the 12th instant, requesting certain information regarding payments made to the person holding a power of attorney from Mr. Watson Vredenburg, Her Majesty's Consul and Commissary Judge at Loanda.

Mr. Murray was pleased to transmit to us the draft reply, which he stated your Lordship proposed he should address to Mr. Hook, and requested that we would favour your Lordship with our opinion whether the reply is right and proper.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the proposed reply of your Lordship to Mr. Hook is right and proper.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 6.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 24.)

My Lord, *Temple, April* 24, 1869.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 21st April instant, stating that, with reference to our report of the 14th instant, he was directed by your Lordship to transmit to us a letter with the previous correspondence therein referred to from Mr. Hook, a claimant on Mr. Vredenburg, Her Majesty's Consul at Loanda, requesting copies of orders for payment of Vredenburg's salary, and to request that we would favour your Lordship with our opinion whether the accompanying draft answer to Mr. Hook is right and proper.

In obedience to your Lordship's commands we have the honour to report—

That the proposed reply of your Lordship to Mr. Hook's letter is, in our opinion, right and proper.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 7.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received July* 31.)

*Temple, July* 30, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 19th instant, stating that he was directed by your Lordship to transmit to me an accompanying despatch and its inclosure from Mr. Thornton, Her Majesty's Minister at Washington, by which it would be seen that the United States' Government are desirous of putting an end to that part of the Treaty of April 7th, 1862, between Great Britain and the United States for the suppression of the Slave Trade, which requires each Government to keep up Mixed Commission Courts for the adjudication of Slave Trade cases.

That he was to state that Her Majesty's Government are willing, if possible, to accede to the wishes of the United States' Government in this matter, and that your Lordship has therefore directed him to submit to me an accompanying draft of a Convention which had been prepared for giving effect to the United States' proposal, and Mr. Rice was pleased to request that I would take the same into consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That I have no observation to offer to your Lordship on the Preamble, or on Article I of the Draft Convention.

With regard to Article II, it may deserve your Lordship's consideration, whether the provision in regard to slaves found on board a captured vessel, that they are not to be sent and handed over in any case with the captured vessel, may not prove inconvenient, as in many cases they may be necessary witnesses. I should venture to suggest that the words "slaves excepted" be omitted in the paragraph beginning "All the witnesses and the proofs necessary," and that the following paragraph should run thus: "All negroes or others, necessary witnesses excepted, who may be on board either a British or American vessel for the purpose of being consigned to slavery, shall be handed over to the nearest British authorities."

I have borrowed the phrase "All negroes, &c.," from the 13th section of the Act of Parliament passed to enforce the Treaty. I should, however, observe that this provision as it stands may be open to objection on the part of the United States, as it differs materially in principle from the corresponding provision in Article X of the existing Treaty, in regard to negroes in all cases being handed over to British authorities. With regard to the other Articles, I have no observation to offer to your Lordship.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 8.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received November* 1.)

*Temple, October* 30, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 27th instant, stating that your Lordship, having instructed Her Majesty's Minister at Washington to submit to the Government of the United States the draft of an additional Convention, amended as suggested in my report of the 30th July last, for terminating the action of the Mixed Courts of Justice established under the Treaty of April 7, 1862, for the suppression of the Slave Trade, has received from him in reply a despatch in which he transmits copy of a note from the Secretary of State of the United States, proposing certain additions to Articles I and II of that draft, he was directed by your Lordship to transmit to me Mr. Thornton's despatch with its inclosures, and to request that I would take the additions referred to into my consideration, and furnish your Lordship with my opinion as to the propriety of admitting them.

In obedience to your Lordship's commands, I have the honour to report that, the proposed additions to Articles I and II of the draft Convention will require your Lordship's careful consideration, not so much with reference to the actual provisions of them, which are unobjectionable in themselves, as with regard to the presumption to which they give rise, that the United States' Government does not understand Articles I and III of the draft Convention in the same sense in which they are regarded

by your Lordship, and that it considers the draft Convention will abrogate provisions of the existing Convention, which your Lordship anticipates would still remain in force. I allude to other provisions besides those referred to in the proposed additions, which your Lordship would probably desire to maintain as applicable to the Courts of either of the High Contracting Parties under any new Convention.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 9.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December* 20.)

*Temple, December* 18, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 27th ultimo, stating that, in my Report of the 30th October on a draft of Convention with the United States of America, for terminating the action of the Mixed Courts of Justice established under the Treaty of April 7, 1862, for the suppression of the Slave Trade. I stated that certain additions to the draft, which had been proposed by the American Government, required careful consideration, because they show that that Government does not regard Articles I and II of the draft in the same sense in which they are regarded by your Lordship, and that it considers the draft will abrogate provisions of which your Lordship does not contemplate the abolition, and which it may be desirable to maintain.

On this subject Mr. Otway was directed to state to me that it was contemplated by your Lordship; that the provisions of the Treaty of April 7, 1862, and of the additional Article thereto, signed on the 17th of February, 1863, should, after the suppression of the Mixed Courts, apply generally, *mutatis mutandis*, to the proceedings to be thenceforward instituted before the ordinary Courts of the two countries. That your Lordship agrees with me that the additions proposed by the American Government are unobjectionable in themselves; but that if it be necessary to make distinct provision with regard to the points embraced in those additions, it would seem to be equally necessary to make provision with regard to other stipulations of the Treaty, which it is desirable to retain, such as those of the IXth and Xth Articles, and that your Lordship therefore requests my opinion whether this object would be attained, (1) by adding to paragraph No. 1, suggested by the United States' Government, the following words:—

"Provided also that the stipulations of Articles IX and X of the said Treaty shall also apply, *mutatis mutandis*, to the awards made by the Courts of either of the High Contracting Parties;" (2) by making the 2nd paragraph of Article II of the draft additional Convention to begin thus: "All the witnesses, declarations, certificates, and proofs required by the Treaty of April 7, 1862, and the instructions annexed thereto, as necessary to establish, &c."

Mr. Otway was also pleased to state that if I could suggest any general words to be added to Article III of the draft Convention which might effect the desired object in a shorter compass without any of the proposed additions, your Lordship would be glad if I would do so. An amended draft of Article III was inclosed for my consideration. That although the additional Article of the 17th of February, 1863,* is declared to have the same force, as if it had been inserted in the Treaty, it might perhaps be well to make distinct mention of it in Article I of the draft additional Convention.

In obedience to your Lordship's commands I have the honour to report—

That it appears to me that it would simplify the question raised by the amendments of the United States' Government, if the words, "and to the sending in of vessels before such Courts for adjudication," which occur in Article I of the Draft Convention, were omitted. Article I would then only cancel or determine such parts of the Treaty of April 7, 1862, which is not intended should apply, *mutatis mutandis*, to the Courts of the High Contracting Parties. I should have also ventured to suggest, if the question had been *res integra*, that the words, "shall cease and determine as regards the said Mixed Courts," would be less liable to misinterpretation than the words "shall be cancelled."

The latter expression, coupled with the general terms of Article I of the Draft Convention, seem to have led the United States to misapprehend the extent to which your Lordship intends the engagements of the Treaty of the 7th April, 1862, to be still binding on the Contracting Parties, and may hereafter give rise to disputes. It will be

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* Hertslet, vol. xi, p. 903.

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for your Lordship to consider whether the Article should now be amended. The amendment would be in harmony with the spirit of the first proposed amendment of the United States' Government.

The jurisdiction of the Mixed Courts having been abolished, it appears to me, that it will be necessary to provide in terms that the jurisdiction heretofore exercised by them, according to the provisions of the Treaty of 7th April, 1862, shall be exercised by the Courts of the High Contracting Parties. No such provision is made in the Draft Convention, as I understand it. I speak subject to your Lordship's correction, if I am in error. Article II provides for the detention and sending in of captured vessels; but I do not find any stipulation for their being brought to adjudication.

I should suggest that an Article should be introduced to the following purport, with a view to substitute the jurisdiction and procedure of the Courts of the High Contracting Parties, in place of the abolished jurisdiction and procedure of the Mixed Courts:—

"The jurisdiction heretofore exercised by the said Mixed Courts, in pursuance of the provisions of the said Treaty shall, after the ratification of the present Convention, be exercised by the Courts of the High Contracting Parties, according to their respective modes of procedure in matters of maritime prize, and all the provisions of the said Treaty with regard to the sending or bringing in of captured vessels for adjudication before the said Mixed Courts, and with regard to the adjudication of such vessels by the said Courts, and the proceedings consequent on such adjudication, shall apply, *mutatis mutandis*, to the Courts of the High Contracting Parties. It is, however, provided, that there may be an appeal from the decision of any Court of the High Contracting Parties, in the same manner as by the law of the country where the Court sits, is allowed in other cases of maritime prize." This Article would, I think, have the effect of keeping alive Articles VI, VII, VIII, IX, and X, of the Treaty, which would meet the views of the United States' Government on the one hand, as I gather from their first proposed amendment, and of your Lordship on the other, as I infer from Mr. Otway's letter. Article VII, although it is not referred to by Mr. Otway, or the United States' Government, ought clearly to be kept alive with the other Articles.

Article II of the Draft Convention, as it now stands, would become Article III, if the new Article as above proposed should be approved by your Lordship. I think it right to call your Lordship's attention to the last provision of this Article, as it stands, which rather conflicts with Article X of the Treaty of 7th April, 1862. It may, perhaps, be necessary to modify the Article, so as to secure that the negroes, who may be sent in as necessary witnesses, should have their liberty guaranteed, as provided by Article X of the Treaty.

With regard to the second amendment proposed by the United States' Government, I consider that Article II, in the form above proposed, if the word "cancelled" in Article I should be replaced, as suggested, by words not so peremptory, will have the effect of keeping alive Articles V and VII of Annex B, according to the desire of the United States' Government, as well as Articles II and VI, which your Lordship would probably desire to keep alive. As Article I of the Draft Convention stands at present, its terms are so large, that I think the whole of Annex B would be cancelled, at least it would be open to great doubts what Articles of Annex B, if any, continued in force.

I think the words in Article II, as proposed by me, namely, "with regard to the adjudication of such vessels by the said Mixed Courts," would include the Article of the Annex B touching the expenses of bringing a vessel to adjudication. The subsequent words of that Article II, "the proceedings consequent on such adjudication," would, I think, clearly keep alive Articles V, VI, and VII of Annex B.

I think it would be safer that the High Contracting Parties should annex to the Convention the "requisite instructions for the ships of the navies of both nations," which should form an integral part of the Convention. The Article might be in the following form:—

"It is mutually agreed that the instructions for the ships of the navies of both nations designed to prevent the African Slave Trade, which are annexed to this Convention, shall form an integral part thereof, and shall have the same force and effect as if they had been annexed to the Treaty of 9th April, 1862, in lieu of the instructions forming Annex A of that Treaty."

As it is proposed that the negroes shall be at once set free, with the exception of necessary witnesses, the instructions will require considerable modification.

I do not think it would be advisable to adopt the amendment of the second paragraph of Article II of the Draft Convention, as suggested in Mr. Otway's letter. It may be open to discussion and some doubt what witnesses and proofs are required by the Treaty of 7th April, 1862.

With regard to the additional Article of 17th February, 1863, it does not appear to me to be affected in any way by the Draft Convention, as Article I of the Treaty of 7th April, 1862, is not touched by it. I should only be disposed to allude to it in an addition, which I think will be necessary as regards the last Article of the Draft Convention, to the following effect:—"The present additional Convention shall have the same duration as the Treaty of 7th April, 1862, and the additional Article of 17th February, 1863. It shall be ratified, and the ratifications shall be exchanged," &c.

The readjustment of the provisions of the Treaty of 7th April, 1862, and the Annexes A and B, which the United States and your Lordship do not intend to be cancelled on the ratification of the present Convention, is a matter of some difficulty, and I may have overlooked some contradictions between the provisions of the Draft Convention, as it stands, and my suggestions, the consideration of which I submit to your Lordship's better judgment.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 10.

*The Queen's Advocate to the Earl of Clarendon.—(Received December 20.)*

*Temple, December* 18, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 27th ultimo, stating that he was directed to acquaint me that it is the intention of Her Majesty's Government and of the Government of Portugal to put an end to those stipulations of the Treaty with Portugal of the 3rd July, 1862, for the suppression of the Slave Trade, which require the two Governments to keep up Mixed Commissions for the adjudication of Slave Trade captures. The draft of a Convention for that purpose was also inclosed, and Mr. Otway was pleased to request that I would take it into my consideration in connection with the draft of Convention with the United States for a similar purpose, which was transmitted to me in Mr. Otway's letter of the 27th ultimo.

Mr. Otway was also pleased to state, that if it be considered that the suggested additions to the Draft-Convention with the United States should be adopted, it would seem proper that corresponding changes should be made in the Draft-Convention with Portugal. That, as Portugal has Colonies on the coast of Africa, the method proposed in Article II of the draft for disposing of captured slaves, differs from the corresponding provision in the Draft-Convention with the United States, which have no such possessions.

In obedience to your Lordship's commands I have the honour to report—

That I would suggest that, instead of the words "shall be cancelled," there should be substituted in Article I of the proposed Convention the words, "shall cease and determine as far as regards the said Mixed Commissions;" and that the words, "and to the sending in of captured vessels before such Commission for adjudication" should be omitted.

I think it will be necessary, as in the Convention with the United States, to provide that the jurisdiction heretofore exercised by the said Mixed Commissions shall be exercised by the Courts of the High Contracting Parties. As the draft now stands there would be no engagement between the Contracting Parties to take any steps to adjudicate upon the captures, or to punish parties who may be engaged in the African Slave Trade.

I think that an Article very similar to the Article I have suggested, as Article II of the Convention with the United States, will be necessary in this Convention. It will also deserve special consideration from your Lordship as to which of the provisions of the three Annexes to the Treaty it will be desirable to keep alive. With regard to Annex A, some slight modification of Articles I, II, III, will be required, and Article IV will require considerable modification. With regard to Annex B, your Lordship will probably desire to keep alive Articles II, V, VI, and VII.

With regard to Annex C, it is possible that your Lordship will not desire to keep any of its provisions alive, but upon this point I can form no opinion further than from what appears to me to be its antiquated character, pointing to a state of things which has probably passed away.

I think it will be necessary to introduce into the proposed Convention other provisions analogous to those which I have suggested in the case of the United States. I forbear to repeat them until your Lordship shall have considered my Report on the Draft-Convention with the United States. There is no provision, I may observe, in the

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existing Treaty with Portugal or the additional Article for terminating the Treaty at the will of either of the Contracting Parties. I should venture to suggest, if your Lordship should approve the suggestions which I have made in my Report on the Convention with the United States, that a draft should be prepared, and I should be allowed to reconsider it *en bloc*. The readjustment of the arrangements between the Contracting Parties in this case, as in the case of the United States, I consider to be a matter of considerable intricacy, if doubts and disputes hereafter are to be prevented.

I have, &c.
(Signed) TRAVERS TWISS.

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## Argentine Confederation.

### No. 11.

*The Queen's Advocate to the Earl of Clarendon.*—*(Received January* 16.)

*Temple, January* 16, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Minister at Buenos Ayres (No. 58), inclosing a packet of dispatches addressed by President Lopez to the Paraguayan Chargé d'Affaires at this and the French Court, and stating the circumstances under which they have come into his hands; and Mr. Hammond was pleased to request that I would take Mr. Stuart's despatch into my consideration, and that I would favour your Lordship, at my early convenience, with my opinion as to the propriety of forwarding the dispatches in question to their destination.

In obedience to your Lordship's commands I have taken Mr. Stuart's despatch into consideration, and have the honour to report—

That your Lordship may with propriety direct the despatches addressed to the Paraguayan Minister at London and Paris to be forwarded to their destination. The case appears to me to come within the principal laid down by Lord Stowell in the case of the "Caroline," 6 Ch. Robinson, p. 461. That case, it is true, was the converse case of despatches conveyed in a neutral ship to a belligerent State from its Ambassador resident in a neutral State, but the reasoning of Lord Stowell is equally applicable to despatches sent by a belligerent Government to its Ambassador resident in a neutral State. It appears to me that in the latter, equally as in the former case, the despatches may be presumed to be of an innocent character, and to be necessary for the purposes of the belligerent State maintaining its relations of amity with the neutral State.

On the other hand, the practice of nations has allowed to neutral States the privilege of receiving Ministers from belligerent States, and the interests of neutral States may require that the official channels of immediate negotiation should not be interrupted. I consider that the existence of a blockade does not vary the law as regards the conveyance of despatches of this highly privileged character.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 12.

*The Queen's Advocate to the Earl of Clarendon.*—*(Received April* 5.)

*Temple, April* 3, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that, with reference to my Report of the 25th January, 1868, he was directed by your Lordship to transmit to me a dispatch from Her Majesty's Minister at Buenos Ayres, from which I should see that the Argentine Government have offered to submit the case of the vessel "Prince Albert" to arbitration; and Mr. Hammond was pleased to request that I should take this despatch into my consideration, and report to your Lordship my opinion as to the course which should be adopted in the present position of the case.

The previous correspondence in the matter was therewith returned to me for my convenience.

In obedience to your Lordship's commands I have taken this despatch into consideration, and have the honour to report—

That, as it appears from the despatch of the Argentine Minister for Foreign Affairs, that his Government persists in maintaining that the loss of the "Prince Albert" and her cargo is attributable to fortuitous circumstances, for which his Government is in no respect responsible, but that it is willing, nevertheless, to refer the claim "to the decision of arbiters to be named conjointly," it is in my opinion advisable for your Lordship to entertain the proposal, but on very different conditions from those suggested by his Excellency in his conversation with Her Majesty's Minister at Buenos Ayres has reported to your Lordship. Those conditions are clearly inadmissible, on the grounds suggested by Her Majesty's Minister, and, as the most important question for the arbiters to decide will be whether the Argentine Government can be held responsible as a Government for the damages inflicted by its troops when in a state of mutiny, I venture to suggest that Her Majesty's Minister should be instructed to propose to the Argentine Government that each Government should name a foreign Minister resident at Buenos Ayres as its Arbitrator, with power for the two Arbitrators to name a third foreign Minister as umpire, in case they should disagree.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 13.

*The Law Officers of the Crown to the Earl of Clarendon.*—*(Received August* 20.)

*Temple, August* 19, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Charles Spring Rice's letter of the 2nd instant, stating that, with reference to the Law Officers, Report of the 8th of September last, on the subject of the claim of Mr. Stewart on the Argentine Government, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Buenos Ayres (No. 62, June 4) inclosing a copy of a letter from Mr. Stewart with various certified copies of documents relating to the legal proceedings in this case; and he was to request that we would take the same into our consideration, and favour your Lordship with our opinion thereupon, and as to any further steps which Her Majesty's Government should take in the matter.

The previous papers were also sent therewith for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That it would appear from the letter of Mr. Stewart, and the various documents which accompany it, that there are three grounds on which Mr. Stewart rests his claims for compensation from the Argentine State:—

1. Loss by seizure and detention of a cargo of arms on it way to Paraguay.

2. Suffering by imprisonment at the suit of the masters of certain vessels, in the public prison for criminals.

3. Loss by increased Customs duty levied on the exportation of his yerba.

(1.) With regard to the first claim it appears that the arms, when seized, were waterborne on the River Parana on their voyage to Corrientes, a frontier port, for exportation to Paraguay. War had broken out between the Argentine State and Paraguay after they had been dispatched from Buenos Ayres, and they were suspected to be Paraguayan property. It was a seizure justifiable in virtue of belligerent right, if enemy's property, and justifiable under the VIth Section of the Treaty of July 10, 1853, if neutral property (8 Hertslet, p. 192), which closes the navigation of contraband of war, if war should break out among the Riverain States. It was, however, equitable to release the cargo, as it had been dispatched from Buenos Ayres before war was declared, there being in such case no *mens rea*, the property being shown to be neutral property, but it would not be a case for compensation for the detention.

(2.) With regard to the imprisonment of Mr. Stewart in the public prison for criminals, instead of the prison for debtors, his imprisonment was at the suit not of the

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Argentine Government, but of certain masters of merchant ships, who had brought actions at law against him for freight. As soon as the error was made known to the Executive Government, through Her Majesty's Consul, an order was at once issued for his removal to the proper prison. Under these circumstances we do not consider that Mr. Stewart would have a claim for damages against the Argentine Government. If he has a claim at all it would be against his creditors, or the public officers, who [illegible] in the discharge of the duty of committing him to prison.

With regard to the yerba, it appears that, by the revenue laws of the Argentine State, duties on merchandize are to be calculated upon the values in the market at the time when the goods are exported.

The yerba was seized under belligerent right, as enemy's property, being a peculiar article of export from Paraguay, the monopoly of which was in the State of Paraguay, the enemy.

The five cargoes of yerba imported by Mr. Stewart were, in fact, suspected to be owned by President Lopez, and the Court of First Instance condemned them as enemy's property; the Court of appeal however, thought there was sufficient evidence to restore them. We think that, from the peculiar character of the yerba, and the great value of the cargoes, it was a fair question for the Argentine State to raise, and there was probable cause for seizure and detention. If so, Mr. Stewart cannot maintain that detention was unwarrantable, or claim damages on that account. Besides, the decision of the Prize Court would be conclusive on the question of damages for detention. With regard to the higher duty leviable on the Yerba, it does not appear that Mr. Stewart will be in a worse pecuniary position if he pays the present higher duty on the exportation of the yerba, since he will be amply remunerated by the increased value of the yerba in the market. We see no grounds for differing from the previous Report of the Law Officers on this part of Mr. Stewart's case.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 14.

*The Queen's Advocate to the Earl of Clarendon.*—*(Received September 24.)*

*Temple, September 24, 1869.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the [illegible] instant, stating that, with reference to my Report of the 3rd of April last, he was directed by your Lordship to transmit to me a further despatch from Her Majesty's Minister at Buenos Ayres, respecting his more recent communications with the Argentine Government, relative to the case of the "Prince Albert," and inclosing a statement of the case prepared for the proposed Arbitrator, Mr. Reverdy Johnson.

That he also inclosed letters from the parties interested expressing their willingness to accept Mr. Reverdy Johnson as Arbitrator, and Mr. Hammond was pleased to request that I would take these papers into consideration, and inform your Lordship, at my earliest convenience, whether I consider the statement drawn up by Mr. Stuart proper to be laid before the Arbitrator.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the statement drawn up by Mr. Stuart is, in my opinion, a proper statement to be laid before the Arbitrator. I presume that copies of the transactions sent in Mr. Stuart's No. 2, Commercial, of December 3, 1867, will accompany the documents appended to the case, and if translations have not been already made to the Master's protest and the other documents annexed to it, I venture to suggest that such translations may be properly supplied for the convenience of the Arbitrator.

I have, &c.
(Signed) TRAVERS TWISS.

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## Brazil.

### No. 15.

*The Queen's Advocate to the Earl of Clarendon.*—*(Received May 24.)*

*Temple, May 22, 1869.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 14th instant, stating that he was directed by your Lordship to inclose the accompanying correspondence respecting a claim advanced by Messrs. Haycroft and Pethick, for the payment of the proceeds of the sale by the Italian Vice-Consul at Paranagua, of their portion of the cargo of the Italian vessel "Giuseppina," which funds are alleged to have been used for purposes unconnected with their interests; and also with reference to their proposal that the Italian Government should be held responsible for the payment of the balance stated to be due to them. And Mr. Murray was pleased to request that I would favour your Lordship with my opinion upon the course to be pursued in this case.

In obedience to your Lordship's commands I have the honour to report—

That the Italian Government may properly be held responsible for the repayment of the money resulting from the sale of the portion of the cargo belonging to Messrs. Haycroft and Pethick, which has been used by the Italian Vice-Consul at Paranagua, in his official capacity for Italian purposes, unconnected with the interests of Messrs. Haycroft and Pethick.

I have, &c.
(Signed) TRAVERS TWISS.

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## Central America.

### No. 16.

*The Queen's Advocate to the Earl of Clarendon.*—*(Received January 28.)*

*Temple, January 27, 1869.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to me the accompanying copies of two despatches from Her Majesty's Chargé d'Affaires in Guatemala, inclosing copies of a correspondence, which has passed between him and his Prussian colleague, with reference to a Decree lately promulgated by the President of Honduras, limiting the liability of the Government with reference to the claims of foreigners in case of damage sustained by them in consequence of revolutions within the territory of the Republic, and to request that I would take these papers into consideration, and furnish your Lordship with my opinion upon the answer which should be returned to Mr. Corbett. The correspondence which took place in 1865 with respect to a similar Decree, which the new Granadian Government attempted to enforce, but which, as Mr. Bernhard states, that Republic was unable to put in force, was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That it does not appear from either of the despatches of Mr. Corbett that he has received any official notification of the Decree of the President of Honduras, but if it may be taken to be *publici juris*, so that the Representatives of foreign Governments at Guatemala must be presumed to have knowledge of it, it would, I think, be proper for your Lordship to direct Mr. Corbett to adopt a course very similar to that which was

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adopted by Mr. O'Leary on the occasion of the Law passed by the National Congress of New Granada, namely, to transmit to the Honduras Minister of Foreign Affairs a declaration to the effect that, notwithstanding the Decree of the President, Her Majesty's Government would feel themselves entitled to demand redress in all cases in which the law of nations would justify their doing so.

I venture to suggest that Her Majesty's Chargé d'Affaires might endeavour to concert an identical note with the North German and French Chargés d'Affaires, so that each Chargé d'Affaires might hand in a separate note of identical import in preference to a joint protest.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 17.

*The Law Officers of the Crown to the Earl of Clarendon*—(*Received February* 24.)

*Temple, February* 24, 1869,

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 5th instant, stating that with reference to the Report of the Law Officers of the 23rd of October last, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires in Central America (No. 26), from which it appears that on the receipt by him of Lord Stanley's despatch No. 5 of July 31, 1868, draft of which was therewith inclosed, he considered himself as justified in solemnizing the marriage for which he had previously requested instructions in his despatch No. 18, which formed the subject of the reference to the Law Officers.

That we should perceive that Mr. Corbett was informed in the despatch on which he thus acted, that his district for the purpose of celebrating marriages was coincident with his Consular district as defined by his various commissions, copies of which were therewith inclosed for our information. The doubtful point raised by Mr. Corbett in his previous despatch (No. 12) seemed thus to be set aside.

That a short time, however, after Mr. Corbett had solemnized the marriage in question, he received Lord Stanley's despatch No. 6, draft of which was also inclosed, in which he was informed, in the terms of the opinion of the Law Officers of the 23rd of October, that it would not be competent for him to solemnize the marriage on the conditions proposed.

Mr. Murray was further to inclose copy of the marriage warrant supplied to Her Majesty's Consuls abroad, as alluded to in Mr. Corbett's despatch No. 12. The exact wording, however, of the copy supplied to Mr. Corbett could not be stated at present, as he had neglected to forward it to the Foreign Office, either in original or copy, in connection with his inquiries as to his powers in such matters. That point is, however, of less importance, as the limits of those powers formed the subject of Lord Stanley's despatch No. 5 of 1868.

Mr. Murray was pleased to request that we would take these papers into our consideration, and report to your Lordship our opinion whether, under the circumstances of the case, the marriage in question may be held to be valid, or whether the matter should be referred to the decision of the Registrar-General, as the officer qualified to give legal certificates of marriages under the Act 12 and 13 Vict., cap. 68.

In obedience to the commands of your Lordship we have taken these papers into our consideration, and have the honour to report—

That we are of opinion that (assuming the late Law Officers to have been right in their view) this marriage, having been celebrated, is validated under 12 and 13 Vict., cap. 68, sec. 13.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 18.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received February* 24.)

*Temple, February* 24, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that, with reference to my Report of the 7th September last, and to previous Reports on the subject of the claim of Captain Harris upon the Guatemalan Government on account of damage done to the San Geronimo Estate, he was directed by your Lordship to transmit to me the accompanying two letters from Captain Harris respecting the conditions to be observed with regard to the reception of evidence by the Commissioners appointed to examine the claim of the owners of the estate; and Mr. Hammond was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to Captain Harris. The previous papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may properly direct Captain Harris to be informed, that the conditions upon which the Guatemalan Government have agreed to refer his claims to arbitration, appear to your Lordship to be perfectly equitable, and that having regard to the impartial character of the individuals who have been nominated on either side as Commissioners, you see no good reason why Captain Harris should decline to accept the arbitration on the terms upon which the Guatemalan Government have assented to it, and that your Lordship must decline to press upon the Guatemalan Government the acceptance of Captain Harris' conditions, which it might have been proper to urge if partizans on either side had been appointed Commissioners.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 19.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 29.)

*Temple, March* 27, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that with reference to my Report of the 24th ultimo on the subject of the claim of Captain Harris upon the Government of Guatemala, on account of damage done to the Estate of San Geronimo, he was directed by your Lordship to transmit to me a further letter from Captain Harris, objecting to the terms upon which the Guatemalan Government have consented to submit the case to arbitration, and requesting that Mr. Corbett may be instructed to decline the arbitration, except under the conditions originally proposed by Captain Harris; and Mr. Hammond was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to Captain Harris. The previous papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That Captain Harris' suggestion that all the expenses of the arbitration should be borne by the Guatemalan Government is reasonable, and I think your Lordship may properly insist upon that being the understanding on which the proposal of Her Majesty's Government to refer the question to arbitration was made, and upon there being nothing in the counter-proposal of the Guatemalan Government at variance or inconsistent with it. With regard to the original conditions proposed to the Guatemalan Government, Captain Harris may be informed that your Lordship considers those conditions to have been approved by Lord Stanley under the advice of the Law Officers of the Crown as proper conditions to be urged upon the Guatemalan Government, but not as conditions which should be enforced upon that Government, and that your Lordship considers that they embodied the wishes of the claimants as to the basis upon which they were desirous that the arbitration should proceed, and not the view of Her Majesty's Government as to the terms upon which it ought to insist, as essential to secure justice.

With regard to the observation of Captain Harris, that the introductional of a professional lawyer to advocate the case of the Guatemalan Government before the Arbitrators would, according to the laws of the country, convert the Arbitrators into a legal tribunal, which would very easily carry on the case for another thirty years, it may have escaped his notice that a special provision of the arbitration, as agreed upon between the two Governments, is, that the Commissioners are to investigate and decide upon the affair in the shortest possible time.

It may be added, that there is nothing unusual nor anomalous in a professional lawyer being allowed to state a case before Arbitrators, and to object to or comment on the evidence submitted to them. Captain Harris would be entitled to the same assistance if Mr. Hague should think it necessary.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 20.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received May* 6.)

*Temple, May* 5, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th ultimo, stating that, with reference to my report of the 27th March, and previous reports on the subject of the claim of Captain Harris upon the Government of Guatemala on account of damage done to the estate of San Geronimo, he was directed to transmit to me two further letters from Captain Harris relative to this case; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to Captain Harris. The previous correspondence was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That until the Arbitrators in this case have made their award, and stated the grounds for such award, it would be premature for your Lordship to anticipate that any injustice will be done to the claimant of the kind suggested by him, or for your Lordship to request the Guatemala Government to instruct their agent to pay over the amount which may be decided upon to the claimant. The circumstance of the Guatemalan Government having contracted a loan in this country to the amount of 500,000*l.*, may, I think, justify your Lordship in pressing, at the proper time, that Government to pay, without delay, the sum which may be awarded to the claimant by the Arbitrators.

With regard to the contingent request which Captain Harris makes at the conclusion of his letter, your Lordship may, I think, properly direct that he should be informed that you cannot, under present circumstances, entertain it.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 21.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received July* 15.)

*Temple, July* 15, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that, with reference to my report of the 27th March, and previous reports on the subject of the San Geronimo estate, he was directed to transmit to me a further despatch from Her Majesty's Chargé d'Affaires at Guatemala, upon the subject of the payment of the expenses attending the proceedings of the Commission; and Mr. Hammond was to request that I would take Mr. Corbett's despatch into my consideration, and furnish your Lordship with my opinion as to the instructions which should be given to Mr. Corbett with regard to the matter. The previous correspondence was also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That I consider that equity requires in this case that the costs of the arbitration should be borne by the Guatemalan Government, but that the amount of costs, justly to be defrayed by that Government, may be properly decided by the Commissioners themselves, subject to a reference, if they cannot agree, to the Umpire.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 22.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received October* 17.)

*Temple, October* 16, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 13th instant, stating that he was directed by your Lordship to transmit to me a letter from the Consul-General of Nicaragua in this country inquiring as to the course which he should pursue to carry out a decree of the Nicaraguan Government, copy of which was inclosed, requiring merchants exporting goods to that country to make a declaration on oath of the value of the same before the Consul of Nicaragua at the place of their residence, and requesting me to take these papers into consideration, and report to your Lordship, at my earliest convenience, what answer I think should be returned to this application.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the Consul-General of Nicaragua may be properly informed by your Lordship that his doubts are correct as to his exequatur authorizing him to administer oaths within Her Majesty's dominions in the manner proposed by the Nicaraguan Government. With regard to the suggestion of the Consul-General that the objects of the Decree of Nicaraguan Government might be effectuated if his name were inserted in Her Majesty's Commission of the Peace, the compliance of Her Majesty's Government with the Consul-General's suggestion, if your Lordship should not think such compliance to be for other reasons inexpedient, would imperfectly meet the exigencies of the case, as the Decree in question directs the declaration on oath to be made before every Nicaraguan Consul in his proper district, and only in certain cases before the Consul-General.

As your Lordship, however, may be desirous to assist the Government of Nicaragua as regards the object which the President of that Republic had in view in passing the Decree, to which the Consul-General seeks to give effect, I venture to suggest that inquiry should be made of the Commissioners of Her Majesty's Customs as to the course of proceeding at present observed in Her Majesty's Custom-houses in regard to the declaration of value, if any such declaration is required to be made by the exporters of goods, and that the Consul-General should be informed that your Lordship proposes to make such inquiry with a view of ascertaining whether there is any practice in Her Majesty's Custom-houses which may be of assistance to him in effectuating the objects of his Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 23.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received November* 13.)

*Temple, November* 12, 1869.

My Lord,

I AM honoured with your Lordship's commands, signified in Mr. Hammond's letter of the 18th ultimo, stating that, with reference to my report of the 15th July last, with regard to the question of the payment of expenses attending the proceedings of the Commission engaged in the examination of the San Geronimo claim, he was directed by your Lordships to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires in Central America, inclosing copies of further correspondence on this subject, which has taken place between himself and the Guatemalan Minister for Foreign Affairs; and Mr. Hammond was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordships' commands I have the honour to report—

That I am not aware that it is in conformity with custom, as alleged by his Excellency Don Pedro de Aycinena in his despatch of May 11, 1869, when claims analogous to those in the present case are submitted to International Arbitration, for the claimants to pay their own expenses. His Excellency appears to me to have confounded the present case with cases in which there is some right asserted on both sides—such as cases of disputed boundary, cases of mixed claims, and other cases which will readily suggest themselves to your Lordship's experience—in which the expenses of arbitration are generally agreed to be equally borne by the respective Governments.

Mr. Corbett has indeed supposed it to be possible that no compensation may be

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accorded to the claimants, in which case he observes that "it would seem hardly just, if absolved from liability in the affair, that the Guatemalan Government should have to pay the expenses of attending its examination."

But I apprehend it to be beyond the power of the Arbitrators to absolve the Government of Guatemala from liability, if the claimant should succeed in proving his damage, and if he fails in proving any portion of his asserted damage, it will be competent for the Arbitrators, under the terms proposed by your Lordship, to decide that the expense of the examination of such parts of his claim shall not be defrayed by the Guatemalan Government. In the improbable case supposed by Mr. Corbett, that the claim should prove to be a fabricated claim, which is the only case, in my opinion, in which the Arbitrators would be entitled to absolve the Guatemalan Government from all liability, it would be most proper for Her Majesty's Government not to insist upon any part of the costs of the inquiry being defrayed by the Guatemalan Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## Chile.

### No. 24.

*The Queen's Advocate to the Earl of Clarendon.—(Received March 22.)*

*Temple, March 22,* 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed by your Lordship to transmit to me the accompanying letter from the Admiralty, inclosing a copy of a despatch from Commodore Powell, with a correspondence which has taken place between himself and Colonel Lynch, commanding a battalion of militia at Valparaiso, relative to a man serving on board Her Majesty's ship "Topaze," who has been claimed by the latter as a deserter from that corps; and Mr. Hammond was pleased to request that I would take the same into my consideration and favour your Lordship with my opinion as to the course pursued by Commodore Powell in this matter. A copy of the Treaty between this country and Chile, of October 4, 1854, was inclosed for convenience of reference.

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That the view taken by Commodore Powell of the proper interpretation to be placed on Article XIII of the Treaty between Her Majesty and the Republic of Chili is, in my opinion, correct. That Article provides for the mutual surrender of deserters from the naval and military service of either country, who shall have deserted from vessels within the ports, coasts, or waters of the country, before whose authorities they are claimed." As Benjamin Poblé, after his desertion from the naval service of the Republic of Chili, in the month of July 1867, as reported by the Chilian Commandant, appears to have returned to his native country of Peru, and to have been resident at Callao, when he joined Her Majesty's ship "Topaze" on 26th September, 1868. I consider that Commodore Powell was justified in holding that Article XIII of the above Treaty, under which his surrender was claimed, had no bearing on his case.

I have, &c.
(Signed) TRAVERS TWISS.

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## China.

### No. 25.

*The Queen's Advocate to the Earl of Clarendon.—(Received January 1.)*

*Temple, January 7,* 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th ultimo, stating that he was directed to transmit to me the accompanying letter from the Rev. Mr. Turberville, editor of the "English Independent," requesting to be informed whether, under any Treaties between Great Britain and China, English missionaries are entitled to any other protection than that accorded to English traders. A draft which had been prepared in the Foreign Office in reply to Mr. Turberville's inquiry, together with an alternative draft proposed by Mr. Wade, Her Majesty's Secretary of Legation at Peking, who is now in this country on leave of absence, with an explanatory note from that gentleman, was also inclosed; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to Mr. Turberville. Mr. Hammond was also pleased to inclose copies of the French, Russian, and American Treaties of 1858 and of the French Treaty of 1860, and to state that the Treaties with China of 1858 and 1860 will be found at pages 86 and 112 of Hertslet's Commercial Treaties, Vol. XI.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may, I think, properly decline to answer the inquiry of the Rev Mr. Turberville, "whether, under any Treaties between Great Britain and China, English missionaries are entitled to any other protection than that accorded to British traders." The application of those Treaties to particular cases, as they may arise, must depend so much on the peculiar circumstances of each case that it might embarrass her Majesty's Minister at Pekin, if your Lordship were to answer Mr. Turberville's inquiry in the terms suggested Mr. Wade, as cases might occur in which Her Majesty's Minister at Peking might have to invoke in favour of English missionaries who had been exposed to outrage or persecution, as such, the protection which Article VIII of the British Treaty of Tientsin has especially accorded to teachers of the Christian religion. On these, not to mention other grounds, I think that the earlier part of the alternative draft prepared by Mr. Wade is open to objection, and it would also not be advisable, in my opinion, for your Lordship to promise to forward Mr. Turberville's letter to Her Majesty's Minister at Peking, as I understand him to have applied to your Lordship in his character of editor of a public journal, and not on behalf of any particular religious mission. On the other hand, I think there may be some justice in the apprehension which Mr. Wade has expressed in his letter to Mr. Hammond that your Lordship's reserve might be misconstrued by some of the missionaries to give countenance to their impression that, under the provisions of the French Treaty, which British subjects, as an equally favoured nation, might have a right to quote, they are entitled to protection as preachers. I venture, therefore, to suggest, for your Lordship's consideration, a third form of despatch by which your Lordship would avoid committing Her Majesty's Government to any general construction of the Treaties in their bearing upon English missionary enterprise, whilst you would supply information to Mr. Turberville, which, if made public by him in the columns of the "English Independent," might be useful by way of caution to English missionaries.

Your Lordship might, according to this suggestion, reply, as proposed in the original draft, that you cannot enable Mr. Turberville to state authoritatively what construction the Treaty engagements between Great Britain and China are understood by Her Majesty's Government to bear in relation to English missionaries, but that English missionaries should be aware that there is only one Article of the British Treaty of Tientsin which applies in terms to the Christian religion, namely, the VIIIth Article, which provides that "persons teaching it or professing it shall alike be entitled to the protection of the Chinese authorities, nor any such, peaceably pursuing their calling and not offending against the laws, be persecuted or interfered with."

That Mr. Turberville will perceive that this Article does not accord to the teachers of the Christian religion any other protection than is secured to persons professing

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it, and that one important condition for both alike to be entitled to such protection is, that they shall not offend against the laws. If English missionaries, therefore, in China should be in doubt as to the conduct they may in any particular case pursue, their best course would be to consult Her Majesty's Minister at Peking in each case as it may arise. On the other hand, as Mr. Turberville has alluded to certain impressions which the missionaries entertain that, under the provisions of the French Treaty of Tientsin, they are entitled to protection as preachers, your Lordship may, I think, inform Mr. Turberville that the XIIIth Article of the French Treaty of Tientsin, which is the only Article in which missionaries are mentioned, provides for the protection of missionaries in the following terms:—"Une protection efficace sera donnée aux missionaires, qui se rendront pacifiquement dans l'intérieur du pays, munis des passeports réguliers, dont il est parlé dans l'Article VIII;" and that no mention is made of missionaries in the Additional Convention between France and China, concluded at Peking on the 25th October, 1860.

Your Lordship may add that, in communicating the above information to Mr. Turberville, you hope that it may prove serviceable in removing any erroneous impressions, if they exist, amongst missionaries in China, and that Her Majesty's Government trusts that in all their proceedings in China they will conduct themselves with circumspection; and, bearing in mind the feelings and character of the Chinese authorities and people, do their utmost to avoid any occasion of collision.

I have. &c.
(Signed) TRAVERS TWISS.

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## No. 26.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 13.)

My Lord,
*Temple, January* 12, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th January instant, stating that he was directed by your Lordship to transmit to us, together with the former papers,* a despatch from Sir Rutherford Alcock,† inclosing a copy of a despatch which, at the request of Prince Kung, he had addressed to Consul Markham, instructing him to issue a notification warning British subjects against engaging in gold mining at Chefoo; and Mr. Hammond was pleased to request that, we would take the same into our consideration and favour your Lordship with our opinion whether Sir Rutherford Alcock's proceedings in the matter should be approved.

In obedience to your Lordship's commands we have taken the papers submitted to us into our consideration, and have the honour to report—

That your Lordship may properly approve the proceedings of Her Majesty's Minister at Peken, in the matter referred to us.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 27.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 20.)

My Lord,
*Temple, January* 19, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th of January, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in China, No. 260 October 19, 1868, and its inclosures, respecting a recent collision at Canton between tidewaiters in the Foreign Customs Establishment and native Chinese soldiers; and to request that we would take the same into our consideration, and favour your Lordship with our opinion as to the instructions which should be given to Sir Rutherford Alcock with regard to the jurisdiction of the Chinese Government over British subjects in the Chinese service.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

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* Sir R. Alcock, No. 178, July 6; No. 210, August 15, 1868.
† Sir R. Alcock, No. 262, October 24, 1868.

That your Lordship may properly instruct Her Majesty's Minister at Pekin, that, under the Treaty of Tientsin, the Chinese Government has renounced the exercise of criminal jurisdiction over all British subjects in China, by agreeing, under Article XVI of that Treaty, that "British subjects who may commit any crime in China, shall be tried and punished by the Consul or other public functionary authorized thereto, according to the laws of Great Britain."

That this agreement is binding upon the Chinese Government with regard to British subjects who may be in its service, equally as with regard to other British subjects; and that Her Majesty's Order in Council, of the 9th of March, 1865, would apply to all such subjects of Her Majesty in China. In the present case, the question being one of jurisdiction, we are of opinion that under the Treaty the jurisdiction is absolute and unqualified; but it is obvious that it would be unwise, and, indeed, unfair to insist upon the jurisdiction of our Consuls in cases where the offences committed by Englishmen may be slight offences against Chinese rules of discipline applicable to forces, of which by their own free act British subjects have become members, and to the reasonable discipline of which they have voluntarily subjected themselves.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 28.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received March* 3.)

My Lord,
*Temple, March* 2, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th ultimo, stating that he was directed to transmit to us, together with the previous correspondence, a letter from the Colonial Office, inclosing a despatch from the Governor of the Straits Settlements, representing the hardships which may be inflicted on British subjects of Chinese origin by a regulation recently issued by Sir R. Alcock, Her Majesty's Minister at Pekin, requiring them to wear a distinctive dress when travelling or resident within the Chinese Empire; and Mr. Hammond was pleased to request that, we would take these papers into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the conditions on the matter of costume, under which British subjects of Chinese descent should travel in China, are a question of policy and of negotiation with the Chinese Government, rather than of law. British subjects have no international right to travel in China except so far as Treaty gives them permission, and it is within the strict Province of the Government to decide, on grounds of expediency, what conditions as to costume shall be prescribed. The regulation of Sir R. Alcock does not appear to us illegal or *ultra vires;* whether or not it is expedient we do not presume to decide, and, indeed, have not the materials for deciding.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 29.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received March* 20.)

My Lord,
*Temple, March* 19, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that, with reference to the Report of the late Law Officers of the Crown, dated March 16, 1868, in regard to the question of the extent of British jurisdiction in waters adjacent to Hong Kong, he was directed by your Lordship to transmit to us a despatch upon this subject, which your Lordship had received from Sir Edmund Hornby, Judge of the Supreme Court for China and Japan, and Mr. Hammond was pleased to request that we would take this despatch into our

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consideration, together with the correspondence upon this subject therewith transmitted to us, and favour your Lordship with our opinion thereupon.

In obedience to the commands of your Lordship we have taken this despatch into our consideration, together with the previous correspondence upon the subject, and have the honour to report—

That we cannot advise your Lordship to sanction the suggestion in Sir E. Hornby's despatch of 28th December, 1868, that Chinese subjects, who have committed crimes against the person or property of British subjects in the Colony of Hong Kong, should be pursued and arrested by the British authorities, notwithstanding they may have escaped to the Chinese mainland, to be sent back for trial at Hong Kong. We think that the arrest of such criminals on the Chinese mainland should be matter of Treaty arrangement with the Chinese Government, nor do we see why it should be deemed hopeless to conclude a Treaty on some such terms of co-operation as those suggested by Consul Medhurst, which should be effectual for the purpose; at all events we think that such an attempt should be made before resorting to the course recommended by Sir E. Hornby, which could only be justified, if at all, by the failure of all negotiations for the surrender or capture of escaped criminals, and the necessity of protecting the Colony.

We have to add that, in dealing with such a country as China (which recognizes no mutual international obligations, or if it does, is unable on its own side to inforce them), the British Government is justified in continuing to act, as it has hitherto acted, in defence of substantial justice, and with no unreasonable disregard of Chinese independence and dignity.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 30.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received August* 8.)

My Lord,
*Temple, April* 7, 1869.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 23rd March, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, dated the 13th ultimo, inclosing a copy of a despatch from the Governor of Hong Kong, in regard to the question of placing the authorities of that Colony in direct communication with the Chinese authorities at Kowloon, with a view to the pursuit and capture, on Chinese territory, by the police of Hong Kong, of criminals when they escaped to the mainland; and further, stating that he was also to transmit to us, for our convenience, the previous correspondence upon this question; and to request that we would take these papers into our consideration, and favour your Lordship with our opinion thereupon.

Mr. Hammond further stated that he was at the same time to acknowledge the receipt of our Report of the 19th March, in regard to the question of British jurisdiction in waters adjacent to Hong Kong, but, before taking any action on that Report, your Lordship would be glad to be favoured with our opinion on the case then submitted to us.

In obedience to your Lordship's commands we havet aken the papers submitted to us into our consideration, and have the honour to report—

That upon the first question of law submitted to Her Majesty's Secretary of State for the Colonies by the Governor of Hong Kong, we beg to state that we are not aware of any existing Treaty engagement between Great Britain and China which would entitle a British authority to arrest in Chinese territory a British subject who may have committed a crime in British territory.

The jurisdiction conceded to British Consuls or other public functionaries under Article XVI of the Treaty of Tien-tsin (IX Hertslet, p. 90), which we believe to be the only Treaty in force bearing on the question of British jurisdiction within the Chinese territory, is only in respect of British subjects "who may commit any crime in China." We observe, indeed, that there was a provision in Article IX of the previous Treaty of Hooman-chae (VI Hertslet, p. 265) for the apprehension by the Chinese authorities, and the surrender to the nearest British functionary, of any British subject who should escape into Chinese territory; if any practice grew up under that Treaty, to which Her Majesty's Minister at Peking may refer, when he says that "there is no impediment to the police pursuing and arresting any British subject in Chinese territory," and if any such practice is, in fact, continued in the present day, we consider such arrest is to be regarded as a matter of sufferance on the part of the Chinese authorities, and not as a matter of Treaty right on the part of the British police for the provision in question of the Treaty of Hoomun-chae, not having been incorporated into the Treaty of Tien-tsin, must be held to have been abrogated by Article I of that Treaty.

It is hardly necessary for us to answer in the negative the second question of law submitted to Her Majesty's Secretary of State for the Colonies on the part of the Governor of Hong Kong. There being no Treaty-right, in our opinion, which entitles British Government officers to pursue and arrest British subjects who may escape into Chinese territory, if there should be in practice any comity in such matters on the part of the Chinese authorities, the extension of that comity to the arrest of Chinese subjects must originate with the Chinese authorities. No fiction of law would justify the British authorities in assuming an extension of that comity to the case of Chinese subjects who should escape from British custody in Kooloon or Hong Kong and take refuge on Chinese soil.

Upon the general question of placing the authorities of Hong Kong in direct communication with the Chinese authorities, we concur in the observations of Lord Granville in Sir F. Rogers' letter of March 13.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 31.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 27.)

My Lord,
*Temple, April* 26, 1869.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 21st instant, stating that with reference to our Report of the 7th instant, he was directed by your Lordship to point out to us that, although the Treaty with China of Hoomun Chae may be taken as abrogated by the Ist Article of the Treaty of Tientsin, the LIVth Article of that Treaty provides that "the British Government and its subjects are hereby confirmed in all privileges, immunities, and advantages conferred on them by previous Treaties;" and that he was to request that we would favour your Lordship with our opinion whether, under that Article, the extradition of British subjects escaping into Chinese territory might not be claimed as a Treaty right conceded by the IXth Article of the Treaty of Hoomun Chae and kept alive by the LIVth Article of the Treaty of Tientsin.

In obedience to your Lordship's commands we have the honour to report—

That the provision for the extradition of British subjects, contained in the latter part of Article IX of the Treaty of Hoomun Chae, is not, in our opinion kept alive by Article LIV of the Treaty of Tientsin.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 32.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 28.)

My Lord,
*Temple, April* 27, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed to transmit to us, with reference to our Report of the 2nd ultimo, a despatch from Her Majesty's Minister at Pekin, inclosing a petition from a Committee of British subjects of Chinese origin suggesting certain changes in the notification issued by Sir R. Alcock relative to the dress to be worn by them, and Mr. Hammond was pleased to request that we would furnish your

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Lordship with any observations that may occur to us on the subject. The previous papers were also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Minister at Pekin appears to us to be the most competent person to form a right opinion upon the advisability of the changes suggested to be made in his notification relative to the dress to be worn by British subjects of Chinese origin within the Chinese dominions. The reasons given by him for not acceding to the prayer of the Memorialists, appear to us, as far as we are able to judge, to be sound, and such as your Lordship may approve.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 33.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 30.)

*Temple, April* 29, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating, that with reference to our predecessor's Report of the 27th August last, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in China (No. 31), inclosing a copy of an amended regulation for the prohibition of the use of the Shan Shoe Channel in the Yangtye River to British shipping, and that he was to request that we would take the papers into our consideration and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That the amended regulation appears to us to be properly made under the powers conferred by the 85th and 86th sections of the Order in Council relating to China of 9th March, 1866.

But we desire to submit to your Lordship's consideration whether it would not be advisable to mention the person or persons on whom the fine is to be levied. These, probably, should be the owner, charterer, captain, master, or person in charge; and it might be left to the discretion of the officers which of these several persons, whether one or more, in each case should be fined.

W have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 34.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 1.)

*Temple, April* 30, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th April instant, stating that, with reference to our reports of the 19th ultimo and 26th instant in regard to the question of the extent of British jurisdiction in waters adjacent to Hong Kong, he was directed by your Lordship to transmit to us two drafts of despatches upon that subject founded upon those reports, which your Lordship proposed to address to Her Majesty's Minister in China and to the Colonial Office, and to request that we would take the draft into our consideration and inform your Lordship whether they correctly represent our meaning.

Mr. Hammond was pleased to return to us the previous correspondence, together with a despatch which had recently been received from Her Majesty's Minister in China, inclosing a copy of Sir Edward Hornby's despatch to him in regard to this question, and which had been already received from Sir Edward Hornby, and referred to in his letter of the 27th of February.

In obedience to your Lordship's commands we have perused the draft despatches submitted to us, and have the honour to report—

That the drafts of the two despatches represent correctly our meaning.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 35.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 13)

*Temple, May* 12, 1869

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir E. Hornby (No. 4), as also one from Her Majesty's Consul at Shanghai (No. 9), in regard to the case of the British ship "Spray," which, in consequence of an irregularity in her papers, became liable to seizure at that port.

Mr. Hammond was also pleased to acquaint us that those despatches had been referred to the Board of Trade, and he was to transmit to us a letter which had been received in reply from that Department dated the 28th ultimo, together with a draft of a despatch to Sir E. Hornby, (No. 16, November 10, 1868) as to the construction to be placed on the provisions of the Foreign Enlistment Act, and which was founded on an opinion of our Predecessors dated October 31, 1868.

Mr. Hammond was also to request that we would take all those papers into our consideration and favour your Lordship with our opinion on the legal point raised by Sir E. Hornby as to whether the Court at Shanghae can properly exercise any jurisdiction in the case of the "Spray," under the 103rd section of the Merchant Shipping Act, and with any other observations we might have to offer upon the subject.

In obedience to your Lordship's commands we have taken all the papers into our consideration, and have the honour to report—

That the 103 section of the Merchant Shipping Act, 1854, whereby it is provided that any vessel improperly assuming the British character may be seized by certain British authorities and brought in for adjudication "before the High Court of Admiralty in England or Ireland, or any Court having Admiralty jurisdiction in Her Majesty's Dominions," cannot in our opinion properly be held to authorize Courts exercising Admiralty jurisdiction in places not within Her Majesty's Dominions to adjudicate upon such vessels—nor do we think that an Order in Council can confer such a power on such Courts.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 36.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received July* 6.)

*Temple, July* 5, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of June 22, stating that with reference to our Report of the 28th of April, on the case of the "Spray," he was directed by your Lordship to transmit to us, together with the previous papers, a further letter from the Board of Trade, calling attention to the stringency of the 103rd section of the Merchant Shipping Act, authorizing the forfeiture of vessels carrying informal papers, and the complications which may arise from Her Majesty's Consuls proceeding to enforce it, without having regard to the instruction cautioning them as to the manner in which they should exercise the power conferred on them in cases where no fraudulent intention is presumed.

A volume containing the Act and Instructions referred to (pages 160, 13, and 15), was also inclosed, and Mr. Hammond was pleased to request that we would favour your Lordship with our opinion as to the further instructions, if any, which should be issued to Her Majesty's Consuls at China or elsewhere, to prevent the recurrence of cases like that

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of the "Spray," and also on the general question as to the operation of the 103rd section of the Merchant Shipping Act.

In obedience to your Lordship's commands we have the honour to report—

That it does not appear anywhere in the papers submitted to us, on what grounds Her Majesty's Consul at Nagasaki cancelled his endorsement on the British certificate of registry of the "Spray." We are, therefore, unable to advise your Lordship what further instructions should be given to Her Majesty's Consuls at China to prevent the recurrence of cases like the "Spray," or to say more than that we consider the circumstance suggested by the Board of Trade; namely, the probability that Her Majesty's Consul consented to cancel his endorsement on finding that the new owner could not obtain American papers, would not have been sufficient to warrant, although it may not excuse, such an irregularity.

The Consul at Nagasaki should, we think, be directed to furnish the Board of Trade with a full Report of the circumstances under which he assumed the power of cancelling an endorsement once regularly made.

As to the instructions, page 13, c. 14, the word *and* in the last line of the page seems to us to be hardly justified by the Act, "or" would be the proper word.

The instructions on pages 13, 15, and 16 seem sufficiently clear and justified by sound policy. They, however, limit the action of British Consuls more than the Act itself does, and it may be well, on any revision of the Merchant Shipping Acts, to bring the language of the Act and Instructions more entirely into harmony.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 37.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received September* 14.)

*Temple, September* 13, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 26th ultimo, stating that he was directed to transmit to us the accompanying despatch and its inclosure from Sir E. Hornby, requesting to be furnished with instructions as to the exercise of jurisdiction over foreigners arriving in Chinese ports in British vessels, and to request that we would take these papers into our consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we are not aware of any Treaty with China which concedes to British Consuls jurisdiction over the subjects of other Powers who may be borne on the muster roll of a British merchant ship, in respect of offences committed on shore within the Chinese dominions, the XVIth Article of the Treaty of Tientsin (11 Hertslet, p. 90) being confined to British subjects exclusively; nor are we aware of any British Statute or Order in Council which authorizes Her Majesty's Consular Courts in China to exercise any such jurisdiction. We think that such an offender would be properly tried and punished by his own national authorities in China, under their Treaty engagements with that Power; and we think that in all cases where such an offender is claimed by his own Consul, as justiciable in his own Court, the British Consul should decline to exercise jurisdiction, and facilitate the action of such Consuls. With regard to the statement in Sir E. Hornby's despatch that, as a matter of practice, it has been usual in China for the Consul of the nationality of the vessel to assume and exercise jurisdiction over all the members of the ship's crew, even in the case of an offence committed on shore, such a practice might bring the case within the Foreign Jurisdiction Act (6 and 7 Vic., c. 94), as regards the protection given by that Act to the Consul against all proceedings against him in British Courts; but we do not think that it would supply any sufficient answer if the Consul of the nationality of the offenders should object to Her Majesty's Consul exercising jurisdiction in such a case, and should claim to try and punish the offender in his own Court, under the Treaty engagements between his own Government and the Chinese Government. Where there may be no such Treaty engagements, as in the case of Siamese forming part of the crew of a British ship, we see no objection to Her Majesty's Consular Courts relying on the usage, but in the case of Japanese, who are also mentioned in Sir E. Hornby's despatch, we should think that they would be more properly tried and

punished by the Dutch authorities; but, if those authorities should decline the jurisdiction, we think that it may be properly exercised by our Consul.

The above observations do not apply to mere offences against the ship's discipline, such as staying on shore beyond the time permitted or drunkenness, for which the offender might properly be punished on his return to the ship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 38.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October* 5.)

*Temple, September* 30, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in China, with its inclosures, urging, for the reasons therein stated, that in the event of any revision of the Treaties with China taking place, it would be advisable to modify the terms of Article XVII of the Treaty of Tientsin, as regards the mode of settling disputes between British and Chinese subjects; and Mr. Hammond was pleased to request that we would favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the mode of administering justice in civil suits between Chinese and British subjects under the Order in Council of 1865 is clearly not in accordance with the provisions of the Treaty of Tientsin, and as the IVth Article of that Order forbids the jurisdiction exercisable in China to be exercised in any other manner, it is calculated to render the XVIIth Article of that Treaty inoperative, as far as regards the judicial action of Her Majesty's Consuls, although, as we understand, the Chinese authorities continue to act in conformity with the Treaty. We agree with Her Majesty's Minister at Peking that this state of things needs amendment. Her Majesty's Minister has suggested that two courses seem open, either to revise the Treaty and adapt it to the existing practice, or to modify the Order in Council so as to allow the practice under the previous Order in Council of 13th June, 1853, to be revived, under which all cases in which Chinese subjects were concerned were heard and decided by Her Majesty's Consuls and Her Majesty's Minister exclusively. But, on referring to that Order in Council (IX Hertslet, p. 210), we do not find any provision for associating Chinese authorities with Her Majesty's Consuls in the adjudication of such cases, as was clearly contemplated by the Treaty of Tientsin, and the non-observance of which provision we understand to be the grievance of which the Chinese authorities complain; nor do we find any such provision in the earlier Order in Council of the 17th April, 1844 (VI Hertslet, p. 276), which was passed to give effect to the General Regulations of July 1843 (VI Hertslet, p. 247), which contain provisions for the settlement of disputes between British and Chinese subjects identical in substance with Article XVII of the Treaty of Tientsin. How far this circumstance countenances the view of Sir E. Hornby as to the intention of that Article, that the framers of it never contemplated more than friendly intercession and ultimate arbitration by a Consul and a Faotai, we have not the means of judging; but we observe that there is no provision in the General Regulations allowing an appeal from Her Majesty's Consul to the Chief Superintendent, which was given by the Order in Council of 13th June, 1853; nor is there any provision in the XVIIth Article of the Treaty of Tientsin (26th June, 1858), which authorizes an appeal to Her Majesty's Minister, so that a return to the practice under that Order would not adjust it to the letter of the Treaty. We are, therefore, unable to advise your Lordship that a modification of the Order in Council of 1865 in this sense would remove the contradiction between the practice and the Treaty of Tientsin. On the other hand, we do not think it would be advisable to revise the Treaty and adapt its terms to the existing practice, as the practice is one-sided; whereas we understand that the principle of reciprocity is to be taken as the basis of the Treaty, and the XVIIth Article is framed on that principle, although Sir E. Hornby's opinion seems to be that the working of the present system, as regards proceedings on the part of British plaintiffs against Chinese defendants before the Chinese authorities is attended with anything but reciprocity of justice, as compared with proceedings before the British authorities where Chinese subjects are plaintiffs. We think

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it would be advisable to deal with the question of civil suits between British and Chinese subjects in a more general manner, and to provide in terms for the adjudication of such suits as is provided in regard to criminal actions under Article XVI of the Treaty of Tientsin, viz., that justice shall be equitably and impartially administered in civil suits on both sides; and, as regards procedure, that the plaintiff shall convene the defendant before his own judge, but if the defendant is willing to submit the dispute to the plaintiff's judge, the latter may hear and determine the case. Further, that the constitution of the tribunals on either side shall be settled by the law of the respective countries. We speak, of course, with great deference to the experience which Her Majesty's Minister has of the Chinese character, but, as far as we can judge from the letter of Sir E. Hornby, a British plaintiff would be likely to have as much justice done to him if the principle of *actor sequitur forum rei*, as regards civil suits, were the basis of the future Treaty, as under a complicated system of mixed tribunals. But, in adopting that principle, we think it of importance that an option should be given to the defendant to submit the matter to the plaintiff's judge, so that the practice, which is stated by Sir E. Hornby to be growing up, of Chinese defendants deferring to the jurisdiction of the Consular Courts, with the approbation of the local authorities, may not be interfered with. We think it right to add that we concur in the opinion of Sir E. Hornby, that it would be inexpedient, in the interests of justice, that a Chinese authority should be associated as colleague with the Judge of the Supreme Court in hearing causes; but we think that power might be given to Her Majesty's Consuls to invite Chinese magistrates to assist them as assessors with a consultative voice, but this should not be matter of Treaty engagement. We may further add, that the question involved in the despatch of Sir Rutherford Alcock seems to us to be rather one of policy than law, depending, to a great extent, on the state of our relations with China, and involving considerations upon which we feel great difficulty in expressing an opinion.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 39.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October* 5.)

*Temple, October* 2, 1869.

My Lord,

WE are honoured with your commands signified in Mr. Hammond's letter of the 21st ultimo, stating, with reference to his letter of the 9th ultimo, requesting us to favour your Lordship with our opinion on a despatch from Sir Rutherford Alcock, recommending a modification of Article XVII of the Treaty of Tientsin, in the event of a revision of the Treaties with China taking place, that he was directed by your Lordship to transmit to us a despatch which had been received from Sir E. Hornby, containing his comments on the terms of Article XVII; and Mr. Hammond was pleased to request that we would take this despatch into our consideration, together with the one from Sir R. Alcock, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have taken this despatch into consideration, and have the honour to report—

That we see no reason, from the perusal of the despatch of Sir E. Hornby, for altering in any way the Report which we have already made upon Sir Rutherford Alcock's despatch.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 40.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October* 11.)

*Temple, October* 9, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 29th of September last, stating that with reference to our Report of the 30th of April last, he was directed by your Lordship to transmit to us a letter from the Colonial Office, dated the 23rd ultimo, with a copy of a despatch from the Governor of Hong Kong, inclosing the draft of an Ordinance to provide for the extradition of fugitives from justice when applied for by the authorities at Macao.

For our convenience Mr. Hammond was pleased to return to us the previous correspondence on this matter, and he was to request that we would take these papers into our consideration, and favour your Lordship with any observations we might have to offer in regard to the Governor of Hong Kong's proposed Ordinance.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That with regard to the points on which Mr. Monsell has asked for the opinion of the Foreign Office, we think—

1. That there is no reason which occurs to us why British subjects should be excluded from the operation of the Ordinance.
2. That military deserters may very properly be included within its scope.
3. That persons accused of the crime of piracy, *jure gentium*, may likewise be properly included within its scope.
4. That no reason occurs to us why the sanction of the Consular authorities should be asked for before criminal fugitives of other countries besides China are surrendered to the Government of Macao; they are persons who by the supposition have rendered themselves amenable, or are said to have rendered themselves amenable, to the criminal law, and with regard to such persons as no question of nationality could arise, if they had not escaped from Macao or Hong Kong respectively, we do not see why any question of nationality need arise in an Extradition Treaty, such as this is in substance.
5. We see no reason for confining the operation of Section 10, as suggested in Mr. Monsell's letter. It can hardly be said that an attempt to murder becomes more political in its nature because it is directed against the person of a subordinate officer, and not of the Governor himself.

We need hardly observe that all these points are, after all, matters much more for your Lordship's judgment than questions of legal opinion.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 41.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October* 20.)

*Temple, October* 20, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that with reference to our Reports of the 26th and 30th of April last, upon the question of direct communication between the Colonial authorities at Hong Kong and the Chinese authorities at Kowloon, with a view to the rendition of criminals escaping to the mainland, he was directed by your Lordship to transmit to us a despatch which has been received from Her Majesty's Minister in China upon this subject; and Mr. Hammond was pleased to request that we would take this despatch into our consideration, and furnish your Lordship with our opinion on the questions raised by Sir R. Alcock as to the interpretation to be given to Articles XV and XVI of the Treaty of Tientsin. The previous papers were also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That we are unable to concur in the interpretation of the XVth Article of the Treaty of Tientsin put forward by Sir R. Alcock in his despatch of July 13, 1869. Nor are we by that despatch at all led to doubt the correctness of what we wrote on the 26th and 30th of April last, as to the interpretation to be given to the XVIth Article of the same Treaty. But whether in dealing with a nation like the Chinese it is incumbent on Her Majesty's Government actively to interfere to put a stop to a practice which is now established, which works beneficially, and of which the Chinese do not at all complain, is a matter entirely for the consideration of your Lordship and the Government of the Queen.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
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### No. 42.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received October 20.)*

My Lord, *Temple, October 20, 1869.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a despatch which had been received from Sir Edmund Hornby, inclosing a Judgment which he had recently delivered on the subject of oaths to be administered to Chinese witnesses, together with a series of questions which he proposed should be asked of Chinese witnesses, preparatory to administering to them an oath, and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That it appears to us that Sir Edmund Hornby decided the case before him with perfect correctness, but we think it impossible to say, as matter of law, that the questions he proposes to address to Chinese and Japanese witnesses, and the form of words he proposes to make them utter, are or ought to be made conditions precedent to the reception of the evidence of such persons. They go far beyond what was decided to be necessary in the case of Omichund *v.* Barker, and we are not prepared to advise your Lordship to sanction, even by your approval, any greater minuteness of inquiry than was decided to be necessary in that famous case. Lord Chief Justice Willes, in that case, laid it down that belief in a God, and that that God could reward and punish, was sufficient for the reception of the evidence of a person so believing, and who swore according to the form of his own religion. The questions by which the presence or the absence of these essentials of belief is to be ascertained, must be left to the discretion of the Court, and may vary in each case; the points to be ascertained always remaining the same. We think it, therefore, far from desirable to fix rigidly the forms and number of the questions.

As to the oath itself, the point is the solemn invocation of the help, and, by consequence, the displeasure of the Divine Being by the person about to give evidence; forms by which this is attested, whether by kissing the Gospels or the Pentateuch, or holding up the hand, &c., are immaterial; and if, as Sir Edmund Hornby says, the forms hitherto adopted are absurd, and are so felt by the Chinese, there can be no objection to discontinuing them, and adopting any form felt by them to be solemn, and to witness to the world that they are speaking under solemn obligation.

We much doubt whether your Lordship ought to be called upon to express an opinion one way or the other on the subject; your Lordship's opinion cannot give these forms the force of law. That can only be done, if it be thought advisable to do it, by Act of Parliament. But the law on this subject, as to its principles, is ascertained with great clearness and force in Omichund *v.* Barker, and it must be left for the Courts in their discretion in this country and abroad to carry these principles into operation with regard to non-Christian witnesses, by such forms as may seem to them fit for the purpose in each case.

We have, &c.
(Signed) J. D. COLERIDGE.
R. P. COLLIER.
TRAVERS TWISS.

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### No. 43.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received December 1.)*

My Lord, *Temple, November 30, 1869.*

WE are honoured with your Lordship's commands signified to us in Mr. Arthur Otway's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Sir Rutherford Alcock (No. 109), and its inclosures, respecting a recent trial for murder in Her Majesty's Supreme Court at Shanghae, and he was to request that we would take those papers into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That the view of the law taken by Sir E. Hornby is, in our opinion, correct, both as regards the sufficiency of the jury and the admissibility of the Chinese evidence.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 44.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received December 22).*

*Temple, December 21, 1869.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul at Shanghai, inclosing copies of rules which had been agreed upon with the Taontai for the prevention of shipping collisions, and also a letter from the Board of Trade inclosing a draft-order in Council for giving effect to those rules; and that he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion, whether such an order was required, and if so, whether it should be made applicable to the local shipping in the waters of the Shanghai Province, or whether it should extend to British and Chinese shipping generally.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

We are of opinion that an Order in Council is required to authorize a British Court exercising Admiralty jurisdiction to apply the sailing regulations to cases of collision between British and Chinese vessels.

We think that the Order should extend to British and Chinese vessels generally, as the Taontai's letter applies to all Chinese vessels visiting waters frequented by foreign craft, and to all collisions between Chinese and British vessels.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 45.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received December 29.)*

*Temple, December 29, 1869.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 4th instant, stating, that with reference to our report of the 8th of December, 1868, he was directed by your Lordship to transmit to us, together with previous papers, a despatch from Sir Rutherford Alcock, and its inclosures, reporting that the Land Regulations and Règlement Municipal for the Government of the British, French, and other Concessions at Shanghai, had been provisionally sanctioned by a joint Minute of the representatives of the Treaty Powers at Pekin; and that he was to request that we would take those papers into our consideration and favour your Lordship with our opinion, whether that provisional sanction should be confirmed by Her Majesty's Government.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That Her Majesty's Government may properly confirm the provisional sanction given to the Land Regulations and Règlement Municipal for the Government of the British, French, and other Concessions at Shanghai by the joint Minute of the Representatives of the Treaty Powers at Pekin of 24th September, 1869.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Denmark.

### No. 45*.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 1).

*Temple, January* 30, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 27th instant, stating that he was directed by your Lordship to acquaint us that on the 13th instant a Declaration, of which he inclosed a copy, was signed by Her Majesty's Minister at the Court of Denmark and the Danish Minister for Foreign Affairs, for the exemption of subjects of the one country residing in the other from compulsory military service and from forced loans. That on full consideration of the terms of that Declaration, your Lordship is apprehensive that they may be liable to misconstruction, and may cause embarrassment in other cases. That your Lordship has, therefore, caused the draft of an instruction to Sir Charles Wyke upon the subject to be prepared, together with the draft of an amended Declaration, and Mr. Otway was pleased to request that we would take those drafts into our consideration, and report to your Lordship at our earliest convenience whether we see any objection thereto.

In obedience to your Lordship's commands we have taken those drafts into consideration and have the honour to report—

That we concur in the view expressed by your Lordship in your proposed despatch to Sir Charles Wyke, and we think the draft submitted to us a much clearer and more convenient document than the French Declaration signed by Sir C. Wyke and the Danish Foreign Minister, and entirely free from objection.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### Inclosure in No. 45.

*Draft Declaration.*

THE Undersigned, Sir Charles Lennox Wyke, Her Britannic Majesty's Envoy Extraordinary of Minister Plenipotentiary at the Court of Denmark, and the Count Krag Juel Vind Frijs de Frijsenborg, Minister for Foreign Affairs of His Majesty the King of Denmark, being duly authorized by their respective Governments, hereby declare that British subjects in the Dominions and Possessions of Denmark, and Danish subjects in the Dominions and Possessions of Great Britain, are exempted from forced loans and military exactions or requisitions, as well as from all compulsory military service, whether in the army, navy, or national guard or militia; and from all contributions, whether pecuniary or in kind, imposed as a commutation for personal service; provided they shall not have applied for and obtained naturalization in the country in which they reside.

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## Equator.

### No. 46.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received September* 18.)

*Temple, September* 17, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed to transmit to me, together with the former papers, a letter from the Chairman of the Ecuatorian Commission of Agency, inclosing copy of a letter addressed by the Minister of Finance of the Republic of Ecuador to their Agent in London, calling upon him to refund certain sums remitted to him for account of the dividends due to the bond-holders in this country, and to request that I would take this matter into my consideration, and advise your Lordship as to the proper course to pursue in this matter.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that your Lordship would not be justified in interfering with the funds in the hands of Messrs. E. de Murietta and Co., and that the Ecuatorian Commission of Agency must proceed in due course of law, if they wish to attach those funds.

I have, &c.
(Signed) TRAVERS TWISS.

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## France.

### No. 47.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 14.)

*Temple, January* 13, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th December last, stating that with reference to our report of the 23rd December he was directed by your Lordship to send us a note from the French Ambassador at this Court, dated the 24th ultimo, on the subject of the arrest at Hong Kong of some sailors belonging to the "Tigre," a French Messagéries steamer, and that he was to request that we would take this paper into our consideration, and furnish your Lordship with our opinion as to the answer that should be returned to it.

In obedience to your Lordship's commands we have taken the note referred to in the said letter into our consideration, and have the honour to report—

That a vessel, in order to be entitled under the Convention to the privileges of a vessel-of-war, must fall within the terms not only of Article 5, but of Articles 1 and 2, which are strictly confined to the object of conveying correspondence.

If we rightly understand the letter of the French Ambassador, the "Tigre" was not such a vessel, but one employed in the carriage of baggage only, and, if so, was not, in our opinion, within the fair scope of the Convention.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 48.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 14.)

*Temple, January* 14, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit to us therewith a paper containing the demands expressed in the ultimatum addressed by the Porte to the Government of Greece, in regard to the conduct of the latter in countenancing and assisting the insurrection in Crete, and Mr. Hammond was pleased also to say that we are aware that a conference is now being held in Paris with a view to devise terms for the settlement of the differences between the two countries, and further to transmit to us a copy of a despatch received this morning from Her Majesty's Ambassador at Paris, in which we would find certain resolutions which the French Plenipotentiary proposes to submit to the Conference.

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Mr. Hammond further stated that we would see that Her Majesty's Ambassador, bearing in mind the caution contained in the despatch, which he inclosed (No. 11 of the 5th instant), requests to be immediately informed whether he may support these resolutions, as conformable to the view taken by Her Majesty's Government of the law of nations; and Mr. Hammond therefore added that he was to request that we would take the matter into our immediate consideration, and report to your Lordship our opinion as to the answer which, bearing in mind the caution contained in the instruction to him in No. 11 of the 5th instant, may properly and safely be addressed to Her Majesty's Ambassador.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to the propositions of International Law which Lord Lyons has underlined, but we suggest that it would be desirable to induce, if possible, the French Plenipotentiary to substitute in resolution 2 which follows, for the words "to make the necessary dispositions," such words as "to use her best endeavours," or "to do all that is possible." The words as they now stand might be construed to imply a duty on the part of the Greek Government absolutely to ensure that no armed vessel hostile to Turkey shall issue from her ports, whereas, in our controversy with the American Government, we have declined to accept the position of insurers against the departure from our ports of hostile cruizers, and contended that we had discharged our duty in doing all that we reasonably could to prevent such departure, even though we failed. It is true that the "Alabama" and the other vessels complained of left our ports unarmed, and that the second resolution is directed against the "armament" of such vessels, at the same time it may be unavoidable to admit that a neutral Government is an absolute insurer against even the armament of hostile cruizers in its ports.

Whether or not the objections which we have pointed out to the proposed wording of the second resolution by the French Plenipotentiary are of sufficient weight to be insisted on, if thereby the success of the conference should be endangered, is, of course, a question for your Lordship's consideration.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 49.

*The Attorney-General to Mr. Hammond.*—(*Received January* 16.)

*House of Commons, January* 16, 1869.

My dear Mr. Hammond,

SPEAKING for myself (and I think I can speak for my colleagues), I understood "armements" as including "arming," though not confined to it. In the "Alexandra" case we had much discussion as to the difference between the English and American Foreign Enlistment Acts, the words of the American were (I speak from memory), "arming, equipping, fitting," &c.; and ours, "equipping, fitting," &c., without "arming," and a good deal of importance was attached to the omission of "arming" from our Act.

I thought it, therefore, as well to call attention to the word "armement," which I understood to include "arming," but our opinion did not turn upon that point; and if we were wrong in our interpretation of "armement," so much of oue opinion as relates to that matter may be considered as unwritten.

In a French dictionary in this (the House of Commons' Library), I find, "L'armement d'un vaisseau," translated "the arming, the fitting out of a vessel, equipment;" but recent usage may, perhaps, have restricted the meaning of the term.

Yours faithfully,
(Signed) R. P. COLLIER.

P S.—I have written in a hurry, and may not have expressed myself clearly; what I would say is, that if "armement" means "equipment" only, still I think that it is the duty of a neutral not to "permit" it; and that therefore there is no objection to the words of the French Plenipotentiary.

R. P. C.

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## No. 50.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received April* 19.)

*Temple, April* 17, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 7th instant, stating that he was directed to transmit to me a letter from Messrs. Brownlow, Lumsden, and Co., dated the 1st instant, in which, with reference to the stipulations of the Commercial Treaty between France and Austria, they request information as to the point, whether the privileges secured by Austria as to assimilation to French vessels, as regards port charges, can be claimed for British vessels trading from any port whatsoever to France. The previous correspondence connected with this case was also inclosed; and Mr. Otway was pleased to request that I would report to your Lordship my opinion as to the answer which should be returned to Messrs. Brownlow.

In obedience to your Lordship's commands I have the honour to report—

That the reciprocity of port charges secured by the Convention of Navigation between France and Great Britain, in favour of French and British vessels, applies exclusively, in my opinion, to such vessels as are laden in a port of the one country, and carry their cargoes to some port of the other country. Such, I think, is the undoubted meaning of the stipulations of the Ist and IInd Articles, the latter part of the IInd Article expressly restricting, on the part of France, the importation in British ships of the productions of the countries of Europe, "unless such ships shall have been laden therewith in some port of the United Kingdom," and providing a power of making, by mutual consent, relaxations in the execution of this Article. The construction of the IVth Article, on the other hand, in the sense suggested by Messrs. Brownlow, Lumsden, and Co., is, I think, forbidden by the special reference to the conditions stipulated in the previous Articles. I think that reference restricts the prohibition to the grant of "any more favourable conditions to the vessels of any third Power" *in pari materia*, and that the view adopted by the Board of Trade, that the Convention applies to the direct trade between the two countries, is correct.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 51.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received April* 23.)

*Temple, April* 22, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 7th instant, stating that he was directed to transmit to me a correspondence which has passed between the Foreign Office and the India Office, respecting a question which has been raised by the Governor of the French Settlements in India, in regard to the execution of the processes of British Courts within the limits of the French Factory at Calicut. A Memorandum, drawn up in the Foreign Office, bearing upon this subject, and also upon the general question of territorial arrangements between the Indian and French Governments, which is likewise referred to by the Indian Office, was also inclosed; and Mr. Otway was to request that I would take these papers into consideration, and furnish your Lordship with my opinion upon the questions raised therein,

In obedience to your Lordship's commands I have the honour to report—

That the privileges which were enjoyed by factories in the East Indies, in the sense in which that term denotes an association of factors, have been frequently under discussion in our Prize Courts; and I consider it to be settled law that all persons admitted into any of such factories became clothed with the national character of the association, and were subject to the laws of the country which had established the factory. (The Indian Chief, 3 Chr. Rob. p. 29). But with regard to the soil upon which the trading establishment of the factors was built, and any surrounding land which was protected by fortifications, no similar legal discussions have taken place, as far as I am aware. That the sovereignty of the soil upon which the factory was established, was not granted to the country which established it, is, I think, clear from the history of the factories established by various European nations in the East Indies. The factory, however, in each case, seems to have had quasi-territorial privileges, and was, I consider, exempt from all exercise of jurisdiction on the part of the Sovereign of the country. With regard to the existing French Factory at Calicut, I am of opinion that persons within the establishment are exempt from service of process from the Madras Courts. Whether the grant of the use of the soil for a factory was in each case a grant in perpetuity, I am not sufficiently informed, so as to be able to advise your Lordship as to the rights which France may be entitled to maintain in respect of the sites of her ancient factories; but I am disposed to think, that in places where there is no existing association of traders, and no building, there is no factory; and the rights of France in respect of jurisdiction, would at least be in suspense. At the same time I would suggest to your Lordship, that before any action should be taken by the British authorities in regard to such sites, the papers which have been submitted to me should also be submitted to the Attorney- and Solicitor-General, that your Lordship may have the advantage of their views upon a somewhat novel subject.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 52.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 1.)

*Temple, April* 30, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us a correspondence which has passed between the Foreign Office and the India Office, respecting a question which has been raised by the Governor of the French Settlements in India, in regard to the execution of the processes of British Courts within the limits of the French Factory at Calicut.

Mr. Hammond also inclosed a Memorandum drawn up in the Foreign Department, bearing upon this subject, and also upon the general question of territorial arrangements between the Indian and French Governments, which was likewise referred to by the India Office; and he was pleased to request that he would take these papers into our consideration, and favour your Lordship with our opinion upon the questions raised therein.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we are not quite sure that we understand clearly on what precise points our opinion is desired. If we are asked whether English process runs in factories restored to France in 1815, we are clearly of opinion that it does not, and that however inconvenient it may be, it seems from practice as well as principle that their independence of our authority (unless otherwise provided for by Treaty) must be respected. Even in cases where the factory has ceased to exist, it appears that hitherto the soil on which it stood has been considered French, and as such, exempt from English jurisdiction. If we are asked whether we think they ought still to be so respected, whether occupied by factories or not, where there is no French territory (in the larger sense) around them or adjoining, we reply that, in the face of the practice of our own authorities and Courts, a very heavy responsibility would lie on any one who now proceeded to enforce English process or English jurisdiction within such places, and that we have no materials for saying with certainty what was the exact nature of the tenure of the soil of the factories of the French when they first became occupied by French establishments. We cannot advise any alteration of the present practice on grounds of law. Whether negotiations on the subject are desirable is not within our province to determine.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 53.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 11.)

*Temple, May* 11, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th May instant, stating that, on the receipt of our Report of the 13th January last, relative to the French Messageries steamer "Tigre," your Lordship addressed the note, of which the draft was inclosed (January 22), to the French Ambassador, and that he was directed by your Lordship to transmit to us the reply of Prince de la Tour d'Auvergne, dated the 3rd instant, in which he states that his Government do not concur in the view that the Articles of the Anglo-French Postal Convention of 1856, apply only to vessels engaged exclusively in carrying correspondence.

Mr. Hammond also stated that his Excellency requested the further consideration of Her Majesty's Government in regard to the observations which he had been instructed to offer on the subject, and that he was to request that we would furnish your Lordship with our opinion as to the answer that should be returned to him.

Mr. Hammond was also pleased to say that the former papers were returned for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That, upon reference to our previous Report of 13th January, 1869, your Lordship will perceive that we assumed from the letter of his Excellency the French Ambassador, of December 24, 1868, that the "Tigre" was not engaged in the conveyance of correspondence, but in the carriage of baggage (valise) only, and on that assumption we did not consider her to be employed in execution of Articles I and II of the Postal Convention, so as to be within the scope of Article V of that Convention. We did not, however, intend your Lordship to understand that we considered the Postal Convention of 1856 to apply only to vessels engaged exclusively in carrying correspondence. We consider vessels chartered or subsidized by either Government as packets will be within the scope of Article V of the Convention, provided they are actually conveying correspondence, notwithstanding they may also be conveying passengers and merchandize; and if the "Tigre" was such a vessel, she would be within the fair scope of the Convention.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 54.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received May* 13.)

*Temple, May* 12, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 4th instant, stating that he was directed by your Lordship to transmit to me two letters from the Board of Trade, and a letter from Mr. Parkes, regarding a claim preferred against the French Government by Mr. Simpson, as master and principal owner of the vessel "Mercutio," wrecked at Guadaloupe.

That the facts of the case are fully set forth in the Memorandum prepared by order of the Lords of Trade, but that with reference to that passage in which it is stated that the French Government detained the ship's papers until Mr. Simpson repaid a sum of 212*l.* 6*s.* 6*d.* (being the amount of loss incurred by the French Colonial Authorities on the sale of the vessel when abandoned), Mr. Murray was pleased to transmit the correspondence noted in the inclosed list, from which I should learn the steps taken by Her Majesty's Government as regards this special point. Mr. Murray was also pleased to state that I should observe that Mr. Simpson is represented to be acting on behalf of the Underwriters as well as in his own interest, and that besides Mr. Simpson more than one owner is alluded to. That as regards the allusion made in the Memorandum to the absence of explanations from the British Vice-Consul at Guadaloupe, who was concerned in the transaction, Mr. Murray was to state that it is understood that the Vice-Consul, who only held an unpaid appointment, has ceased to act on behalf of the British interests, and that the further explanations which might otherwise have been available are not likely to be forthcoming. That, subject to these observations, Mr. Murray was to request that I would take the case into my consideration, and report to your Lordship my opinion whether the claim of Mr. Simpson is one which Her Majesty's Government can properly urge on the French Government, and, further, as to the answer which should be returned to Messrs. Parkes.

In obedience to your Lordship's commands I have the honour to report—

That the claim of Mr. Simpson is not one which Her Majesty's Government can, in my opinion, properly urge against the French Government, and that an answer to that effect should be returned to Messrs. Parkes.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 55.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 3.)

My Lord, *Temple, May* 31, 1869.

WE are honoured with your Lordship's commands signified to us in Mr. Murray's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. Syms, dated the 20th ultimo, requesting the intervention of Her Majesty's Consul at Paris in the steps necessary to effect the transfer of certain French railway shares.

Mr. Murray was pleased also to inclose the correspondence noted in the margin,* from which we would learn the steps which had subsequently been taken in the matter, and also that the Legal Adviser to Her Majesty's Embassy at Paris had advised that the parties interested must have recouse to legal proceedings before a French tribunal. As, however, it had been stated that difficulties of a similar character arose in this country in the case of French subjects dying here, your Lordship considered it desirable to consult the Secretary of State for the Home Department on the matter, and Mr. Murray was to inclose a letter from that Department, dated the 20th instant, conveying Mr. Secretary Bruce's suggestions as to the steps which could be taken to meet the requirements of the case. The question of the certificates required in France on the transfer of shares had already been referred to the Law Officers, whose Report, together with the correspondence connected with the case, then under consideration, was annexed therewith for our convenience;† and he was to request that we would take the subject into our consideration, and furnish your Lordship at our early convenience with the statement as to English law suggested by Mr. Bruce.

In obedience to your Lordship's commands we have the honour to report—

That by the law of England, before the testamentary executor of a French subject under a will made in accordance with French law would be entitled to claim to have transferred to him, as such executor, the personal property in England of the deceased, it would be requisite for him to constitute himself the personal representative of the deceased according to English law, and for such purpose to take out an English Probate of an authenticated copy of the French will, and to pay probate duty in respect of the property to be administered in England. We presume your Lordship would not be disposed to ask the French Government to dispense with the present requirements of the French law in respect of the personal property in France of an English testator, without being prepared to offer reciprocal facilities in the case of a French testator, who may die possessed of personal property in England.

We doubt whether a formal statement of the English law on this subject would be for the advantage of British testators who may die possessed of personal property in France.

The difficulty which may arise at present in France in respect of the transfer of French railway shares, the property of deceased British subjects, if the parties interested should be required to have recourse to legal proceedings before a French tribunal, appear to us to be no greater—indeed, we think they are in fact less—than those which at present exist in England in respect of the transfer of the personal property in England of French testators.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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### No. 56.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received July* 3.)

My Lord, *Temple, July* 2, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Ambassador at Paris (No. 664, June 30), relative to the arrest, during the recent riots in that capital, of a British subject named Mr. Washington Tremlett; and to request that I would furnish your Lordship with my immediate opinion on the case.

In obedience to your Lordship's commands I have the honour to report—

That the view taken by the Consul of Her Majesty's Embassy of this case, with which Her Majesty's Ambassador agrees, may, in my opinion, be properly approved by your Lordship.

I have, &c.  
(Signed) TRAVERS TWISS.

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* To Mr. Syms, April 24: to Lord Lyons, No. 45; Lord Lyons, No. 133, 1869.

† Law Officers, July 29; Mr. Mourilyan, July 9, July 27, and August 13; to Mr. Mourilyon, August 20; Messrs. Boys, July 26; to Messrs. Boys, July 30; to Consul Atlee, No. 3; to Mr. Fane, No. 12; Mr. Fane, No. 66, 1867.

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### No. 57.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received August* 12.)

My Lord, *Temple, August* 11, 1869.

WE are honoured with your Lordship's commands signified to us in Mr. Charles Spring Rice's letter of the 6th instant, stating—

1. That, with reference to our Report of the 31st of May last, in regard to the difficulties which had arisen in France as regards the "certificats de coutume" required in the case of the transfer of railway shares he was directed by your Lordship to transmit to us a despatch from Lord Lyons (No. 183) containing a Report from the Legal Adviser to Her Majesty's Embassy at Paris respecting the course to be pursued in order to place the matter on a satisfactory footing.

2. That we would perceive from that paper that M. Treitt had placed himself in communication with the railway authorities, who were themselves desirous that means should be devised to meet the difficulties of the case, which were stated only to occur as regards the shares held by British subjects.

3. That the railway authorities stated that they were prepared to accept the certificate of a solicitor in this country if the British Consul in France subscribed to his signature an attestation in the following words:—

"The Undersigned Consul certifies that Mr.           is solicitor of the Court of           , and that he is consequently qualified to deliver the above certificate, and faith is due to his attestation."

4. That M. Treitt added that, in case of the adoption of that expedient, and of contradictory certificates being presented, the decision must rest with the French Court competent to deal with that case.

5. That Mr. Rice was pleased also to request that we would take that subject into our consideration, and report to your Lordship at our early convenience our opinion whether the course proposed could be adopted, and specially whether solicitors in this country would be competent to sign the necessary certificate, and what steps would be be necessary to legalize their signatures, so as to enable one of Her Majesty's Consuls in France to add his attestation.

6. That the previous correspondence was returned for our convenience.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to the form proposed, with a modification. We should suggest the form to be the following:—

"The," &c., down to "Court of           ," "and that before becoming so he must have a knowledge of English law sufficient to enable him to make the above statement, and to justify the French Companies in acting, if they think fit, upon the statement which he makes.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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### No. 58.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received August* 20.)

My Lord, *Temple, August* 19, 1869.

WE are honoured with your Lordship's commands signified to us in Mr. Arthur Otway's letter of the 12th instant, stating—

1. That with reference to our Report of the 11th instant, he was directed by your Lordship to transmit to us a letter from the Society of Notaries, dated the 7th instant, setting forth the grounds on which they requested that British Consuls in France might not be authorized to certify to legal documents.

2. That it was not expressly stated in that letter that the subject to which they referred was the course pursued in the matter of the "Certificats de Contume," brought under our considerotion in his letter of the 6th instant; and that if, however, such reference was intended, we would observe that the course pursued by Her Majesty's Consul at Paris was incorrectly described.

3. That in any case, however, your Lordship considered it desirable that the letter of the Society of Notaries should be referred to us for consideration, in connection with the question as to "Certificats de Contume;" and your Lordship requested that, in stating whether that letter modified the view conveyed in our Report above referred to, we would add our opinion as to the nature of the answer which should be returned to the Society of Notaries.

In obedience to your Lordship's commands we have the honour to report—

That it appears from the letter of the Society of Notaries, that there is no substantial foundation for the representation made by Mr. Mourylian, in his letter of 9th July, 1867, to your Lordship's predecessor in office, as to the necessity of Her Majesty's Consuls in France being allowed to certify the competency of English Solicitors resident in France to give certificates as to British law in matters of succession. This representation is to the effect that, "unless there be some means of supplying the (French) authorities with the Certificates of Custom which they require, the difficulties and expense of dealing with such property (*i.e.* personal property in France of British subjects dying domiciled in Engtand), after a testator's death, will be enormous."

What the precise character of the "Certificate of Custom" is, does not appear from Mr. Mourylian's letter, nor whether, in fact, it originated with Mr. Pickford, Her Majesty's late Consul, who was also a lawyer; but, it appears from the letter of the Society of Notaries, that it is of modern origin, or at least is a modern variety, and has no advantages of reduced expense over the practice which has been in use until a very recent period, and which is stated by them to have been admitted as satisfactory by the authorities in France. As we have stated in our previous Report, we see no objection to Her Majesty's Consuls being allowed to certify in the form as modified by us; but if it should not be held satisfactory by the French Companies, we see no reason, after the information suplied in the letter of the Society of Notaries, why the older, and, as we are disposed to think, safer, practice should not be resumed.

The last sentence of our Report will sufficiently indicate the answer which, if your Lordship thinks fit, it will be proper to return to the French Notaries.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 59.

*The Queen's Advocate to the Earl of Clarendon.—(Received November 3.)*

My Lord,
*Temple, November 3*, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed to transmit to me a despatch from Her Majesty's Minister at Paris, respecting an application made to him by a British naturalized subject of the Jewish persuasion to be married in the British Embassy or Consulate at Paris. The draft of a despatch which your Lordship proposes to address to Mr. West in reply was also inclosed, and Mr. Hammond was pleased to request that I would take the same into my consideration, and report to your Lordship whether it may properly be sent to Paris.

In obedience to your Lordship's command I have the honour to report—

That this is not, in my opinion, a case in which your Lordship should authorize a marriage to be solemnized in Her Majesty's Embassy at Paris. Mr. Brandeis appears to be established as a banker at Vienna, and must be taken, I think, to have an Austrian domicile, whilst the lady is a French subject. The marriage would, therefore, not be solemnized according to the law of the husband's domicile, whilst it would be invalid according to the *lex loci*. I think it would be a matter of doubtful propriety for your

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## FRANCE.

### No. 60*.

*The Law Officers of the Crown and Dr. Twiss to the Earl of Clarendon.—*
*(Received December 2.)*

*Temple, December* 1, 1869.

My Lord,

"Certificats de Coutume:" Proposed new form of.

WE are honoured with your Lordship's commands, signified in Mr. Spring-Rice's letter of the 25th ultimo, stating that, with reference to our Reports of the 11th and 19th August on the subject of "certificats de coutume," he was directed to transmit to us a further despatch from Mr. West, reporting that the French Railway Companies have refused to accept the form of certificate proposed by Her Majesty's Government, and submitting for approval a new form suggested under the circumstances therein set forth by M. Treitt, the Legal Adviser of the British Embassy in Paris.

The last papers on this question were also inclosed, and Mr. Spring-Rice was pleased to request that we would again take the matter into our consideration, and furnish your Lordship with our opinion on the proposal now made by M. Treitt.

In obedience to your Lordship's commands, we have the honour to—

*Report—*

That we do not think it necessary to insist on the form of certificate which we suggested, and inasmuch as it is stated that the form proposed by M. Treitt will be accepted by Railway Companies, and will cause the present difficulties to disappear, we think that, on the whole, it may be properly adopted, though not altogether free from objection.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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Lordship to sanction the solemnization of the proposed marriage under such circumstances at Her Majesty's Embassy.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 60.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received November* 19.

My Lord, *Temple, November* 19, 1869.

WE are honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us an accompanying despatch from Her Majesty's Consul at Bordeaux (No. 16), representing the circumstances under which the Avocat-Général in that city is desirous of obtaining authoritative information as to whether a judgment pronounced by the Court of Queen's Bench in this country, in the case of Clarkson and others *v.* Bentzen, would be open to any suspensory proceedings by the defendant, as in the contrary case the Court at Bordeaux would probably order the execution of the judgment, and Mr. Spring Rice was pleased to request that we would take this case into our consideration, and favour your Lordship, at our early convenience, with our opinion as to the instructions which may be right to give to Mr. Hunt in this matter.

In obedience to your Lordship's commands we have taken this case into our consideration, and have the honour to report—

That a judgment by default in the Queen's Bench, or any other superior Court, is a final judgment, and while it stands is conclusive.

There is no difference in its legal effect, *quoad* the right to issue execution upon it or otherwise, from that of a judgment after appearance and pleadings. There is no process by which, as of course, its effect can be suspended, any more than the effect of any other judgment. All judgments, within certain limits as to time, are open to be set aside upon terms, and at the discretion of the Court, but this is true of all, and in no especial way of judgments by default.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Greece.

### No. 61.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 19.)

My Lord, *Temple, January* 18, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us a copy of a despatch from Her Majesty's Minister at Athens No. 5 January 7, inclosing a translation of a Royal Decree authorizing the issue of Treasury notes to the amount of 15,000,000 drachmas, which are made a legal tender throughout the Kingdom in all monetary transactions. Mr. Hammond was pleased also to inclose a copy of the Treaty of the 29th of March, 1864, referred to by Mr. Erskine, and, with reference to the stipulations contained in Article VII of that Treaty, to request that we would favour your Lordship at our earliest convenience with our opinion as to its bearing upon the enforcement of the Decree in question in the Ionian Islands.

In obedience to the commands of your Lordship we have the honour to report—

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That, without being informed what were "the privileges conceded to the Ionian Bank" mentioned in Article VII of the Treaty, we are unable to advise that the Royal Ordinance amounts to a breach of that Treaty, or that it affords more than a subject of friendly representation to the Greek Government.

We may add, that if it distinctly and in terms infringes any such privileges, it would clearly be a breach of the Treaty; if, however, the injury to the Ionian Bank is only the injury, which must necessarily result to any Financial Company from a measure so ill-judged as that described by Mr. Erskine, we should think that, however disastrous such consequence might be, it would be no breach of the Treaty.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 62.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received February 2.)*

*Temple, February 2, 1868.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd ultimo, stating that, with reference to our Report of the 18th ultimo, he was directed to transmit to us a further despatch from Mr. Erskine respecting the financial measures of the Greek Government. The previous correspondence on this subject together with a copy of the Treaty of the 29th March, 1864, and the draft of a despatch, which your Lordship has addressed to Mr. Erskine, giving an account of an interview, which your Lordship had with a deputation from the Ionian Bank in London, was also inclosed, and Mr. Hammond was pleased to request that we would consider and report to your Lordship, at our earliest convenience, our opinion whether, if Her Majesty's Government cannot properly invoke the VIIth Article of the Treaty of 1864, in order to induce the Greek Government no longer to resort to such measures, they might seek the co-operation of France and Russia with a view to attain this end, on the ground that such measures are in violation of the rights secured to the Three Powers under the XIIth Article of the Treaty of the 7th May, 1832, by which they guaranteed the Greek loan of 1832. A copy of this Treaty was also inclosed, and Mr. Hammond further stated, for our information, that Her Majesty's Government have declared, at various times with reference to other financial measures, that they cannot release Greece from the obligations thereby imposed.

In obedience to your Lordship's commands we have the honour to report—

That we have already stated our opinion that the measures of the Greek Government, however unsound, economically, and likely to be prejudicial to the interests of the Ionian Bank, do not constitute a *casus fœderis* as regards the Treaty of March 29, 1864; and we do not think that the Three Powers could interfere with the financial operations of the Greek Government under Article XII of the Treaty of May 7, 1832, so long as the revenues assigned to the payment of the guaranteed debt are not diverted to other objects. If, directly or indirectly, the effective receipts of the Greek Government should be diverted from the purpose mentioned in the Treaty, namely, the payment first of all of the guaranteed loan, this would amount to a breach of Treaty, and a case for interference by the Three Powers would immediately arise. But if the effect of the Greek financial measures be no more than to diminish the revenue and to increase the financial embarrassments of the country, we think that the Three Powers would only be entitled to make such representations, as sureties may fairly address to a principal whose reckless conduct makes it probable that they may be called upon to pay his debt.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 63.

*The Queen's Advocate to the Earl of Clarendon.—(Received March 27.)*

*Temple, March 25, 1869.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed to transmit to me the accompanying despatch and its inclosures received from Her Majesty's Minister at Athens, No. 43, 16th February, with regard to the proceedings taken by the Greek authorities with respect to certain persons who had committed, at Zante, an assault upon the master of the British schooner "Sylph." The previous papers were also inclosed, and Mr. Hammond was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion as to the instructions with which it would be proper for your Lordship to furnish Mr. Erskine in regard to this matter.

In obedience to your Lordship's commands I have the honour to report—

That, with reference to the assault on the master of the "Sylph," there are two points raised in the correspondence. The first regards the alleged inadequacy of the penalty; the second regards the evasion of the offenders. Upon the first point I would observe that there was a fact proved before the Court, which makes it appear doubtful whether the Procureur de Roi is fairly open to censure for want of energy in the conduct of the case on account of the penalty being inadequate to the offence. It appears from the introductory part of the Judgment of the Court that the extreme penalty, under the particular law applicable to the case of "an assault without premeditation," is six months' imprisonment, which the Procureur de Roi pressed the Court to inflict upon the offenders, but which the Court declined to do, and awarded them only four months' imprisonment. The Court, in awarding the milder penalty, may have been influenced by a fact to which it refers, as proved by the witnesses, and which fact is in direct conflict with the original declaration made by the master to Mr. Consul Wodehouse, that "no one on board his vessel had done anything to provoke the attack upon him." The Court, however, held it to be proved that the crew of the "Sylph" had, at an early part of the day, loosened the mooring chains of the Greek vessel, so that the attempt of the Greek sailors to loosen the chains of the "Sylph" would be an act of retaliation, provoked by the previous conduct of the "Sylph." Under such circumstances the Court may have felt itself at liberty to mitigate the penalty without any imputation resting upon the Procureur de Roi for want of energy. The second part, however, may be open to other considerations. It does not appear from the correspondence what the Greek law is in such a case, whether security ought to have been taken for the appearance of the accused parties at the trial, or how it came to pass that precautions were not taken by the Greek authorities to prevent seamen under a criminal charge sailing away from the port on the eve of their trial. It appears that the cause was heard and judgment given in default of their appearance, and it certainly would be a mockery of justice if the Greek authorities are to fold their hands, and take no measures to have the guilty parties apprehended, and the sentence enforced against them, wherever they may be found in the Greek dominions. I think your Lordship may, with good reason, instruct Her Majesty's Minister at Athens to urge upon the Greek Government the necessity of taking every step in their power to enforce the sentence; and it may perhaps deserve your Lordship's consideration whether Her Majesty's Minister may not be instructed to suggest that, if the Greek Government permits its laws to be violated by its subjects with impunity, to the grievous wrong of British subjects, it may become incumbent on Her Majesty's Government to demand some direct compensation for the British subjects who suffer by their violation.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 64.

*The Queen's Advocate to the Earl of Clarendon.—(Received March 27.)*

*Temple, March 27, 1869.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed by your Lordship to transmit to me the accompanying despatch and its inclosures from Her Majesty's Minister at Athens (No. 43 of February 16), respecting certain proceedings before the Correctional Tribunal at Corfu in the case of Luigi Farugia, a British subject; and Mr. Hammond was pleased to request that I would take these papers into my consideration and report to your Lordship my opinion as to the instructions with which it will be proper for your Lordship to furnish Mr. Erskine in regard to this matter.

Mr. Hammond was also directed by your Lordship to transmit to me a further despatch, with its inclosures from Her Majesty's Minister at Athens (No. 57 of March 11) respecting this case, and to request that I would take the same into my consideration, together with the papers inclosed in his letter of the 8th instant.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it does not appear from the Memorial of Luigi Farugia, nor from the judgment of the Correctional Court, what were the precise words used by Luigi Farugia in refusing to comply with the order of the Advocate Fiscal to provide him immediately with a carriage. M. Farugia admits that an order was brought to him which he could not read, being written in Greek, and he says that he simply requested the official to acquaint his superior with the true motives for which he considered it impossible to execute his order. It was, however, not the act of a reasonably prudent man to neglect to inform himself of the nature of the written order, nor was it consistent with due respect to the Advocate Fiscal's office to send by the bearer of a written order a verbal message, the tone of which would probably be rendered still more unpalatable to the Advocate Fiscal on its delivery by his subordinate. It is very probable in this case that Luigi Farugia has been somewhat harshly treated, but he is not, I think, altogether free from blame; and as the Correctional Court found him to have contravened the law, I think your Lordship cannot well comply with his request that he should be indemnified for the pecuniary losses which he has sustained by his imprisonment.

I observe that the Judgment of the Correctional Court describes M. Farugia twice as born in Zante, and therefore now a Greek subject, whereas he is described by Consul-General Saunders as a British subject domiciled in Corfu, and in the opinion of his Advocate (No. 5 in Mr. Erskine's No. 43) as a Maltese domiciled at Corfu. It may, perhaps, deserve inquiry from your Lordship whether M. Farugia is of Maltese extraction and of Ionian birth, as in the latter case I presume that he would not be considered by your Lordship as entitled to British protection in Corfu against the Greek authorities.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 65.

*The Queen's Advocate to the Earl of Clarendon.—(Received April 10.)*

*Temple, April* 9, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 5th instant, stating that he was directed to transmit to us the accompanying despatch and its inclosures from Her Majesty's Minister at Athens respecting the alleged ill-treatment of two Maltese at Syra; and to request that I would take these papers into my consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may properly approve the steps which have been taken by Her Majesty's Minister at Athens and by Her Majesty's Consul at Syra to procure a thorough investigation of the complaint of the two Maltese. As, however, Her Majesty's Consul considers it to be doubtful whether the two Maltese can be relied upon as witnesses to support their complaint in Court if the former Director of the Police at Syra should be put upon his trial, it may deserve consideration on the part of Her Majesty's Minister at Athens, as the Director of Police has resigned his post, whether it would be advisable to press for his trial upon the complaint of the Maltese, unless the Greek authorities are prepared to send him to trial upon the earlier and more serious charge of putting their own subject, Nicholas Stathato, to torture. The evidence of Nicholas Stathato, who has been declared innocent of the crime imputed to him, would weigh heavily against the former Director of Police, and would assist the case of the Maltese, whereas the evidence of the Maltese, if it stands alone, would be open to grave exception, and would be met by contradictory evidence of a formidable character; for it appears from the Report of the Procureur-Général that Michel Zamont, who alone had any marks of personal injury, had clearly taken part in the robbery of which he is accused, and knew where the stolen

property was concealed; and the police officers will depose that he injured himself by a fall in pointing out to them "the out-of-the-way place where the money was concealed."

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 66.

*The Queen's Advocate to the Earl of Clarendon.—(Received May 25.)*

*Temple, May* 24, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that, with reference to that part of my report of the 25th March, on the case of Luigi Farrugia, which suggests that inquiry should be made in regard to his nationality, he was directed to transmit to me the accompanying despatch, which has been received from Her Majesty's Minister at Athens on that subject (No. 80, of May 8), and Mr. Hammond was pleased to request that I would report to your Lordship my opinion as to the instructions which should be given to Mr. Erskine, in reply to the points raised in his despatch.

In obedience to your Lordship's commands I have the honour to report—

That with regard to the point raised in the despatch of Her Majesty's Minister at Athens, "whether he is to understand that henceforth it is the deliberate intention of Her Majesty's Government to decline to recognize as a British subject a person born abroad of British parents," I presume that his Excellency has in view the child of a British father, born in a country where the law of that country does not admit the child of a foreigner to the *status* of a subject, such as is represented to be the condition of Luigi Farrugia. As regards such persons, I would suggest that Her Majesty's Minister may be properly instructed by your Lordship, that it is not the intention of Her Majesty's Government to decline to protect them, as heretofore, against the obligations which the laws of the country of their birth may impose upon its natural-born subjects.

With regard to what Her Majesty's Minister conceives to be a well-established principle of the Common Law of England, Her Majesty's Minister may be properly informed that the privilege to which he refers is derived from the Statute Law of England, no person under the English Common Law being recognized as a natural-born subject, unless born within the allegiance of the Crown, and that the privileges which are granted by statute to the children of British fathers born abroad cannot of right be claimed by them, except within territory which is subject to British law.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 67.

*The Queen's Advocate to the Earl of Clarendon.—(Received June 4.)*

*Temple, June* 4, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that, with reference to my report of the 28th of March, he was directed by your Lordship to transmit to me, together with the previous papers, an accompanying despatch from Mr. Erskine, respecting the course pursued by the Greek Government in regard to the assault committed at Zante on the Master of the British schooner "Sylph," and Mr. Hammond was pleased to request that I would again take this matter into consideration, and report to your Lordship my opinion as to the course which your Lordship should now pursue.

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That it appears to me that the most advisable course for your Lordship to pursue will be to instruct Her Majesty's Minister at Athens to express to the Greek Minister of Foreign Affairs your thanks for the inquiry which has been made, and the explanation given, as to the course pursued by the Procureur du Roi at Zante, and your satisfaction at his assurance that every effort will be made to enforce the judgment of the Court against the culprits, if they should come at any time within Greek jurisdiction.

I have, &c.
(Signed) TRAVERS TWISS.

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# Hayti.

## No. 68.

*The Queen's Advocate to the Earl of Clarendon.—(Received January 12.)*

My Lord, *Temple, January* 11, 1868.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence, relative to the capture by the Haytian authorities of British and French vessels, and to the measures taken by the British and French naval forces, acting under the instructions of the Chargé d'Affaires of the two countries, to obtain the release of the vessels in question, and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to any steps which Her Majesty's Government should take in the matter.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may properly concur in the approval which the Lords Commissioners of the Admiralty propose to convey to Commander Phillimore, of the proceedings of the British squadron, in concert with the French squadron, at St. Marc and Gonaives, which have resulted in the release of the vessels captured by the Haytian cruizers. As Hayti has acceded to the Declaration of Paris of 1856, any violation of its provisions in respect of vessels under the flag of any of the signataries of that Declaration would involve, in my opinion, a breach of faith towards all the parties to it, which would justify them in taking measures in common to redress it. Her Majesty's Government may, therefore, I think, with perfect right, authorize Her Majesty's naval officers to give effective co-operation to the officers of the French marine in procuring on all occasions a strict observance of the principles affirmed by Hayti, when she acceded to such Declaration, as regards the requirements to constitute a blockade binding upon neutrals.

I have, &c.
(Signed) TRAVERS TWISS.

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## No 69.

*The Queen's Advocate to the Earl of Clarendon.—(Received April 3.)*

My Lord, *Temple, April* 2, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Port-au-Prince, inclosing a copy of a Convention which has been entered into between the Council of Secretaries of State of the Republic of Hayti and the acting Chargé d'Affaires of France, with regard to French commerce and debt, and which contains provisions with reference to French vessels, which it appears the Haytian Government propose to extend to the vessels of other Powers; and Mr. Hammond was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands, I have the honour to report—

That the Convention contains provisions of a very novel character, and whilst from one point of view the second Article might be taken to involve a recognition on the part of France of a paper-blockade of the Haytian ports in the possession of the rebels, mitigated, as Her Majesty's Chargé d'Affaires at Port-au-Prince considers, by conditional licences for French vessels to trade with those ports; from another point of view it may be regarded as an undertaking on the part of the Haytian Government not to blockade any of those ports against French vessels, on condition that all French vessels bound to any of those ports shall put into Port-au-Prince or some port under the control of the Haytian Government, to have their cargoes examined and verified as not being contraband of war, before they proceed to their port of destination.

I am disposed to think that the latter is the more correct view, for two principal

reasons. The former view would be inconsistent with the Declaration of Paris, on the subject of maritime right in time of war, to which both France and Hayti are parties. The latter view, on the other hand, harmonizes with the interests of both Powers. It is obviously for the interest of France, which has a Treaty lien on the Customs' duties, to be received in the ports of the Republic open to foreign commerce, that the Haytian Government should not establish a blockade of the ports in the possession of the rebels; whilst it is for the advantage of Hayti that French vessels should voluntarily come into the ports under the control of the Haytian Government to have their cargoes examined and verified as not being contraband of war, instead of the Haytian Government being obliged to maintain cruizers at sea, to exercise its right of search over French vessels.

The important question for your Lordship's consideration is, whether it is desirable that Her Majesty's Government should avail itself of the offer of the Haytian Government to extend to the vessels of other nations what it terms "the privileges" accorded by the Convention to French vessels. If the view which I have ventured to suggest, and I suggest it with great deference to your Lordship's better judgment, be the correct view, it would not, in my opinion, be desirable that Her Majesty's Government should avail itself of the offer of the Haytian Government. In the first place, as regards any right of the Haytian Government to establish a blockade of the rebel ports against the vessels of other neutral States than France, if they should not avail themselves of the offer of the Haytian Government, I am of opinion that it will not be competent for Hayti to establish any blockade of those ports, which will be obligatory on those States, as long as those parts are systematically open to French trade. No case precisely in point can be cited, for the arrangement between France and Hayti is without precedent. But if a blockade were to be established, the privileges, which would be enjoyed by French vessels under this Convention to violate the blockade, would tend to throw the whole trade into the hands of the merchants of one neutral State, to the exclusion of the merchants of other neutral States, which would operate greatly to the injury of the latter; whilst the liberty accorded to French vessels to carry to the rebel ports all kinds of supplies, excepting contraband of war, would be inconsistent with the principles upon which the right of a belligerent to exclude neutrals from any enemy's port rests, namely, that the necessities of war require the belligerant to cut off all communication of commerce with the enemy. This question, in its bearing upon licenses and Orders in Council, has been discussed very fully by Dr. Lushington in his judgment in the case of the "Franciska" (2 Spinks Eccl. and Admy. Reports, page 136), and by the Judicial Committee of the Privy Council on the appeal in the same case (10 Moore, page 50), and the reasoning in both Judgments seem to me to warrant the opinion I have ventured to express on this part of the case. If it be assumed then that it will not be competent for the Haytian Government to establish hereafter any blockade of the rebel ports, which would be obligatory on British vessels, so long as this Convention shall be in force, it remains to consider whether in other respects British vessels would obtain any adequate privileges by Her Majesty's Government acceding to the offer of the Haytian Government. I am disposed to think that the Convention does not confer any privileges upon French vessels, which are commensurate with the novel obligations imposed upon them. For it may be observed that France has not stipulated for French vessels to be allowed to enter the ports under the control of the Haytian Government, if their owners are so minded, in order to have their cargoes verified, and to be at liberty to proceed to any Haytian port without molestation from Haytian cruizers, but the French Government has agreed that every French merchant-vessel with a cargo destined to a rebel port, shall previously enter a Governmennt port to have its cargo verified, and only after fulfilling this condition shall be at liberty to proceed without molestation to a rebel port (ce n'est qu'à la suite de cette formalité, qu'il pourra se diriger librement dans n'importe quel port de la Republique à son option). As it is stated in the concluding part of the IInd Article of the Convention, that vessels which have any contraband of war on board will be excluded from the benefits of the Convention, the so-called "privileges" will only apply to vessels having no contraband of war on board. But British vessels will be at liberty under the General Law of nations to trade with any port in the possession of the rebels, which is not under blockade, in all articles of merchandize which are not contraband of war, and for such trade do not require any Treaty privilege.

They will be subject no doubt to the right of search both on the high seas and in Haytian waters, but if that right of search should be vexatiously exercised by Haytian cruizers in Haytian waters, and it may be observed that this Convention only applies to the waters of the Republic, such conduct on the part of the cruizers would be properly

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matter for remonstrance on the part of Her Majesty's Government, and, if need be, might justify reprisals.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 70.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received April* 6.)

*Temple, April* 6, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 3rd instant, stating that he was directed to transmit to me the accompanying despatch and its inclosures from Her Majesty's Chargé d'Affaires at Port-au-Prince, relative to a claim for indemnity which he has preferred against the Haytian Government on account of the pillage of his house by the Government troops, and Mr. Murray was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon. The previous despatches alluded to by Mr. St. John were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Chargé d'Affaires is fully justified in demanding from the Haytian Government a complete indemnity for the pillage of his house by the Government troops, and that your Lordship may properly approve the demand which he has made upon that Government.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 71.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received April* 17.)

*Temple, April* 17, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 9th instant, stating that he was directed by your Lordship to transmit to me the accompanying letter from Messrs. Duranty and Co., of Liverpool, inclosing an account of a claim which they have upon the Haytian Government for goods and property stolen and destroyed at Port-au-Prince during the insurrection, and Mr. Murray was pleased to request that I would take the same into my consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the papers submitted to your Lordship in this case are so meagre in their statement of facts, that your Lordship cannot safely admit the asserted ownership of Messrs. Duranty and Co. I think it by no means improbable that Mr. Nepomucene Cesvet may prove to be the person in whose name the claim should be made, if it should be proper to make it at all.

Your Lordship may therefore, I think, properly require Messrs. Duranty and Co. to furnish your Lordship with a fuller statement from themselves as to the conditions on which their goods had been consigned to Mr. Nepomucene Cesvet, and whether they had received any advances upon them.

With regard to Mr. Nepomucene Cesvet, as he omits to state in his affidavit, in which he describes himself as of Kingston in Jamaica, that he is a British subject, a further affidavit may be properly required from him on that head, as well as upon the nature of his commercial establishment in Port-au-Prince, and whether, as consignee, he had made advances on the goods of Messrs. Duranty and Co., or was factor for them under a *del credere* commission.

I venture to suggest to your Lordship that it would be desirable to obtain some information from Her Majesty's Chargé d'Affaires at Port-au-Prince in regard to the establishment and national character of Mr. Nepomucene Cesvet.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 72.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received August* 23.)

*Temple, August* 21, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the inclosed papers as marked in the margin, relative to the piratical acts of a steamer named "Telegrafo," at present detained at Tortola by order of the Governor-in-chief of the Leeward Islands; and that he was to request that we would take the papers into our consideration, and inform your Lordship at our earliest convenience what reply should be returned to Mr. Gautier's note, and what instructions should be sent out to the Governor at Tortola.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

There appears upon the papers submitted to us a *primâ facie* case of piracy against the "Telegrafo." We think that the Governor of the Leeward Islands should be instructed to detain her, in order to afford an opportunity to the Dominican authorities to present their case against her.

It would be proper for the Crown Proctor to put himself in communication with them, and if sufficient evidence of piracy is obtainable to justify proceedings in the Vice-Admiralty Court, to institute such proceedings.

These observations will indicate the nature of the reply which in our opinion it would be proper for your Lordship to address to Mr. Gautier.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 73.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received September* 25.)

*Temple, September* 23, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, on receipt of my Report of the 17th of April last, respecting the claim of Messrs. Duranty and Co. to compensation from the Haitian Government for the loss and destruction of their property during an insurrection at Port au Prince, your Lordship called upon those gentlemen, and upon Her Majesty's Chargé d'Affaires, to furnish the further information relating to the matter, with which I desired to be supplied.

That Mr. Hammond was now directed by your Lordship to transmit to me the accompanying despatch from Mr. St. John, and letter from Messrs. Duranty, containing such further information as they can give; and Mr. Hammond was pleased to request that I would take these papers into my consideration and favour your Lordship with my opinion as to the steps which should be taken in the matter.

The previous papers were likewise inclosed therewith.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That, as it appears from the despatch of Mr. Spencer St. John of the 19th June, 1869, that Mr. Nepomucene Cesvet, whose stores were plundered by the insurgents at Port au Prince on 22d February, 1867, was a natural-born Haytian citizen, I am of opinion that his stores were not entitled to British protection, and that your Lordship cannot properly authorize Her Majesty's Chargé d'Affaires to claim from the Haytian Government compensation for any goods which were in Mr. N. Cesvet's stores, and which were destroyed by the insurgents, on the ground that they had been consigned to him by British subjects.

There is nothing in this case, as far as I can gather from the affidavit of Mr. N. Cesvet of the 10th of March, 1869, or from the information furnished by Messrs. Duranty and Co., which takes it out of the general rule, that the consignment of the goods to Mr. N. Cesvet created a personal debt on his part to the amount of their value, which he tacitly admits in the fourth paragraph of his affidavit, when he says that the value of the

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goods will be lost to Messrs. Duranty and Co., in consequence of the loss of all that he possessed through the pillage.

I think the observation of Mr. Spencer St. John is well founded, that Mr. N. Cesvet was the proper person to make any claim, if it could under the circumstances be maintained against the Haytian Government, and that he ought to have made that claim long ago, before the subsequent insurrection prevailed which drove General Geffrard from power.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 74.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October* 1.)

*Temple, October* 1, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo stating that, with reference to our Report of the 21st of August respecting the case of the steamer "Telegrapho," he inclosed a letter from the Colonial Office of the 30th of August with a despatch from Sir B. Pine, the Governor-in-chief of the Leeward Islands, reporting the reasons which induced him to order her release.

Mr. Hammond was also to inclose a further letter from the same Department with a Report from the Governor, from which it appears that he had refused to grant that vessel a British register, and is threatened in consequence with an action.

That the Governor, as we should see, asks for instructions, and the Colonial Office are anxious, if possible, to send them by the mail of the 1st of October.

A letter from the Admiralty was also inclosed respecting the sale of the "Telegrapho."

And Mr. Hammond was pleased to request that we would take the matter into our immediate consideration, and report our opinion at our earliest convenience as to the instructions to be sent to the Governor.

The previous papers were annexed for reference if required.

In obedience to your Lordship's commands we have taken this matter into our immediate consideration, and have the honour to report—

That this case is incumbent with difficulty at the present time in consequence of the course taken by Governor Sir B. Pine in releasing the vessel when he was really convinced that there were strong grounds for her detention. The vessel having been released since a sale was effected to a British subject, it is not easy to justify the refusal to grant a British register. If, however, the Governor is really satisfied that the sale is not *boná fide*, we think he may be properly instructed not to grant the register except under compulsion of law, and whether, under all the circumstances of the case, it is not the more honourable and correct course for the Governor, as representing Her Majesty's Government, not to forward in any way, except under the like compulsion, the immunity of a vessel, the past of which is so highly objectionable, is a matter of which your Lordship is the best judge.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 75.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December* 1.)

*Temple, November* 29, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 22nd instant, stating, that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Port au Prince, No. 61, October 25, reporting the circumstances attending the capture of the British schooner "Express," by a Haytian war-steamer, "Alexander Petion," on a charge of being engaged in contraband trade; and Mr. Otway was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the seizure of the "Express" upon the high seas, under the circumstances stated by Her Majesty's Chargé d'Affaires, cannot, in my opinion, be justified on the grounds set forth in the despatch of the Haytian Secretary of State, of 8th October, 1869, namely, that she had, when she was within Haytian jurisdiction, contravened the Haytian laws of trade, by communicating with a port not open under those laws to foreign trade. I am further of opinion, that your Lordship may, of right, require that the owners of the "Express" should be indemnified by the Haytian Government for the losses which they have incurred by the unjustifiable seizure and confiscation of the vessel and her cargo.

I am, &c.
(Signed) TRAVERS TWISS.

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# Italy.

## No. 76.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 22.)

*Temple, January* 22, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 16th instant, stating that he was directed to transmit to me a despatch and its inclosures from Her Majesty's Minister in Italy, respecting a question which has arisen with the Italian Government regarding the proper interpretation of certain Articles of the Treaty of Navigation between France and Italy of 1862, with reference to the exemption of French vessels from a double payment of anchorage dues. That it is not denied that the exemptions in question is extended to British vessels by the Xth Article of the Treaty with Italy of August 13, 1863; but the Italian Government contend that the exemption applies only to sailing-vessels, and not to steamers. Mr. Otway was, therefore, pleased to request that I would take the inclosed papers into my consideration, and furnish your Lordship with my opinion upon the question thus raised. Mr. Otway was pleased to add, that the Treaty of Commerce with Italy, to which reference has been made, is to be found in Hertslet's Treaties, vol. xi, page 1112; copies of the XIth and XIIth Articles of the Treaty between France and Italy were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that the proper interpretation of Article XI of the French Treaty would extend the exemption from double anchorage dues to all French vessels trading between a French port and one or more Italian ports, including steamers as well as sailing-vessels. As the provisions of the Treaty are of a character favourable to both parties, it would be in accordance with a rule of interpretation applicable to such Treaties (Vattel, l. ii, c. 18, page 307), that the most extensive meaning of which the word "navires" is susceptible according to common usage, should be given to that word, where it occurs in Article XI, unless manifest equity, or a great common advantage, requires it to be restricted. On the other hand, the more restricted interpretation suggested by the Italian Government, that the term "navires" should be construed to mean sailing-vessels only, would exclude a most important class of steam-vessels from all benefits of the Treaty, as I do not consider that Article XII is susceptible of a construction which would include steam-vessels passing from a French port to one or more Italian ports. I apprehend that the trade in which French steam vessels are to have equal privileges under Article XII with Italian steam-vessels, and Italian steam-vessels equal privileges with French steam-vessels, is the home trade of the respective countries, termed "Navigation d'escate" in the Mediterranean, and "Navigation de côte ou de cabotage" in France.

I have, &c.
(Signed) TRAVERS TWISS.

1869

### No. 77.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received September* 11.)

*Temple, September* 10, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed to transmit to me two letters relating to a claim put forward by Signor Ippolyto de Riso, against the Italian Government, on account of certain property belonging to his brother, which was seized by Garibaldi. That Signor Riso claims the interference of Her Majesty's Government in the matter, on the ground that two English ladies are interested in the claim, under the will of his brother; and Mr. Hammond was pleased to request that I would take the papers into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to Signor Riso.

In obedience to your Lordship's commands I have the honour to report—

That this application is made to your Lordship by an Italian subject, as the representative of his deceased brother, also an Italian subject, whom he states to have died in 1860, after undergoing political prosecution from the Bourbon Government. If I rightly understand his Memorial, he says that his brother left nothing behind him but a claim to be compensated for his sufferings out of the property of the Bourbons sequestrated by Garibaldi for the compensation of the victim of Bourbon tyranny; and he requests your Lordship to intervene with the existing Italian Government, contemporaneously with a demand which he proposes to make upon that Government, that a compensation for the sufferings of his deceased brother should be paid to himself. The ground upon which he asks for your Lordship's intervention is, that his brother appointed him his fiduciary legatee, under a trust, to pay an annuity to two British subjects during their lives, out of any compensation which he might realize. I am of opinion that your Lordship cannot properly comply with Signor de Riso's Memorial. His brother was an Italian subject, and had no title to British protection at the time when he underwent the alleged persecutions; and as he would have had no just claim upon Her Majesty's Government for its support, if he had been alive at the present moment to press his own claim, he cannot devolve upon his representative any better title than he himself possessed, nor give to his wrongs a British character by creating, under a testamentary bequest, a contingent interest in their remedy in favour of British subjects.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 78.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received September* 14.)

*Temple, September* 13, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 6th instant, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Chargé d'Affaires at Florence, No. 1, Commercial, relative to the case of the "Lady Briggs," the particulars of which are fully set forth in the correspondence therein inclosed; and Mr. Spring Rice was pleased to request that I would take these papers into consideration, and furnish your Lordship with my opinion as to the course which it would be proper to take in the matter.

In obedience to your Lordship's commands I have the honour to report—

That upon the statement of facts there appears to have been a *primâ facie* case for the proceedings on the part of the Custom's authorities of Messina against the master of the "Lady Briggs," as it is admitted that there was a considerable deficiency in his cargo, as compared with his manifest; and Mr. Herries states that the 67th Article of the Customs Regulations of the Port of Messina imposes a fine for every package enumerated in the manifest, but not actually forthcoming.

On what grounds the Correctional Tribunal at Messina pronounced the offence of Captain Famolaro was accused, to be not proved, and absolved him from the misdemeanour imputed to him, does not appear upon the face of the extract from the sentence of that Tribunal, which accompanies the papers; but, I infer, as the facts were admitted, that Captain Famolaro was acquitted under a beneficial interpretation, which the Tribunal upon the law ("il senso del Articolo"), that it was intended to punish attempts to defraud the revenue, and that the Tribunal held that Captain Famolaro's offence was within the

spirit of the 67th Article of the Customs Regulations, although he had infringed the letter of it.

Under these circumstances I am of opinion that your Lordship would not be justified in instructing Mr. Harris to intervene in support of the claim which Captain Famolaro has made upon the Italian Government for compensation on account of losses which he has incurred by his detention at Messina. Upon general principles of jurisprudence he would not be entitled to damages, as a doubt as to the true construction of a law would be reasonable cause for proceedings under it; and, as the Director-General of Customs states in his note that no damages are recoverable by Captain Famolaro under the Municipal Law, the consideration of saving Captain Famolaro from the expense of a law-suit against the Customs' authorities, which he has put forward in his letter to Mr. Richards of January 22nd, would be an idle consideration.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 79.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received October* 26.)

*Temple, October* 26, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to me an accompanying despatch from Mr. Severn, Her Majesty's Consul at Rome, requesting instructions as to the course he should pursue, in a case where the Roman authorities refuse to recognise a marriage which was celebrated by civil rite in London in 1860, between a Roman artist and a Scotch lady, and the husband having since died the property left to the widow is about to be claimed by the Roman heir; and Mr. Spring Rice was pleased to request that I would take this case into my consideration, and favour your Lordship with my opinion as to the instructions which should be given to Mr. Severn in this matter.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That before your Lordship can properly instruct Her Majesty's Consul at Rome as to the course which he should pursue in this case, it will be desirable that he should furnish your Lordship with more complete information on certain points:—

1. Under what circumstances the marriage between the parties took place in England? Whether the Roman artist was a domiciled subject of Rome at the time of the marriage, and died domiciled in the Roman States?

2. Under what circumstances the question of succession arises, whether under a will or an intestacy? Mr. Severn in his letter speaks of property left to the widow, which suggests that she is entitled by her husband's will to certain property.

3. Under what circumstances the decision of the Cardinal Vicar has been made, and what is the nature of the proceedings before the Judge, before whom Mr. Severn states that the widow has taken her case?

Different considerations of law may apply to this case according as the claim of the lady rests upon the will of her husband, or upon her right of succession, as his widow, under an intestacy. Her claim as widow would depend upon the validity of her marriage, but if her claim rests upon a will, her right of succession would be independent of the validity of her marriage, and care should be taken by Mr. Severn, if he is called upon in any way to act, not to allow the two questions to be confused.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 80.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received November* 12.)

*Temple, November* 12, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 10th instant, stating, that with reference to my report of the 26th ultimo, he was directed by your Lordship to transmit to me a further despatch from Her Majesty's Consul at Rome (November 4), containing replies to the inquiries, which you requested

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might be instituted with the view to enable me to form an opinion as to the instructions which it would be proper to give to Mr. Severn, in a case where the Roman authorities have refused to acknowledge the validity of a marriage celebrated by civil rite, in this country in 1860, between a Roman artist and a Scotch lady; and Mr. Spring Rice was pleased to request that I would take this despatch, together with the former papers, which were therewith inclosed, into my consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken this despatch into consideration, and have the honour to report—

That your Lordship may properly instruct Her Majesty's Consul at Rome to give such assistance as may be in his power to the widow.

If the widow should fail, after obtaining a decree from the Judge, to procure restitution of the money in consequence of the action of the Cardinal Vicar, Her Majesty's Consul may be instructed to send your Lordship further information, as to whether the husband died in England, and whether the life assurance was effected in an English office, and the money paid over by the office to the widow.

It appears to me that the widow had reduced the money into her legal possession before she transmitted it to the banker at Rome, and that her right to it could not be questioned at Rome on the ground that her marriage was not valid according to Roman law.

I have, &c.
(Signed) TRAVERS TWISS.

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## Japan.

### No. 81.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received February 2.)*

*Temple, January* 30, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Murray and Hutchins, requesting that Her Majesty's Consul at Kanagawa may be instructed to take such steps as may be necessary on behalf of their clients, the executors of the estate of the late Mr. William Kemptner, in order to put them in possession of a plot of land at Kanagawa formerly registered at Her Majesty's Consulate in the name of that gentleman, but transferred by him during his residence in Japan to trustees on behalf of a Miss Gutman in virtue of a deed of settlement executed in contemplation of a marriage between Mr. Kemptner and that lady, which is stated never to have taken place; and Mr. Hammond was pleased to request that we would take Messrs. Murray and Hutchins' letter into our consideration, and favour your Lordship with our opinion as to the course which your Lordship should pursue in the matter.

In obedience to your Lordship's commands we have taken Messrs. Murray and Hutchins' letter into our consideration, and have the honour to report—

That we are not informed and do not know what is the effect, according to Japanese law, of the transfer of 18th January, 1867, nor what persons would now be recognized by the Japanese authorities as occupiers of the land. But assuming, as for the purposes of this report we do, that the Japanese authorities would now recognize the fourth transferee named in the transfer of the 18th January, 1867, we think the British Consular jurisdiction is ousted, as three of the transferees are Prussians; at all events that the British Consul cannot deal with the case without the co-operation, or at least the consent, of the Prussian Consul. We see no reason why the erroneous entry as to the nature of the trust should not be corrected in the records of the Consulate, after proper proof of the deed of settlement and due notice to all parties concerned. But we think it doubtful in the highest degree, whether such correction will have any effect whatever upon the position of the parties.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 82.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received February* 23.)

*Temple, February* 23, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st of February, stating that with reference to the report of the Law Officers of the 24th of December, 1867, and 13th of January, 1868, on the question of an alien being able to hold the office of Her Majesty's Consul, and exercise jurisdiction under Orders in Council passed in pursuance of the provisions of the Foreign Jurisdiction Act, that your Lordship requested our opinion as to whether an alien born, but to whom the Queen might be pleased to grant letters of denization could in foreign countries in which Her Majesty's Consuls are empowered by Order in Council to exercise jurisdiction in civil and criminal cases, exercise such jurisdiction, if duly appointed by Her Majesty to the office of Consul.

That the difficulty in the case to which the Law Officers attention was called in 1867 and 1868 was understood to have been, that an alien could not properly be empowered to exercise such jurisdiction, and that his defect of birth could not be remedied by a certificate of naturalisation, inasmuch as an intention to reside in England was one of the necessary conditions to the grant of such certificate.

That it appeared, however, that on the 28th of February, 1857, the then Attorney-General advised the Crown in the case of Mr. Santillana, Interpreter to the British Consulate at Tunis, and who as such permanently resided in Tunis, that letters of denization might be granted to him notwithstanding his non-residence in this country.

That there are at the present time engaged in Her Majesty's Service in Japan certain aliens who, under the opinions of the Law Officers, to whom reference was made, are held to be incapacitated from advancement to the office of Consul, which in that country would carry with it the exercise of civil and criminal jurisdiction.

That the point, therefore, on which your Lordship desired to receive our opinion was whether, if Her Majesty should be advised to grant letters of denization to such persons or any of them, they could, if promoted hereafter to the rank of Consul or Vice-Consul, exercise the jurisdiction conferred by Order in Council upon such persons in Japan and in China.

In obedience to the commands of your Lordship we have taken this matter into our consideration, and have the honour to report—

That inasmuch as the Prerogative of the Crown to grant letters of denization has not been taken away or interfered with, we see no legal objection to a person so created a denizen being advanced to the post of Consul in Japan, and exercising all the jurisdiction conferred upon Consuls by the Order in Council. The statute of 12 Wm. III, c. 2, s. 3, does not we think apply to such "an office or place of trust" as the one in question, the duties of which are not to be executed within the realm.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 83.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received March* 15.)

*Temple, March* 13, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us with the previous papers, a despatch from Sir Harry Parkes inclosing a copy of a Notification which he has issued forbidding British subjects from conveying troops, arms, or munitions of war to certain Japanese styling themselves the exiled Togukawa Kerais, who had taken forcible possession of the Treaty port of Hakodate; and that he was to request that we would take the same into our consideration, and favour your Lordship at our earliest convenience with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That we are of opinion that the notification issued by Sir Harry Parkes is proper and judicious.

We are, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 84.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 20.)

*Temple, April* 19, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us, together with the previous papers, a despatch from Sir H. Parkes No. 36 February 9, inclosing copies of a correspondence which has passed between him and Admiral Sir H. Keppel respecting the denial of belligerent rights to the exiled Kerais, who have made a descent in the Island of Yezo; and Mr. Hammond was pleased to request that we would take the same into our consideration, and favour your Lordship with our opinion thereupon at our earliest convenience.

In obedience to the commands of your Lordship we have taken these papers into consideration, and have the honour to report—

That whether civil war exists or not is a question of pure fact, to be decided from the condition of the country where it is alleged to exist. In Europe civil war means such a substantial suspension of the powers of the central Government as prevents its arm being felt, or its law administered by the ordinary Tribunals. But this definition is essentially European, and cannot be strictly applied with exactness or rigour to communities where the action of the central Government is different, probably more irregular, than our own, certainly quite unlike it, and the question of civil war or not is a question to be decided with special reference to local circumstances.

We think Sir Harry Parkes is the most competent person to judge of this question of fact; and his opinion as to the non-existence of anything which can properly be called civil war is clear. Nor is there anything in the voluminous papers sent to us to make us doubt the soundness of his opinion.

We may observe that the refusal of belligerent rights to the exiled Kerais implies that no war, in fact, exists; and that the Japanese Government have no more than the Kerais the right as against neutrals, like ourselves, to assume the exceptional rights of belligerents; but must confine their action, as far as our shipping and commerce are concerned, to their rights in time of peace, as modified (if they are modified) by express Treaty.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 85.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 30.)

*Temple, April* 29, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 13th instant, stating that, with reference to our Report of the 13th ultimo, he was directed by your Lordship to transmit to us, together with the previous papers, a despatch from Sir H. Parkes No. 31, February 9, reporting the cessation of the civil war in Japan, and inclosing a copy of a notification which he had issued, withdrawing the notification of the 13th of July last, in which he published Her Majesty's Order in Council

of the 14th of May, enjoining neutrality on all British subjects in Japan; and to request that we would favour your Lordship with our opinion whether that Order in Council should now be formally revoked, and, if so, that we would draw up a Draft Order revoking it.

In obedience to your Lordship's commands we have the honour to report—

That it is not necessary, in our opinion, for Her Majesty to revoke formally Her Order in Council of 14th May, 1868. That order only applied to British subjects abetting either of the contending parties during the hostilities then existing between the Mikado and other belligerents within the Japanese dominions, and as such hostilities have come to an end, Her Majesty's Order in Council ceases to be operative for want of parties to whom it would be applicable.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 86.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 10.)

*Temple, May* 10, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed to transmit to us a despatch from Her Majesty's Minister in Japan, inclosing a communication he has received in common with the other foreign Representatives from the Japanese Government, inquiring what punishment can be inflicted on those foreigners who give assistance to the insurgents now in possession of Hakodate; and Mr. Hammond was pleased to request that we would take Sir H. Parkes' despatch into immediate consideration, and furnish your Lordship with our opinion whether, with reference to his remarks, any fresh Order in Council upon the subject is required; and, if so, that we would prepare a draft of such Order, so that it may be submitted to the Queen for Her Majesty's sanction.

In obedience to your Lordship's commands we have the honour to report—

That we are not sufficiently acquainted with the status of the Mikado to answer the question put to us with confidence. If he holds dominions independent of the Tycoon, we think that the Order in Council should be amended so as to make it applicable to him and his subjects, but no alteration beyond this appears to us necessary. If the Mikado is a subject of the Tycoon, no alteration seems to be necessary.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

I am of opinion that the Order in Council should be amended so as to make it applicable to the Mikado in the place of the Tycoon. I have altered the Order accordingly.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 87.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 28.)

*Temple, June* 28, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that with reference to our Reports of the 30th January, he was directed to transmit to us a despatch from Her Majesty's Minister in Japan, in regard to the question raised by Messrs. Murray and Hutchins, as to the transfer to the executors of the late Mr. Kemptner by Her Majesty's Consul at Kanagawa, of a certain piece of land at Yokohama; and to request that we would take this despatch into consideration, and furnish your Lordship with any observations we may have to offer thereupon. The previous papers were also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That it seems from Mr. Fletcher's Memorandum, that there is really nothing to correct in the entry as to the nature of the trust referred to in our Report. All other circumstances attending the case appear to remain the same; and we see no reason to alter or to qualify the opinion we had the honour to convey to your Lordship in January.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 88.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received July* 1.)

My Lord, *Temple, June* 20, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that with reference to our Report of the 10th ultimo, he was directed to transmit to us, together with the previous papers, a despatch from Sir H. Parkes, and its inclosure No. 83, April 6, respecting the exercise of British jurisdiction over British subjects not registered in one of Her Majesty's Consulates, who may be concerned in the insurrectionary proceedings of the Tokugawa Kerais in the Island of Yesso; and to request that we would take the same into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the interpretation given to the 114th clause of the China and Japan Order in Council of 9th March, 1865, by Her Majesty's Minister at Yokohama, in his despatch of April 2, 1869, addressed to his Excellency Date Chiunagon, is, in our opinion, correct. With regard to the two reservations engrafted on that interpretation by Her Majesty's Minister in his despatch of April 6, 1869, addressed to your Lordship, we consider them to be also correct. The further question raised by Her Majesty's Minister, whether the words "Tycoon of Japan" will prevent the enforcement of the 81st clause of the same Order in Council, now that the office of Tycoon or Shogoon has been abolished, will, we presume, have been sufficiently answered by Her Majesty's Order in Council, which has directed the title of Mikado of Japan to be read throughout Her Majesty's Order of 9th March, 1865, in the place of the title of "Tycoon of Japan."

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 89.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received December* 18.)

My Lord, *Temple, December* 18, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed to transmit to us the accompany. letter from Mr. Russell Robertson, of the Japanese Consular Service, and its inclosures, respecting a rule *nisi*, which has been granted by Her Majesty's Chief Judge at Shanghae, calling upon him to show cause why he should not refund a sum of money awarded by him when acting as Her Majesty's Consul at Yokahama, as Arbitrator in a case of collision at sea, which had been submitted for his decision by the Counsel of the parties concerned; and Mr. Hammond was pleased to request that we would take these papers into our consideration, and furnish your Lordship with our opinion both as to the case generally, and as to the course Mr. Robertson should now be instructed to pursue. The Order in Council of March 9, 1865, and the Rules of the Japan and China Consular Courts, were also inclosed for convenience of reference; and Mr. Hammond added, that Mr. Robertson returns to Japan on the 2nd proximo.

In obedience to your Lordship's commands we have the honour to report—

That, as far as we are able to understand the proceedings in this case, which is full of irregularities, it would appear that an action was entered in the Provincial Court of Yokahama for 10,000 dollars against the British steamer "Ocean Queen," when Mr. Vice-Consul Fletcher was in office, and that the plaintiffs filed a petition, and the defendants gave in an answer; that Mr. Consul Robertson, on succeeding to Mr. Fletcher's place,

stayed the proceedings in the action, and gave notice to the parties that the cause was only justiciable at Shanghae. We consider Mr. Consul Robertson to have been correct in the view which he took on this occasion, that the Provincial Court had no jurisdiction over the case, and in staying the proceedings. The parties, by their Counsel, appear thereupon, at the suggestion of Mr. Consul Robertson, to have agreed to submit the question between them to the arbitration of Mr. Consul Robertson, and four nautical assessors. We consider this to have been a purely voluntary submission of the parties, and that no rule of Court could have been properly made, or was required, the powers given to the Provincial Court under sections 49 and 50 of the Order in Council of 9th of March, 1868, being confined to matters over which the Court has jurisdiction. So far then, we think, that the objection to the arbitration on the ground of it not having been made a rule of Court, is untenable.

We consider that the parties by their Counsel agreed to submit the question, which had been raised in the Provincial Court to the voluntary arbitration of the Consul and his Assessors, and that if there may have been any defect of authority on the part of the counsel to bind their parties, the parties must be held to have submitted themselves to the arbitration by appearing before the Arbitrators. The other objection, however, is of more weight, that the award of the Arbitrators was in excess of damages claimed in the petition. It is a settled rule that the award of an Arbitrator must follow the submission, but it does not appear to us quite clear that the submission was limited by the terms of the petition, and it would seem at least open to discussion whether the particulars of claim, which according to Consul Robertson's account reached the full amount of the award, may not be regarded as an amended claim on which the award was properly founded. We are, however, of opinion, that Mr. Consul Robertson had no power by an Order of Court to reduce the amount of the award. The 226th Rule, framed under the Order in Council of 9th March, 1865, is only applicable to awards made under arbitrations, the agreements for which are made Rules of Court (Rule 217). But even if this be so, the award may still be good. Mr. Consul Robertson's authority, however, was that of a private arbitrator, and no more, and he was clearly wrong in requiring or enforcing the payment of money by virtue of his judicial or Consular office, in which capacity he had no jurisdiction over the case.

Under these circumstances we are of opinion that he has rendered himself liable to an action for the recovery of the money paid by the owners of the "Ocean Queen".

In such an action the validity of the award would appear to us to come in question at least as affecting the amount of damages, for if the award were good, the damages might be little more than nominal; if it were bad, it would amount to the whole sum paid.

Such is the view, which we are disposed to take of the proceedings and liabilities of Consul Robertson. But we think it right further to observe, that we are not aware by what authority Sir E. Hornby, who professed himself unable to deal with the award, called upon the Consul in a summary manner, without any action or suit being instituted, to pay over a sum of money. This summary jurisdiction is exercised by the Courts of this country over their own officers, among whom attornies are included, but over no other persons, and we are at a loss to see how Consul Robertson could be regarded as belonging to the class, over whom the Supreme Court at Shanghae could exercise such a jurisdiction. On the whole we think that Mr. Robertson should appear and show cause against the rule, protesting against Sir E. Hornby's authority to grant it, and if it should be made absolute, we think that there would be ground of appealing. If an action should be brought he must seek professional advice as to his defence to it. We are not sufficiently informed to advise on this with any confidence.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 90.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received December* 28.)

*Temple, December* 27, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th December instant, stating that he was directed by your Lordship to transmit to us a despatch with its inclosures from Her Majesty's Minister in Japan (No. 198), in

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regard to the difficulties experienced by Her Majesty's Consul at Hakodate in adjusting a dispute that had arisen between two British merchants at that port as to the tenancy of a house, and raising a question as to the extent of the assistance that may be claimed from from Her Majesty's Naval Officers by Her Majesty's Consuls in Japan in the enforcement of their judicial decisions.

Mr. Hammond was pleased further to state that he was to request that we would take the papers into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have taken the papers into consideration and have the honour to report—

That the views of the Chief Justice of Shanghae are correct, and that the Commanders of Her Majesty's ships of war are not liable to be called upon to enforce the civil process of a Consular Court.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 91.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received December* 30.)

My Lord, *Temple, December* 29, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th of December instant, stating that he was directed by your Lordship to transmit to us three despatches from Her Majesty's Minister in Japan (Nos. 205, 206, and 211), relative to a Treaty of Friendship and Commerce which has been recently concluded between Japan and the Austro-Hungarian Monarchy, and reporting that he had consented, as a temporary arrangement, that Her Majesty's Consuls in Japan should act as Consuls for the Austro-Hungarian Monarchy.

Mr. Hammond was also pleased to transmit to us the correspondence which had passed with Her Majesty's Representatives at Vienna and Peking upon this subject,* and to say that he was to request that we should take the papers into our consideration and favour your Lordship with our opinion as to how far Her Majesty's Consuls can safely exercise the jurisdiction, thus conferred on them, over Austro-Hungarian subjects.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That we think that there is no legal objection to Her Majesty's Consuls personally acting also as Consuls for the Austro-Hungarian Monarchy, in matters which concern the administrative functions of Consuls in China and Japan; and as regards their jurisdiction over Austro-Hungarian subjects, conceded by the Treaties with China and Japan, we consider that British Consuls, as such, would not be personally precluded from exercising such jurisdiction, if duly authorized, according to Austro-Hungarian law, but we are of opinion that Her Majesty's Consuls could not properly cite Austro-Hungarian subjects into their provincial Courts, and put in force the coercive jurisdiction of those Courts, as established by Her Majesty's Order in Council against Austro-Hungarian subjects upon the authority of the Circular of his Excellency Baron Petz. To render the exercise of such a jurisdiction lawful as regards Austro-Hungarian subjects, there would be, in our opinion, necessity for a Diplomatic Convention between Great Britain and the Austro-Hungarian Monarchy conceding that jurisdiction, and an Order of Her Majesty in Council providing for the exercise of the jurisdiction conceded by the Convention.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Sir R. Alcock, No. 85; to Lord Bloomfield, No. 203; Sir R. Alcock, No. 40; to Sir R. Alcock, No. [illegible]

## Madagascar.

### No. 92.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 6.)

My Lord, *Temple, January* 5, 1869.

WE are favoured with a letter from Mr. Murray, dated the 28th of August last, stating that, with reference to a report made by the late Law Officers on the 11th of August, respecting the proposed alterations in the Order in Council conferring power of jurisdiction upon Her Majesty's Consul in Madagascar, he was directed by Lord Stanley to transmit to them the Order in Council in which the clerical alterations suggested by the Procureur-General of Mauritius, as marked, together with a duplicate of his letter containing the more important amendments which were proposed by him, both of which papers were stated in the Law Officers' Report to have been omitted to be sent in the last reference from the Foreign Office, and Mr. Murray was pleased to request an opinion of the Law Officers upon the Order as now proposed to be amended.

In compliance with the request contained in Mr. Murray's letter we have the honour to report—

That the clerical amendments which have been made in the draft Order are such as your Lordship may properly approve.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 93.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October* 5.)

My Lord, *Temple, October* 4, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th September, stating that, with reference to our Reports of the 3rd February, 1868, therewith inclosed, on the subject of Consular jurisdiction in Madagascar, he was directed by your Lordship to transmit to us a copy in print of amended rules and regulations framed by Her Majesty's Consul, under the Order in Council of the 4th of February last.

Mr. Hammond was pleased to inclose, for our information, the former rules, and to request that we would take the papers into consideration and report to your Lordship whether we were of opinion that the amended rules were correct, and might be approved of by your Lordship.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That we are of opinion that the amended rules may be properly approved by your Lordship as correct.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Mexico.

### No. 94.

*The Attorney- and Solicitor-General to the Earl of Clarendon.—(Received February 22.)*

*Temple, February* 22, 1869.

My Lord,

WE are favoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 26th January last, stating that he was directed by you to state that the Queen's Advocate's report of the 18th September, respecting the proceedings of Commander Bridges, of Her Majesty's ship "Chanticleer," at Mazatlan, was communicated to the Board of Admiralty, and the substance of it by that Department to the Commander-in-chief in the Pacific, who, as we would see by his letter sent therewith, was of opinion that, if acted upon, it might lead to inconvenience; and further stating that he was therefore directed by your Lordship to transmit to us and the Queen's Advocate the whole of the papers on the subject, and to say that you would be glad to receive his and our common opinion on the doubts raised by the Admiral.

In obedience to your Lordship's commands we (the Attorney- and Solicitor-General) have taken the papers into our consideration, and we have the honour to report—

That the power of making war or reprisals belongs alone to the sovereign nation; nor are the captains of the Queen's ships intrusted by her with authority to commit his country to either.

If we are asked whether the acts of Commander Bridges are of the nature of war or of reprisals, we must reply that they appear to us to be of the nature neither of one nor of the other, unless adopted by Her Majesty's Government, in which case the Mexican Government would be entitled to treat them as acts of war. They are acts of violence done by a naval officer to Mexican property, public and private, and to the sovereignty of the Mexican Government, for which he is responsible to his own Government, and for which his own Government in him are responsible to Mexico, unless it disavows them Acts of the Sovereign Nation alone can be deemed either war or reprisals.

On consideration we think there is no sound foundation for the distinction between war and a naval captain's blockade of a port, amounting only to reprisals, because neutral ships have been allowed ingress and egress. We think there must be some misapprehension as to the meaning of the Queen's Advocate's opinion, which has not been sent to us, for it is clear that an English captain cannot, *proprio motu*, make war, reprisals, or blockade, nor create neutrals.

The questions raised by the conduct of Commander Bridges are two:—First, assuming what was done by him to be adopted as done by the authority of the English Government, would the English Government be justified in thus dealing with Mexico by the practice and opinions of the civilized world? It is the practice of civilized nations, when dealing with other nations in amity, to abstain from war and reprisals alike till an appeal has been made to the Government for redress. Commander Bridges did not so abstain, for the nearest Mexican General was not the Mexican Government. If, indeed, the English Government (for reasons of which alone it is competent to judge) has resolved to deal exceptionally with Mexico, of course it can do so; but if Mexico is to be treated as an ordinary nation, not beyond the pale of amity, the English Government would not have been justified by international practice in treating Mexico as Commander Bridges treated it on behalf of England.

The next question is, how far the Queen has delegated to Commander Bridges authority to redress injuries of the sort described? This is a question of fact to be answered from his instructions. We have before intimated that, as a general rule, officers of men-of-war are not authorized to use violence, except in cases of necessity, such as the actual defence of ship or flag, and independently of the Order of the 23rd May, 1867, which had for its object the preventing of acts of this very kind on the part of Her Majesty's navy, there is no trace to be found of any power given to Commander Bridges which would justify his proceedings. This was not a case of instant necessity, and the proper course of Commander Bridges was to report what had taken place and to suspend further action until he had received orders from his Government.

We have, &c,
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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*Opinion of the Queen's Advocate.*

I AGREE with the Attorney-General and the Solicitor-General that the authority to make reprisals, equally as to make war, is derived from the Sovereign Power of a nation, and that the Commanders of Her Majesty's ships, without special authority from the Crown, cannot commit the nation to one or the other; but I cannot agree with them that there is no sound distinction between the closing of a foreign port against the commerce of the foreign State alone, by way of reprisals, and the closing of that port against the commerce of all nations, by way of belligerent blockade.

With regard to my previous opinions, the reference to reprisals was intended to meet the charge of the Mexican officials that the act of Commander Bridges was an act of hostility, whereas I considered it to amount, at the most, to an act of reprisal, not constituting war. I had also stated, in my first opinion, that, under the circumstances detailed by Commander Bridges, I considered there had been a denial of justice to him after flagrant wrong, such as would have justified Her Majesty's Government in authorizing reprisals against Mexican vessels, with a view to obtain the restitution of the doubloons and satisfaction for the indignities offered to Her Majesty's flag, and it was in the same sense that I stated, in my second opinion, that I considered that the closing of the port of Mazatlan, as an act of reprisal, was justifiable in an international point of view, that is, as between Great Britain and Mexico, but I did not thereby intend it to be understood that the act of Commander Bridges, being done without due authority, would not require the adoption of Her Majesty's Government.

The Attorney-General and the Solicitor-General are of opinion that, under the circumstances of the case, Commander Bridges ought to have reported what had taken place, and to have suspended further action until he had received further orders from his Government. I agree with them, that it would have been the more proper course for Commander Bridges to have remained cruizing off the Mazatlan without interfering with Mexican commerce, until he had received further instructions from the Admiral of the Station; but in the reports which I submitted to your Lordship's predecessor, I had in view not so much the question between Commander Bridges and the Admiral of the Station, as the questions which might arise between the two Governments, and how far the conduct of Commander Bridges could be justified, assuming it to be adopted by Her Majesty's Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## Monte Video.

### No. 95.

*The Queen's Advocate to the Earl of Clarendon.—(Received June 26.)*

*Temple, June* 25, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to transmit to me for my opinion the accompanying despatch from Her Majesty's Consul-General at Monte Video, inclosing a correspondence relative to the forcible seizure by the Uruguayan authorities of the

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"Commercial Bank of Salto." The previous despatch from Major Munro, to which reference is made, was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Acting Consul-General at Monte Video may be properly instructed not to interfere in this case, unless the Directory of the Bank of Salto is prepared to conform itself to the requirements of the Uruguayan Law, with which it appears hitherto to have refused compliance, and should request his good offices with the Uruguayan Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## Netherlands.

### No. 96.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June* 14.)

*Temple, June* 12, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 7th instant, stating that he was directed to transmit to me a letter from a Mr. Davidson, complaining of having been subjected to ill-treatment at the hands of the Netherlands authorities at Sourabaza, in Java; and to request that I would inform your Lordship whether there are any such circumstances in the case as would in my opinion call for the intervention of Her Majesty's Government with that of the Netherlands. A *précis* of the letter which has been made in the Foreign Office was also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Davidson in his Memorial to your Lordship rests his complaint on two grounds, first, that he had done nothing to deserve the punishment inflicted upon him; secondly, that the treatment to which he has been exposed is in violation of the Treaty of 1824. It appears on reference to that Treaty (3 Hertslet, page 285) that Great Britain and the Netherlands agreed to admit the subjects of each other to trade with their respective possessions in Eastern Archipelago "upon the footing of the most-favoured nation, their respective subjects conforming themselves to the local regulations of each Settlement."

Mr. Davidson states that it is a local regulation at Sourabaza that Europeans residing there, irrespective of nationality, are held to military service in the locrl militia. Mr. Davidson appears to have conformed to this regulation on his first arrival at Sourabaza, and to have procured from the local authorities an exemption from service for six months, on the ground of temporary lameness, and to have been put upon the contribution list for that period. He does not appear to have made any appeal to Her Majesty's Consul at that time on the ground that the requirements of the local authorities were in excess of the Treaty Stipulations of 1824, neither does he appear on the recent occasion of the complaint, which he addressed to Her Majesty's Consul on being ordered to comply with the sentence of the Court Martial, to have appealed to the stipulations of that Treaty. It would, therefore, seem to be an afterthought on the part of Mr. Davidson, when he alleges that the authorities at Sourabaza "have exceeded their legal powers as defined by that Treaty." I am of opinion that the obligation to serve in the Schuttery of Sourabaza, being a local regulation of the Settlement, is binding under the Treaty of 1824 upon all British subjects, who settle there for trade unless there be "any more favoured nation" which is by Treaty exempt from it. I think this to be the legitimate construction of the Ist Article of that Treaty, and I consider that Her Majesty's Government must be taken to have accepted that construction, as special exemptions in favour of Consular Officers have been introduced into a later Treaty, to which Her Majesty's Consul refers in his letter of July 10, 1868, namely, the Consular Treaty between Great Britain and the Netherlands, of March 6, 1856 (10 Hertslet, page 480). Under the

XIIIth Article of that Treaty it is specially provided, that the Consuls of the two Contracting Parties in the Colonies and possessions of the other shall," unless subjects of the country, "be exempt from all military service and from military requisitions, as well as from all pecuniary compositions in lieu of military service." There remains for your Lordship's consideration the first averment of Mr. Davidson, that he had done nothing to deserve the punishment inflicted upon him. It appears from the correspondence that on 13th June, 1868, Mr. Davidson had been served with an order to receive the Schuttery Arms, and supplied with a copy of the regulations,—that he thereupon applied by letter to Lieutenant-Colonel Coster to be exempted totally from active service: that he was informed on the same day that he could only be excused on "proving by a due certificate that he was not fit for actual service;" that Mr. Davidson thereupon requested an interview with the Lieutenant-Colonel, and was informed by him on 20th June, that the Lieutenant-Colonel would see him on that evening or the next day: that Mr. Davidson does not appear to have waited on the Lieutenant-Colonel, which he was bound to have done, that he subsequently received notice on 22nd June to attend a Court Martial on 25th June to be tried for disobedience to the order to receive the Schuttery arms. On that day he was heard on his defence before the Court, and his reasons for refusing to receive the arms were held by the Court to be not satisfactory, and he was thereupon sentenced for wilful negligence in fulfiling the orders given to him to "one day's Provost arrest." It would appear that the Court Martial proceeded in accordance with the Code of Regulations for the Schuttery in Java, and Mr. Davidson does not impugn the sentence of the Court on the ground of its not being warranted by those Regulations, but upon the ground that the punishment of twenty-four hours' imprisonment in the Military (Schuttery) Prison was ignominious, and that the sentence was harsh and unusually severe for a first and involuntary offence. But Mr. Davidson's statement in his Memorial, that his neglect was unintentional, is hardly reconcilable with the conclusion of the Auditor of the Court, that Mr. Davidson has refused "to take delivery of his arms after having received often repeated orders."

I have gone somewhat minutely into details in this case, as I am aware how properly jealous Her Majesty's Government is in protecting British subjects resident for purposes of trade in foreign countries, where the law of military conscription prevails. from forced military service, but the conditions upon which British subjects are allowed to trade in the Dutch Colonies of the Eastern Archipelago are exceptional, and it would appear from the letter of Her Majesty's Consul already referred to, that the rule is for every foreigner who takes up his residence in Java, to obtain a permission to reside, and give a promise to obey the laws of the country. Mr. Davidson from his own statement appears neither to have applied for, nor to have received any such permission, and although he states that he is aware that he owes obedience to the laws of the country, he seems to have shown both a singular carelessness in making himself acquainted with those laws, and at the same time a wilful determination to resist the execution of them, when made known to him. His ignorance of the Dutch language may afford some excuse for his imperfect knowledge of the law, although Lieutenant-Colonel Coster properly pointed out to him that he should have recourse to a translator, but Mr. Davidson can have no excuse for resisting the execution of the sentence of the Court Martial, and his conduct in that matter was highly unbecoming a British merchant, as he compelled the local authorities to enforce the law against him in a manner calculated to lower the European character in the opinion of the natives.

I have, &c.
(Signed) TRAVERS TWISS.

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## New Granada (Colombia).

### No. 97.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received March* 23.)

*Temple, March* 23, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed to transmit to us the accompanying

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despatch from Her Majesty's Chargé d'Affaires at Bogota No. 3, inclosing a copy of a Convention between the United States of America and the United States of Colombia, respecting the construction of a ship canal across the Isthmus of Panama. A despatch from Her Majesty's Minister at Washington upon this subject was also inclosed, and Mr. Hammond was pleased to request that we would take the same into consideration, and furnish your Lordship with our opinion whether this Convention is consistent with the VIIIth Article of that between Her Majesty's Government and the United States of the 19th of April, 1850.

The previous correspondence relative to this matter, and a copy of the Convention of the 19th of April, 1850, between Her Majesty and the United States of America, were also inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That it is observable that one of the objects of Article VIII of the Clayton and Bulwer Convention would appear to be the encouragement of all practicable communications between the two oceans, and that Article III of the Convention between the United States of America and those of Colombia seems to have an opposite tendency; at the same time we are unable to say that there is any absolute inconsistency between the two Conventions, or to advise your Lordship that there is any ground of remonstrance with the American Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D COLERIDGE.
TRAVERS TWISS.

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## No. 98.

*The Queen's Advocate to the Earl of Clarendon.—(Received May 8.)*

*Temple, May* 8, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that with reference to my report of the 28th December last, he was directed to transmit to me a further despatch from Her Majesty's Chargé d'Affaires at Bogota, upon the subject of Mr. Percy Brandon's claim on the Colombian Government on account of the detention of the steamer "Patrono," and Mr. Hammond was pleased to request that I would take Mr. Bunch's despatch into consideration, and furnish your Lordship with my opinion thereupon. The previous papers in the case were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That the explanation given by Mr. Brandon of an apparent contradiction between his own statement and the protest of the master of the "Patrono" is satisfactory, but it does not furnish any additional support to his claim for compensation for the detention of the "Patrono" by the Governor-General of New Granada.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 99.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received June 1.)*

*Temple, May* 31, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th May instant stating that, with reference to our Report of the 23rd of March last, relative to a Convention signed by the United States of America and the United States of Colombia for the construction of a ship canal across the Isthmus of Panama, he was directed by your Lordship to transmit to us, for any observations we might have to offer, a despatch from Her Majesty's Minister at Washington, inclosing a copy of a Memorandum drawn up by the Government of the United States of America, with reference to the accordance of the Colombia Convention with the Clayton-Bulwer Treaty of 1850.

Mr. Hammond was pleased to inclose a copy of the Convention, and to say that the Convention had lately been thrown out by the Senate of Colombia.

In obedience to your Lordship's commands we have the honour to report—

That with regard to the Memorandum drawn up on behalf of the Government of the

United States, we consider the observations to be well founded, that the Government of the United States would not have been precluded by the IIIrd Article of the proposed Treaty with Colombia from giving its consent to the construction of other inter-oceanic communications across the isthmus, which connects North and South America, in accordance with its engagements to Great Britain under the Clayton-Bulwer Treaty.

As Mr. Hammond's letter states that the Convention has lately been thrown out by the Senate of Colombia, we presume its ratification has been thereby postponed *sine die*, otherwise with regard to the further observations in the Memorandum, "that the effect of Article VIII of the Clayton-Bulwer Treaty seems to the Government of the United States to entitle them to call on Great Britain to unite in guaranteeing the protection and neutrality of the proposed ship canal," we would in reply observe that there is a condition attached to the Treaty engagement of Great Britain on this head, namely, that the parties constructing or using the same shall impose no other charges or conditions of traffic thereupon than the two Governments shall approve as just and reasonable. It would therefore be necessary for the United States to obtain, as a condition precedent to any such title on their part, the approval of Great Britain to the charges which the United States are authorized to impose under Article VII, and to the conditions of traffic which have been stipulated in Article IX of the proposed Treaty. With regard to the conditions stipulated in the latter Article, that "The United States shall have the right to use the canal for the passage of troops, munitions and vessels of war in time of peace." We think it right to point out to your Lordship, that under Article XIII this right of the United States would be enjoyed by an individual citizen or association of citizens of the United States, if the United States should devolve under that Article upon such person or persons it Treaty-right to construct and maintain the canal. Such a result would be at variance with the stipulation of the Clayton-Bulwer Treaty, that the inter-oceanic communications should be open to the subjects and citizens of Great Britain and the United States on equal terms.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 100.

*The Queen's Advocate to the Earl of Clarendon.—(Received June 23.)*

*Temple, June* 21, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed by your Lordship to transmit to me, for my opinion, an accompanying despatch from Her Majesty's Chargé d'Affaires at Bogotá, requesting to be informed whether Mr. Peter A. Aria, who is stated to have been born in Jamaica, and to be the son of a Spaniard who married a Jamaica woman, is entitled to British protection in Colombia.

In obedience to your Lordship's commands I have the honour to report—

That if Mr. Peter A. Aria was really born in Jamaica, he owes allegiance under the English Common Law to the British Crown, and is therefore for certain purposes to be regarded as a British subject. Whether in the present case he would be entitled to British protection must depend upon the purposes for which he claims it, as he may have so incorporated himself with a foreign country by domicil, that for commercial purposes he may be properly refused British protection in that country.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 101.

*The Queen's Advocate to the Earl of Clarendon.—(Received July 17.)*

*Temple, July* 16, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence, respecting the claim of Mr. George, a British subject residing at Barbacoa, on the Colombian Government for damages, which he alleges he has sustained during the Revolution of 1861; and Mr. Hammond was to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may, in my opinion, properly decline to give any support to Mr. George's claim in its present form. It appears from the Judgment of the Supreme Court that if any damages are due from the Colombian Government by reason of the forced occupation in 1861 of the gold mine leased to Mr. George, they are by the law of the Republic due to the owner, not to the lessee, of the mine, and the lessee may recover whatever he may be entitled to from the owner. Under what precise title Mr. George has sued the Colombian Government does not clearly appear from the portion of the Judgment of the Supreme Court which Mr. Bunch has forwarded to your Lordship, but it would seem as if he has claimed as inheritor ("cessionaria") of the rights of the owner of the mine, and that the owner on receiving from Mr. George his full rental "declared that he had ceded to the lessee of the mine the value of the damages which were caused to the mine during the time it was occupied against the will of Mr. George." If this be so, Mr. George is in fact suing the Colombian Government for damages which are properly due to his father-in-law, a Colombian citizen, and your Lordship is asked to support Mr. George's claim as if it were a *bonâ fide* British claim. This would clearly not be a case in which the interference of Her Majesty's Government could be properly invoked. With regard to any claim which Mr. George may have in equity against the Columbian Government, the possibility of which is hinted at by Mr. Bunch in his despatch of May 19, 1869, I think your Lordship may properly require as a condition precedent to considering any such claim, that Mr. Bunch should be satisfied that the lease of the mine was not a colorable transaction between Mr. George and his father-in-law, the true purport of which was not to create a *bonâ fide* British interest, but to give to Columbian interests the protection of a fictitious British character.

I have, &c.  
(Signed) TRAVERS TWISS.

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## No. 102.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received August* 9.)

*Temple, August* 7, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 31st ultimo, stating that he was directed to transmit to me a despatch from Her Majesty's Consul at Carthagena, in Columbia, reporting certain proceedings in which he has been concerned connected with the discharge and relief of a British seaman, and which have served as the grounds of legal proceedings instituted against him in the Colombian Courts; and to request that I would take Mr. Fonblanque's despatch into my consideration, and report to your Lordship such observations as I might have to offer thereupon.

In obedience to your Lordship's commands I have the honour to report—

That as regards the general question raised in the despatch of Her Majesty's Consul at Carthagena, I see no objection, on principle, to his availing himself of the protection (under the favoured-nation clause of the Treaty between Great Britain and Colombia), which is enjoyed by several of his colleagues, if proceedings should at any time be instituted against him in the local courts at Carthagena in regard to matters in which he has acted officially under instructions from Her Majesty's Board of Trade. I am, however, not conversant with the particular Treaty which contains "the favoured-nation" clause to which Her Majesty's Consul refers. I do not find any such clause in the Treaty of 1825, but I presume that a clause to the purport suggested by Her Majesty's Consul is to be found in some later Treaty.

I have, &c.  
(Signed) TRAVERS TWISS.

## No. 103.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received August* 23.)

*Temple, August* 21, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 18th instant, stating that, with reference to my Report of the 28th of December last on the subject of the claim of Messrs. Stiebel Brothers on the Colombian Government, he was directed to transmit to me, together with the former papers, a further despatch from Her Majesty's Chargé d'Affaires at Bogota, inclosing copies of a correspondence which has passed between him and the Colombian Minister for Foreign Affairs on this case, and stating that Señor Pradilla had informed him, in the course of conversation, that, before this claim can be settled, it is necessary that Messrs. Stiebel should make an affidavit before the Lord Mayor (whose signature should be certified by the Colombian Consul) to the effect: 1, that the lead was sent to Antioguia in the ordinary course of trade, and for mining purposes only; and, 2ndly, that it was *bonâ fide* and absolutely the property of Messrs. Stiebel, and that no foreigners, and especially no Colombian, had, directly or indirectly, any share in it. That this affidavit, as I should perceive from the inclosed letter from Messrs. Stiebel, they decline to furnish, on the plea that sufficient proof of their ownership to this property has already been produced; and Mr. Otway was therefore to request that I would again take this case into consideration and inform your Lordship whether I am of opinion that Her Majesty's Government should continue to press this claim upon the Colombian Government in the absence of the affidavit required.

In obedience to your Lordship's commands I have the honour to report—

That before your Lordship should decide not to press this claim any further on the Colombian Government, as Mr. Bunch has always been of opinion that it is a *bonâ fide* claim, it will, I think, be proper to inform Messrs. Stiebel, Brothers, that the affidavit is required to rebut a presumption against the lead being their property at the time of seizure, which presumption arises upon documents presented by them to the Colombian Government of a date subsequent to the shipping documents to which they refer in their letter of 13th August last. That Messrs. Stiebel, Brothers, will readily perceive that, however sufficient the latter documents might be, according to mercantile usage, to prove that Messrs. Stiebel were the owners of the lead at the time of shipment, they are not conclusive that it was their property when it was seized at Remolino, and that your Lordship thinks it reasonable that they should make a declaration before the Lord Mayor, as required by the Colombian Goverbment, to the effect, if not in the words suggested by Mr. Bunch, the object of such declaration being to satisfy the Colombian Government that the lead was imported by Messrs. Stiebel, Brothers, in the ordinary course of trade for mining purposes, as stated by themselves in their letter of the 26th October, 1868, to the Colombian Consul-General in London, and that, at the time of seizure, it was the property of Messrs. Stiebel, Brothers, and not of Messrs. Echeverri, Boteri, and Co., or any Colombian citizen.

I have, &c.  
(Signed) TRAVERS TWISS.

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## No. 104.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received October* 11.)

*Temple, October* 9, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th ultimo, stating that, with reference to my Report of the 31st December last, on the subject of the claim of Mr. Percy Brandon against the Colombian Government, on account of certain bonds issued by the former Government of New Granada, he was directed by your Lordship to transmit to me the inclosed further correspondence, as per list inclosed, which had passed between the Foreign Office and the Colombian Minister in London, and also a further despatch from Her Majesty's Chargé d'Affaires at Bogota, with reference to this case.

That from this correspondence I should perceive that the Colombian Government have declined to acknowledge the claim, and that they now propose to reopen the case in London, expressing the hope and belief that, after a fresh examination, it may be found that justice is on the side of Colombia. Mr. Hammond was therefore pleased to request

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that I would take these papers into my consideration, and favour your Lordship with my opinion as to the course which your Lordship should pursue at this stage of the proceedings.

The former papers were annexed for reference, if required.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the aspect of this case is, in my opinion, materially affected by the facts elicited before the Committee of the Senate of the United States of Colombia, whose Report is communicated to your Lordship in Señor Torres Caccido's letter of the 6th of August, 1869, and the substance of which is also set out in Mr. Bunch's despatch No. 44, of July 15, 1869, without comment.. I presume therefore, that those facts may be taken to be established to Mr, Bunch's satisfaction. I am of opinion that they constitute just ground of complaint against Mr. Percy Brandon for not having fully disclosed to Her Majesty's Chargé d'Affaires at Bogota, in the first instance, the circumstances under which he became the holder of the greater part of the "Vales," viz., that they are in fact the property of Mr. Michelson, a Danish subject, and that Mr. Percy Brandon holds them as a part security for a debt due from Mr. Michelsen to the house of Messrs. Fruhling and Goschen, of which Mr. Percy Brandon is agent. The history of the "Vales," as now established, would appear to be as follows:—

1. They were originally issued in 1854, pursuant to the Convention of January 26, 1854, to Mr. B. Watts, the agent of Mr. J. W. Jones, a British subject, in payment of a debt due to Mr. Jones from the Government of New Granada.

2. They were sold in 1855 in market overt, by Messrs. Schloss and Co., the agents of Messrs. Watts and Jones, to Mr. Laverde, a Colombian citizen, and they remained in his possession until his death; and after that event, in possession of his executors until 1866.

3. They were transferred in 1866 by the executors of Mr. Laverde to Mr. Michelsen, a Danish subject, in exchange for 3 per cent. bonds, under a special deed of agreement.

4. Mr. Michelsen subsequently deposited them with Mr. Percy Brandon, a British subject, as part security for a debt due from Mr. Michelsen to Messrs. Fruhling and Goschen, British subjects.

A copy of the deed of agreement, under which Mr. Michelsen obtained these "Vales" from the executors of Mr. Laverde, has also been forwarded to your Lordship by Señor Torres Caicedo, in his letter of 22nd January, 1869, in which he invites your Lordship's special attention to the terms of the agreement. It recites, in substance, that as the regulations in force require the floating bonds of the eighth class to be converted into floating bonds of the 3 per cents., in order to perform this operation the executors have agreed to exchange the said bonds with Mr. Michelsen for the other corresponding bonds. The executors accordingly hand over to Mr. Michelsen 149 floating bonds of the eighth class "Vales," each of 100 dollars (original value), calculated to be worth only 40,395 dollars at their depreciated value, in exchange for 59 floating 3 per cent. bonds, estimated at a capital sum of 42,550 dollars, the balance of 2,025 dollars being added by way or gift or bonus, as it is termed in the correspondence, for the minor children of Mr. Laverde. It is extremely difficult to understand this transaction, more particularly how the bonus came to be added for the children of Mr. Laverde, unless on the hypothesis that Mr. Michelsen, at the time of purchase, knew where to place the bonds with advantage, and intended to operate with them in a manner likely to be more profitable to himself than the conversion of them into 3 per cents., according to the agreement. In what manner they found their way into Mr. Percy Brandon's hands does not precisely appear; but within three months after the deed of agreement had been signed, Mr. Percy Brandon, in the character of agent of the representatives of Messrs. Watts and Jones, petitioned the Colombian Treasury that the "Vales" should be received at their original value in the Custom-house at Bogota; and on the 1st of October following, brought his complaint to the notice of Her Majesty's Chargé d'Affaires at Bogota.

The case, however, was then presented to Her Majesty's Chargé d'Affaires under a very different aspect from that which now seems to be its true character. Your Lordship will perceive, on reference to Mr. Bunch's despatch of January 7, 1867, inclosing copies of certain papers from Mr. Percy Brandon, that Mr. Percy Brandon, in his memorial to the Secretary of the Treasury at Bogota, represents himself to have received the bonds "from the agent of the first owners at a value based upon their character according to the Convention," and in his letter of October 1, 1866, to Her Majesty's Chargé d'Affaires states, that "his principals will incur the enormous loss of about 85 per cent. if the 'Vales' are to be converted into 3 per cents. at that present moment." Further, it appears from Mr. Bunch's despatch of January 7, 1867, that Mr. Percy Brandon had

represented to him that Mr. Michelsen had acted throughout these transactions as the agent of Messrs. Watts and Jones; that he (Mr. Michelsen), as such agent, had sold the "Vales" to Mr. Laverde; that Messrs. Fruhling and Goschen had become the attorneys or representatives of Messrs. Watts and Jones; that he, Mr. Percy Brandon, as the agent of Messrs. Fruhling and Goschen, had applied to Mr. Michelsen for the bonds in his possession, which were delivered to him, including those sold to Mr. Laverde. Further, Mr. Michelsen appears to have stated to Her Majesty's Chargé d'Affaires that he had to repurchase the "Vales" at a cost to himself of 2,000 dollars, "as Mr. Brandon claimed the very identical securities which had originally been delivered to Mr. Michelsen." Upon reading these statements, to which my attention was chiefly directed when I prepared my previous Report for your Lordship, I was under the impression that, unless Her Majesty's Government interfered, Messrs. Watts and Jones, to whom the "Vales" had been originally issued, would lose part of the benefit intended to be secured to them by the Convention of 1854, and that Mr. Michelsen, their agent, would also incur a personal loss of 2,000 dollars; whereas it would now appear that the result of your Lordship's intervention, if successful, would be to secure to Mr. Michelsen a very large profit upon the purchase which he has made of the bonds from the executors of Mr. Laverde—namely, the difference between their depreciated value, plus 2,000 dollars, and their original value; or, in other words, upon Mr. P. Brandon's own calculation of the possible loss to which he states that his principals might be exposed if the original value of the bonds should not be realized, a profit of not less than 85 per cent.!

It does not appear from Mr. Bunch's despatches that he had ever seen the deed of agreement under which Mr. Michelsen obtained possession of the "Vales" from the executors of Mr. Laverde, and he may not have attached due weight to the Report of the Colombian Senate in the absence of that deed; but it is difficult to peruse the deed of agreement, which I have now before me for the first time, and reconcile it with the original representation of Mr. Percy Brandon. Whether there may have been error or bad faith in Mr. P. Brandon's conduct, it will be for your Lordship to consider. Mr. Michelsen's statement to Mr. Bunch, that Mr. P. Brandon required him to procure the identical "Vales" which had been sold to Mr. Laverde, would seem to suggest that Mr. Michelsen, in obtaining possession of Mr. Laverde's bonds, was an instrument in the hands of Mr. P. Brandon. On the other hand, Mr. P. Brandon's representations to Mr. Bunch, that his principals will lose 85 per cent. by the transaction, seems to suggest that he has been the victim of some misrepresentation on the part of Mr. Michelsen. It is possible, however, that both parties may have acted in good faith towards one another, and have considered themselves justified in co-operating to procure from the Colombian Government the redemption of the "Vales" at their original value under the Convention of 1854, and to enforce that redemption, if necessary, through the action of Her Majesty's Charge d'Affaires, to their common profit.

It is for your Lordship to determine whether this is an error on their part. In my previous report to your Lordship's predecessor I have stated my opinion, that Her Majesty's Government has the right, if it pleases, to insist on the Colombian Government fulfilling to the letter its obligations under the Convention of 1854. I retain the same opinion, and I gather from the letter of Senor Torres Caicedo of January 22, 1869, that the Colombian Government does not contest the question of right with Her Majesty's Government. But upon the propriety of your Lordship's instructing Her Majesty's Chargé d'Affaires to insist upon the Colombian Government fulfilling its obligations towards Her Majesty's Government according to the letter of the Convention in this particular case, I entertain very great doubt. I had originally been led to think that great injustice would be done to Messrs. Watts and Jones, in whose favour the "vales" were issued, if the bonds were not to be redeemed by the Colombian Government at their original value, and that to prevent that injustice the intervention of Her Majesty's Chargé d'Affaires might be properly exerted. It is possible indeed that Messrs. Watts and Jones may have an infinitesimal interest in the question as regards some few bonds which Mr. T. Brandon has in his possession, as he speaks in his letter of October 1, 1866, of having received "part of the bonds a long time since from the agent of the first owners." With regard to any such bonds, if Messrs. Watts and Jones have never received full value for them, I apprehend that, according to the principles laid down in the despatches of Senor Torres Caicedo, the Colombian Government would not object to provide for such bonds being redeemed at the Custom-house at Bogota as bonds of the eighth class. Their objection, if I understand their case correctly, is confined to the "Laverde bonds," the value of which had been depreciated under a municipal ordinance before they were purchased by Mr. Michelsen at their depreciated value. It is open, indeed, to Her Majesty's Government still to contest the right of the Colombian Govern-

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ment to depreciate those bonds, whilst they were in the possession of Mr. Laverde, but the further discussion of this question would be without practical consequences as regards Mr. Percy Brandon's interest, seeing that the value of the bonds has not been affected by any municipal ordinance since they were purchased by Mr. Michelsen, and were handed over (howsoever) to Mr. Percy Brandon.

Under the altered aspect of this case, I am of opinion that your Lordship may properly instruct Her Majesty's Chargé d'Affaires at Bogota to inform Mr. Percy Brandon, that the deed of agreement between Mr. Michelsen and the executors of Mr. Laverde, which has been recently communicated to your Lordship by the Colombian Minister in London, appears to your Lordship to be inconsistent with the representations made to Mr. Bunch by Mr. P. Brandon and Mr. Michelsen, and upon the faith of which Her Majesty's Chargé d'Affaires was instructed by your Lordship's predecessor to insist upon the Columbian Government fulfilling its engagements to Her Majesty's Government. That Mr. Michelsen and Mr. P. Brandon should be invited by Her Majesty's Chargé d'Affaiars to offer explanations as to the deed of agreement and subsequent transactions between them, and should be informed that your Lordship will suspend your decision as to the future course which Her Majesty's Government may think it right to adopt, until those explanations have been furnished to Mr. Bunch.

I have, &c.

(Signed) TRAVERS TWISS.

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## Pacific Islands.

### No. 105.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May 17.*)

*Temple, May* 15, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 4th instant, stating that, with reference to previous correspondence regarding the steps which would be taken to confer upon Her Majesty's Consul at the Fiji Islands increased powers of jurisdiction over British subjects, he was directed by your Lordship to transmit to us a letter from the Treasury, inclosing the draft of a Bill prepared under instructions from that Department, by which it was proposed that the provisions of the Foreign Jurisdiction Act should be extended so as to confer the necessary powers on Her Majesty in places where Her Majesty had no jurisdiction by Treaty or otherwise.

Mr. Murray was pleased further to state that we would observe that, in transmitting this draft to the Foreign Office, certain objections were raised by the Lords of the Treasury to the proposed legislation, and that your Lordship considered it, therefore, desirable, before proceeding further in the matter, to consult the Colonial Office which, as the Department that had to deal with matters in Australia, would be concerned in the matter of the proposed connection between Australia and the Fiji Island so far as affected the question of legal proceedings and penalties.

Mr. Murray further stated that he was also to inclose a letter from the Colonial Office, dated 26th February last, from which we should observe that, in replying to this reference, Lord Granville had suggested that the difficulties of the case might be met if the law of this country were assimilated to a law of the United States said to be in force for the same purpose; but that we would learn from the inclosed correspondence with Mr. Thornton that the United States' law had been practically found to be inoperative; and further that he was to request that we would take this subject into our consideration, and in so doing he was to state to us that unless we could suggest any mode of overcoming the difficulties which had been raised, your Lordship feared you would be compelled to abandon the idea of fresh legislation on the matter. In the latter case you would propose to limit your instructions to Her Majesty's Consul to those contained in an annexed draft (No. 2), unless, indeed, we should have any suggestions to make as to

the mode by which the powers of the Consul in dealing with offences could, under existing powers, be beneficially extended.

In obedience to your Lordship's commands we have taken this subject into our consideration, and have the honour to report—

That we are not prepared to suggest to your Lordship any adequate mode of overcoming the difficulties which have been raised in regard to giving effect to the proposed Bill as prepared by Mr. Reilly, and we consider those difficulties inherent in the subject upon which it is proposed to legislate, nor does it occur to us to suggest any amendment to your Lordship's proposed instructions to Consul March.

We have, &c.

(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 106.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received July 16.*)

*Temple, July* 15, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 9th instant, stating that he was directed to transmit to me an extract of a despatch from Her Majesty's Consul at Tahiti, calling attention to the terms of an oath which, according to an Ordinance issued by Queen Pomare and the Imperial Commissioner, is required to be taken by every member of the General Council of Tahiti, and from which I could see that Mr. Miller requests to be instructed as to whether a British subject, taking such oath, would thereby forfeit his right to claim British protection, whilst residing at Tahiti; and to request that I would report to your Lordship my opinion as to the answer which should be returned to Mr. Miller on this point.

In obedience to your Lordship's commands I have the honour to report—

That the terms of the oath are such that a natural-born British subject, who has taken it, may be properly held to have no claim to British protection as long as he continues to be a member of the General Council of Tahiti. Whether his disqualification to claim the benefits of his native character in Tahiti should be maintained, after he has ceased to hold office, if he continues to reside in Tahiti, may depend upon the obligation of the oath, whether it is of a permanent character, or expires upon his quitting office. *Primâ facie*, the taking of such an oath would imply permanent allegiance to the Queen of Pomare and the Protectorate, and unless upon inquiry Her Majesty's Consul should report to your Lordship that the obligation of the oath expires with the office of Councillor, I should be of opinion that a British subject taking such an oath would thereby forfeit all claim to British protection, whilst residing in Tahiti.

I have, &c.

(Signed) TRAVERS TWISS.

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x No. 107

## Persia.

### No. 107.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June 30.*)

*Temple, June* 29, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed to transmit to me the accompanying despatch and its inclosures from Mr. Alison, requesting to be informed whether under the

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circumstances therein stated Meerza Aly Akbar is to be considered as entitled to British protection in Persia; and to request that I would take these papers, together with the correspondence which took place in the year 1860 in regard to the right of this man's father and grandfather to receive British protection, into my consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That it is not quite clear from Sir H. Rawlinson's despatch of March 27, 1860, on what ground Hajee Abdul Azeem was held to be entitled to British protection, whether under the provisions of the British statute law in virtue of his father's Anglo-Indian character, having been himself born at Shikarpore, at that time under the Talpoores of Scinde, or whether in virtue of his own Anglo-Indian character acquired upon the annexation of Scinde to the Anglo-Indian territories in 1843-44. His son, who was born at Meshed, would have no statutory rights derivable from his father's national character, but he may have been held to have such rights as the grandson of a natural-born British subject. It is possible, therefore, although open to some doubt, that Her Majesty's Mission at Teheran may have properly granted British protection to Hajee Abdul Ajeem, and to his son Meerza Aghen Jan. But the statutory link fails in the case of the grandson Meerza Aly Akbar, whom I presume to have been born in Persia, and I am of opinion that he would not be entitled, under any view of his case, to British protection in Persia.

I have, &c.  
(Signed) TRAVERS TWISS.

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# Peru.

Not

## No. 108.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 8.)

*Temple, January* 8, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed to transmit to me the accompanying despatches from Her Majesty's Chargé d'Affaires at Lima (Nos. 117 and 132) respecting a motion which has been introduced into the Peruvian Congress to enact a Law declaring that foreigners cannot claim from the Government of the Republic any compensation or indemnification whatever for damages or losses sustained by them in consequence of political commotions or disturbances, unless such damages or losses may have been caused by the legitimate authorities, and further to enact that foreigners may institute proceedings for such injuries against a third party in accordance with the rules laid down by the laws of the country; and to request that I would take these papers into my consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That upon a careful examination of the text of the law, as published in "El Commercio" of 4th December, 1868, it appears to me to be susceptible of two constructions, and it may be advisable before any action is taken on the subject by Her Majesty's Chargé d'Affaires at Lima, that he should ascertain what is the interpretation which the Peruvian Government intends to be put upon the IIIrd Article as regards the words "only in the exceptional case established in Article II.'

If the Peruvian Legislature has intended to enact "that in all cases when private persons have suffered damage or loss in person or property in consequence of political commotions, except in the case where such damage or loss has been inflicted by the legitimate authorities, they shall not be at liberty to make any direct claim against the Executive Government, but, whether they be foreigners or natives, they shall have a right to sue the authors of the damage in the Peruvian Courts;" in such case no objection could, I think, be raised with reason against such legislation.

Further, if it is intended to provide by the IIIrd Article "that the Executive Government shall not be at liberty to entertain diplomatically the claim of foreigners for compensation in such cases, until they have had recourse to the Peruvian Tribunals, and there has been a refusal or delay of justice to them," it may be that foreign Powers would not have any right to remonstrate against the passing of such a law, and they may properly wait to see how it is administered. But I am clearly of opinion that the Peruvian Legislature is incompetent, by any municipal law, to exempt the Republic from any responsibility for injuries done to foreigners within its territory, to which it may be liable either under the general law of nations or under special Treaty engagements.

I am, &c.  
(Signed) TRAVERS TWISS.

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## No. 109.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 14.)

*Temple, January* 13, 1869.

My Lord.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st December last, stating that he was directed by your Lordship to transmit to us an accompanying despatch and its inclosures from Her Majesty's Chargé d'Affaires at Lima (No. 140), relative to the case of Mrs. Stevenson, a British subject resident in Scotland, who claimed, as next of kin, certain property in Callao, and that we would perceive from Mr. Jenningham's despatch that this case had been tried in the various Courts in Peru, and the Supreme Court of that country had decided that, although Mrs. Stevenson was admittedly the legal heir to the property in question, she could not be allowed to succeed to it in consequence of her being a foreigner and not resident in Peru.

Mr. Hammond was pleased to add that he was, therefore, to request that we would take these papers into our consideration, and favour your Lordship with our opinion on the course which it would be right that Her Majesty's Government should take in this matter.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That this case appears to us to turn entirely on the true construction to be given to Article 635 of the Peruvian Civil Code. This is as follows:—

"A foreigner can inherit property in Peru, if he prove that Peruvians enjoy a similar right in the country to which he belongs."

We think "a similar right" means a right of inheritance, and that the Code intends to provide that a foreigner in Peru may inherit according to the law of Peruvian descent, when he belongs to a country wherein a Peruvian might inherit according to the law of descent in that country, *i.e.*, wherein a Peruvian would not be disqualified from inheriting by reason of being an alien.

The details of the respective laws of descent do not appear to us to be material. The question, then, is, Can Peruvians inherit in England the sort of property which Mrs. Stevenson claims to inherit in Peru?—Clearly they cannot. Mrs. Stevenson, therefore, cannot claim to inherit in Peru by Peruvian Law, and we are not aware of any other ground on which she could claim. We are, accordingly, of opinion that there is nothing in the proceedings of the Courts in Peru which calls for any interference on the part of your Lordship.

We have, &c.  
(Signed) R. P COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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## No. 110.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 31.)

*Temple, May* 31, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 10th instant, stating that with reference to our report of the 13th of January last, relative to the case of Mrs. Stevenson, a British subject, resident in Scotland, who

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claimed as next of kin certain property at Callao, he was directed by your Lordship to transmit to us a letter and its inclosures from Sir J. Ogilby upon that case; and he was to request that we would take those papers into our consideration, and inform your Lordship whether they contained any grounds to induce us to alter our opinion above referred to.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That the papers transmitted by Mr. Hammond for our consideration do not contain any grounds which induce us to alter the opinion which we have expressed to your Lordship in our report of 13th January last. We should wish, however, to correct a misapprehension which appears to exist in the mind of Mr. James Shield, as we infer from his letter to Sir J. Ogilby of 26th April last, that the opinion expressed by us to your Lordship had any reference to the right of succession which Mrs. Stevenson might have to any moveable property of her deceased relative. Under the law of England an alien would enjoy similar rights of succession to moveable property, which a British subject enjoys, and accordingly if Article 635 of the Peruvian Code applies to the moveable as well as to the immoveable property of Miss Maria Stevenson, her grandmother Mrs. Stevenson would be entitled to succeed to the former upon the identical principle of reciprocity, which excludes her from inheriting the latter.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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# Portugal.

## No. 111.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April 3.*)

*Temple, April 2, 1869.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that with reference to the report of the Law Officers of the Crown of October 7, 1867, and to previous reports on the subject of the claims of the bondholders of the South Eastern Railway of Portugal, he was directed by your Lordship to transmit to us therewith, together with the previous papers, the further correspondence which has taken place with regard to this matter, from which we should learn that a Decree has been recently passed by the Portuguese Government, confiscating the property of the railway in question; and Mr. Hammond was pleased to request that we would take the case into our consideration, and favour your Lordship at our earliest convenience with our opinion thereupon.

In obedience to your Lordship's commands we have taken the case into our consideration, together with Mr. Hammond's letter of this day's date, inclosing a further letter from Mr. Mangles relative to this matter, and have the honour to report—

That we consider the course of proceeding suggested by Mr. Daniel, the Chairman of the holders of debentures of the first issue, and supported by Lord Somers, to be the most desirable both for the parties whom they represent, and the parties represented by Mr. Mangles. Your Lordship has already instructed Her Majesty's Minister at Lisbon to give Mr. Daniel's proposal unofficial support, and if Lord Somers is correct in his view, that the payment of the compensation money named in the Decree of the Cortes is included in the conditions of the loan, which is shortly to be brought out in London, it may be wiser on the part of all parties concerned to acquiesce. The forms of law appear to have been observed, but Sir C. Murray is no doubt right in saying that the substance of justice has been violated. Under these circumstances we think your Lordship will be perfectly justified in using any power or influence at your disposal to prevent the effecting

of a loan till the incumbrancies on the railway prior to the contract, or supposed contract, with the Portuguese Government are satisfied. Whether as a matter of policy your Lordship chooses to interfere actively, and whether if you did it would effect the objects of those who are asking for your Lordship's interference, are matters on which we have no means of properly advising your Lordship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 112.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received May 31.*)

*Temple, May 29, 1869.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed to transmit to me the accompanying papers relative to the case of Mr. Cassels, a British subject resident at Oporto, who has been accused of "disseminating opinions contrary to the doctrines of the Church of Rome;" and to request that I would furnish your Lordship with my opinion on this case, and as to whether any steps should be taken in its present stage.

In obedience to your Lordship's commands I have the honour to report—

That it is not advisable for your Lordship to take any steps as regards the Portuguese authorities in the present stage of the proceedings. I may observe, however, that Mr. Cassel's advocate, before the Court of Appeal, appears to have stated that Mr. Cassel had not proper notice of the day of his trial, so as to be able to prepare the necessary elements for his defence, documents, witnesses, &c. If a new trial should take place, it may be hoped that such an irregularity will be avoided, otherwise it might be matter for remonstrance on your Lordship's part. The statement, however, of the advocate may prove to be only an objection on a point of form, which he was justified in taking, although no substantial injury may have resulted to Mr. Cassel. Your Lordship may perhaps think it right to direct Mr. Crawfurd to make some inquiry, and to report to your Lordship on this point in Mr. Cassel's case.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 113.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June 23.*)

*Temple, June 22, 1869.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office, inclosing an account of the proceedings which have taken place at Hong Kong in the case of the "Queen against Saint," in which an *ex-officio* information was filed by the Acting Attorney-General against Mr. Saint for the publication of a Libel against Senhor Amaral, a former Governor of Macao, and afterwards Minister of Marine and for the Colonies of His Majesty the King of Portugal; and Mr. Hammond was pleased to request that we would take the same into consideration, and furnish your Lordship with our opinion upon the case, and as to the course to be pursued by Her Majesty's Government with regard to it.

In obedience to your Lordship's commands we have the honour to report—

That the Crown appears to have been unnecessarily brought into Court to vindicate the character of an ex-Governor of Macao, by the indiscreet and improper conduct of Mr. Ball, while Acting Attorney-General of Hong Kong. This was an error: and the determination of Mr. Pauncefoote to go on with a process, which ought not to have been begun, was, we think, a mistake also. It is true he had before him a choice of evils, and although we think he was mistaken, he was so naturally and pardonably in circumstances of great difficulty, which he had no hand in bringing about. Having determined to proceed, however, it was a serious mistake to proceed by halves, and to resign into other hands the conduct of a Government prosecution.

These mistakes have led to a serious legal and technical difficulty in the further

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prosecution of the case. The defendant pleaded a plea of justification, his right to do which, in answer to an *ex-officio* information, is at least extremely doubtful. But it appears from the Attorney-General's note and from the Judgment of the Chief Justice, that this plea was pleaded by consent. This leads to most inconvenient and embarrasing consequences, and we are asked to advise your Lordship whether an appeal should be applied for in a proceeding which has been most unfortunately begun and unfortunately carried on.

The raising of very important constitutional questions by the Judgment of the Chief Justice is another unhappy incident in this matter. On the whole, however, we are unable to advise the further prosecution, for the sake of settling questions of law, of an appeal in a proceeding which ought not to have been begun, and ought to have been, if begun, conducted very differently. Inconvenient consequences may arise, no doubt, from discontinuing the proceedings in this stage, but they are a less evil in our judgment than continuing them. It is easy by some statement or minute to prevent the Judgment of the Chief Justice from being taken as accepted by the Crown, or standing as an uncontested precedent. The Portuguese Government may properly be informed by your Lordship, that grave questions of procedure have arisen, which render it unadvisable to carry these proceedings further. But that Government may also be told that it will always be open to the Government of Macas to take proceedings in a less objectionable form against any one who libels it. The two pending informations should be put an end to by *nolle prosequi*.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 114.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received July* 12.)

My Lord,
*Temple, July* 10, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th ultimo, stating that with reference to my Report of the 31st August, on the subject of Mr. Andrews' claim on the Portuguese Government, he was directed to transmit to me a despatch from Her Majesty's Minister at Lisbon, No. 64, inclosing the refusal of the Marquis de la Bandeira to admit Mr. Andrews' claim, together with a copy of the opinion of the Portuguese Attorney-General, upon which that refusal is founded. The previous papers, and a letter from Mr. Mee Mathew, the Counsel of Mr. Andrews, containing observations on the opinion of the Portuguese Attorney-General, were also inclosed; and Mr. Hammond was to request that I would take these papers into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That I am unable to advise your Lordship that there are any solid grounds for disputing the view taken by the Portugese Government of Mr. Andrews' claim.

Mr. Andrews' Counsel, in his observations on the recent Report of the Portuguese Attorney-General has suggested, that he cannot have been in possession of all the documents which have passed between the Portuguese and British Governments in Mr. Andrews' case. I have accordingly examined very carefully the voluminous correspondence which has been submitted to me, but I have failed to find any documents in that collection calculated to shake the conclusion at which the Portuguese Attorney-General has arrived, as to the insufficiency of the proof tendered by Mr. Andrews in support of his claim. Those conclusions, I may observe, are not conclusions arrived at for the first time by the Law Officers of the Portuguese Crown, as I find them to be in substance identical with the conclusions contained in a former Report made by the Attorney-General to the Portuguese Treasury on the 4th July, 1849. There is, however, one document to be found in the correspondence to which no reference is made in the recent opinion of the Portuguese Attorney-General, namely, the letter marked "private," and addressed by Baron de Luz to Mr. Andrews on December 9, 1847, in which he states, that he and his colleagues "thought the claim a just one, as it had been proved that the damages had been caused by troops in the Civil War."

Upon this letter Mr. Andrew's counsel has laid considerable stress, as being an admission by the Portuguese Government of the sufficiency of the proof tendered by Mr. Andrews in support of his claim. But I am of opinion that Mr. Andrews' counsel is not justified in setting so high a value upon this letter. It was, in fact, a private communication to Mr. Andrews of the *primâ facie* view, which had been taken by the Council of Ministers at Lisbon of the statements in the petition presented by Mr. Andrews, before that petition had been referred to the Law Advisers of the Government; and it concludes with announcing that "all the papers have been sent to the Procuradores de Fazenda e da Corôa for the purpose of knowing their judicial opinions." What those opinions may have been does not appear from the correspondence, but it does appear that some few months afterwards, upon Sir Hamilton Seymour referring for the first time to this letter, M. Gomaz de Castro, who had succeeded Baron de Luz as Minister for Foreign Affaires, replied that "the Baron de Luz had been misled, and that Sir Hamilton Seymour must see that the claim in question was of so dubious a nature, that it had not deserved protection from home, otherwise M. de Castro would have heard of it." The letter, however, of the Baron de Luz was brought to the attention of the Law Advisers of the Portuguese Crown in 1849. Mr. Andrews has, therefore, had the advantage, if there was any, of the opinion expressed by the Baron de Luz being brought under the consideration of the Portuguese Law Officers, notwithstanding which, upon a judicial examination of his proofs, they have held them to be insufficient.

It may deserve your Lordship's attention that such also was the view expressed by Sir John Dodson as to "the real and intrinsic merits of Mr. Andrews' claim" in his opinion of the 16th March, 1842, when the proofs tendered by Mr. Andrews were submitted to him, as well as on the 7th February, 1849, after "the private note" of the Baron de Luz had been laid before him.

I am of opinion that the utmost use has been made of the letter of the Baron de Luz in the correspondence between the two Governments, and that it may have justified Her Majesty's Government in pressing the Portuguese Government to reconsider Mr. Andrew's claim, notwithstanding the adverse Report of the Portuguese Law Officers in 1849. But as the proofs offered by Mr. Andrews have been again pronounced, after reconsideration, to be insufficient by the Portuguese Attorney-General, not upon a question of form only, as suggested by Mr. Andrews' Counsel, but upon material questions of fact, and his view is confirmed by the opinion expressed on two occasions by my predecessor in office, I consider that it would not be proper for Her Majesty's Government to insist upon the conclusiveness of those proofs upon either of the grounds suggested by Mr. Andrews' Counsel, namely:—

(1.) That the proofs cannot now be impugned, as the Judge before whom the inquiry took place must be presumed to have been satisfied of the fact.

(2.) Or that the claim has been admitted under the Commission of Inquiry instituted by the Portuguese Government, as is shown by the letter of the Baron de Luz.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 115.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received September* 3.)

My Lord,
*Temple, August* 31, 1873. ?1869

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 2nd instant, stating that, with reference to my report of the 10th ultimo, on the subject of Mr. Andrews' claim on the Portuguese Government, he was directed to transmit to me the accompanying letter from Mr. Mee Mathew, in reply to a communication founded on my opinion, which was made to that gentleman, and to request that I would take the same into my consideration and furnish your Lordship with my opinion as to any further steps that can be taken in the matter. The previous papers relating to this case were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That I am not prepared to recommend your Lordship to take any further step in this case, unless your Lordship should think it advisable to request Mr. Andrews to forward to your Lordship a copy of the two vouchers referred to in the so-called index of his printed case, as containing the testimony of witnesses in support of his claim. Mr. Andrews' legal adviser, in his last letter to your Lordship of 20th July, 1869, has taken the liberty of suggesting that your Lordship seems to forget that his claim had been established previously to the letter of the Baron de Luz, of 9th December, 1847, under a Commission of Inquiry instituted by the Government of Donna Maria after the termination of the Civil War. I do not, however, find amongst the voluminous papers submitted to me, any copy of the evidence taken before that Commission, but if it be identical with the

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evidence submitted to Sir John Dodson in 1842, which he pronounced to be "not favourable to the claim of Mr. Andrews," Mr. Mee Mathew would clearly not be justified in asserting, as he does indirectly, that his claim was established by that evidence. As Mr. Andrews' legal adviser intimates an intention, on his part, to bring Mr. Andrews' case before Parliament, it is the more important that this evidence should be at your Lordship's command, inasmuch as in the case already printed by Mr. Andrews, apparently to be laid before the House of Commons, Mr. Andrews has availed himself of what may be styled "the fallacy of reference," as respects the testimony of his witnesses, and excuses himself for not adding it to the case, as "being too voluminous; and, moreover, the facts, far from being contested, were admitted;" whereas the case, as it stands at present, is precisely otherwise, the facts alleged by Mr. Andrews being contested by the Portuguese Government, and the proofs being declared by the Portuguese Law Officers to be insufficient.

I have, &c.
(Signed) TRAVERS TWISS.

## Prussia.

### No. 116.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June* 24.)

*Temple, Jnne* 23, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 4th instant, stating that he was directed by your Lordship to request that I would furnish your Lordship with my opinion on the following point:—A naturalized British subject has a son born in Frankfort; the latter, now fourteen years of age, is resident in the country of his birth. Has he any claim to be considered a British subject in right of his father's naturalization; and if so, to what extent?

In obedience to your Lordship's commands I have the honour to report—

That the answer to be given to the question proposed by your Lordship must depend upon the interpretation which a Court of Law would put upon the 6th section of 7 and 8 Vic., c. 66, which defines the benefit of naturalization to be the enjoyment, with certain exceptions, of all the rights and capacities which a natural-born subject may enjoy or transmit. This section, it may be observed, omits to enact that the naturalized British subject may "transmit" any of the rights and capacities which he is enabled to "enjoy;" and upon the well-known principle of "*expressio unius est exclusio alterius*," it may be reasonably held that the intention of the Legislature was to confer upon the naturalized alien the personal status of a British subject, without communicating to his offspring any delivative rights or civil capacities, leaving them to be settled by the English common law. Under that law, the son of a naturalized British subject, born abroad after his father's naturalization, would have no claim, in my opinion, to be considered a British subject, nor do I think that he could claim any statutory privileges under 4 George II, c. 21. Whether he might claim to inherit land under 25 Edward III, sec. 2, would depend on the degree of equity which would be admitted by a Court construing that statute, as the framers of the statute clearly did not contemplate naturalized subjects of the Crown in speaking of persons "who were within the faith and liegeance of the King of England."

If the question raised by your Lordship has an immediate practical application, I would suggest that the opinion of the Attorney-General and the Solicitor-General should be taken upon the interpretation which I have ventured to suggest that a Court of Law would probably give to the Naturalization Act, as important interests may be affected by that interpretation, and I may have taken too limited a view of the statute.

I have, &c.
(Signed) TRAVERS TWISS.

### No. 117.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December* 27.)

*Temple, December* 24, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 23rd instant, stating that he was directed to transmit to me the correspondence, noted in the margin,* respecting an application made to your Lordship by Messrs. J. Cobb and Pearson on points connected with the serving of writs in Prussia, and to request that I would report to your Lordship my opinion whether the matter is one in which Her Majesty's Government is called upon to interfere.

In obedience to your Lordship's commands I have the honour to report—

That this is not a case in which Her Majesty's Government can be properly required to take any steps. The writ and notice appear to have been served on Mr. Glacis personally, and it is a question for Counsel to advise in what form the circumstances of the service should be brought under the notice of the Court, with a view to obtain its leave for the plaintiff to be at liberty to preceed with the action, as Mr. Glacis must be taken to have wilfully neglected to appear to the writ.

I have, &c.
(Signed) TRAVERS TWISS.

## Russia.

### No. 118.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 18.)

*Temple, January* 16, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 28th ultimo, stating that he was directed to transmit to me the correspondence, as marked in the margin,† upon the subject of a complaint brought by the Russian Authorities against Her Majesty's Consul at Kertch, whom they accuse of having connived at the clandestine escape from Russia of a British subject, named Blair, against whom an action had been brought by a M. Novostiltzoff, on account of an alleged breach of contract in regard to the erection of certain naptha works; and Mr. Otway was pleased to request that I would furnish your Lordship with my opinion upon this case, and as to the steps which it would be advisable for Her Majesty's Government to take therein.

I am also honoured with Mr. Otway's further letter of the 13th January, transmitting a further despatch and its inclosures from Her Majesty's Ambassador at St. Petersburgh (No. 1) relating to this case.

In obedience to your Lordship's commands I have the honour to report—

That the last Report of Her Majesty's Consul at Kertch,‡ in reply to the charges made against him, gives a totally different colour to the transactions which have been made a subject of complaint against him by the Russian Authorities at that place. According to the Report of the Governor of Kertch, inclosed in Sir A. Buchanan's despatch of 16th December, 1868, Her Majesty's Consul not merely gave an asylum to Mr. Blair, and raised every obstacle to his being served by the Russian police with a notice not to quit Kertch, but seconded him in escaping from that place. Her Majesty's Consul, however, has, I think, been successful in his last Report in defending himself against some of these charges. Against the first charge, for instance, of giving an asylum to Mr. Blair, his explanation is, in my opinion, satisfactory, as it shows that he

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* Messrs. Pearson and Cobb, December 13; to Messrs. Pearson and Cobb, December 20; Messrs. Pearson and Cobb, December 21, 1869.

† Sir A. Buchanan, Nos. 220, 224, 235, 241, 257, 73, and 74; to Sir A. Buchanan, Nos. 113, 114, and 14.

‡ Inclosure in Sir A. Buchanan's despatch of January 6, 1869.

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admitted him to reside at the Consulate by an arrangement made before Mr. Blair left England, and long before any dispute arose with Mr. Novostiltzoff. His defence, however, against the second charge, of raising obstacles in the way of the Commissary of Police serving a notice on Mr. Blair, is not so complete. He meets, however, directly the charge that he undertook to deliver the ukase of the Tribunal of Commerce to Mr. Blair* and obtain a written declaration from him, by explaining that what he undertook to do was to communicate to Mr. Blair the contents of the ukase, for which he gave a receipt, engaging to return it when translated, and "that they never even told him that he was to write anything upon the paper." "I kept my promise," he says, "in communicating to him the contents and then returning it. Here my part ended." It may deserve remark, in reference to the contradictions on this part of the case between the Report of Her Majesty's Consul and that which was made by the Commissary of the Russian Police to the Governor of Kertch, that Her Majesty's Consul professes to "know nothing of Russian." † It would not, therefore, be matter of surprise, under such circumstances, that Her Majesty's Consul, who distrusted the interpreter Laticheff, should not have fully comprehended the communication of the Commissary of Police, if the Report of the latter is correct; but the fact, which is admitted on both sides, that the ukase was left with the Consul at his own request, throws discredit on the Russian statement that the ukase was left with the Consul in order that he might obtain a written engagement from Mr. Blair not to leave Kertch. Her Majesty's Consul states that "they were on the point of taking away the paper, which the Governor had strictly charged them to do, but he declined to communicate its contents unless the paper was left with him. They then asked him to give a receipt for it, which he did, engaging to return it when translated." A reference to this receipt, which ought to be found in the hands of the Police authorities at Kertch, might clear up the difficulty which besets this part of the case, as regards the undertaking of Her Majesty's Consul. Upon the third charge, of improperly assisting Mr. Blair to escape from Kertch, the defence of Her Majesty's Consul is complete, if it can be relied on, as he states that the Governor's Secretary came to the Consulate on the afternoon of the same day on which the police had brought the ukase, and "urged Mr. Blair in the strongest terms to leave Kertch by any sailing-vessel, and let them settle the matter in England;" and that later on that afternoon Mr. Blair left Kertch in the steamer "Kotzebue" to visit the works at Saman, since which time Her Majesty's Consul has never seen him.

With regard to the steps which it would be advisable for Her Majesty's Government to take in this matter, it appears to me that the gravamen of the charge brought against Her Majesty's Consul is that of abusing his official position at Kertch to second the escape of Mr. Blair from justice. I am disposed to think that he is open to the charge of not having treated the Police authorities with due courtesy, but they did not call at the Consulate in order to serve Mr. Blair with a judicial notice not to quit Kertch, but with a summons to appear before the Police authorities in order that he should be officially notified not to leave Kertch, and Mr. Blair may be open to blame for having sheltered him from being so summoned. On the other hand, if Mr. Blair was advised by the Secretary of the Governor of Kertch, on his visit to the Consulate on the same afternoon, to leave the country and let the matter be settled in England, it would be hard, I think, for the Russian Authorities to impute blame to Her Majesty's Consul for having seconded Mr. Blair's departure for England. If your Lordship can rely upon the statement of Her Majesty's Consul on this head, bearing in mind that "he knows nothing of Russian," I think that his explanation will supply a fair answer to the charge which the Russian Minister of Foreign Affairs has brought to the attention of Her Majesty's Minister at St. Petersburgh.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 119.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 21.)

*Temple, January* 21, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's further letter of the 16th instant, stating that he was directed to transmit to me a despatch, with its inclosures, from Her Majesty's Consul at Kertch, respecting the complaint of the

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* Despatch of Governor of Kertch, Inclosure 3 in Sir A. Buchanan's No. 74.

† Inclosure 2 in Sir A. Buchanan's No. 73.

Russian authorities against him in the case of Mr. Blair, and to request that I would take the same into consideration and report to your Lordship my opinion thereon.

In obedience to your Lordship's commands I have the honour to report—

That I have considered the further papers transmitted to me, and with reference to the statement of Mr. Consul Barrow, beg leave to refer your Lordship to the report already made by me to your Lordship. Mr. Consul Barrow has, however, since transmitted to your Lordship the final judgment of the Commercial Court at Kertch upon the claim made by Mr. Reuter for damages against Mr. Blair, and as it appears from that Judgment that the Court has declared that Mr. Reuter's claim could not at present be taken into consideration by the Court, that decision ought, in my opinion, to relieve Mr. Consul Barrow from any imputed responsibility for the sum so claimed by Mr. Reuter, as it appears that Mr. Reuter had no right of action against Mr. Blair for any such sum at the time when he sought to detain him at Kertch until he found security to meet the claim.

The great difficulty for your Lordship in this case appears to me to arise from the tone adopted by Her Majesty's Consul towards the authorities at Kertch, as exemplified more particularly in his letter of 7th December, 1868, addressed to his Excellency the Governor of Kertch. Mr. Consul Barrow may have had good cause for dissatisfaction with the treatment which he had previously received from those authorities, but he had been specially informed by Her Majesty's Ambassador at St. Petersburgh, in his despatch of November 5th, 1868, that in his view "the most satisfactory manner for all parties for settling the question in dispute would be the adoption of such a compromise as Mr. Blair had proposed to the Governor of Kertch in his letter to his Excellency of the 17th ultimo." It was, I think, clearly the duty of Her Majesty's Consul, after receiving the Ambassador's despatch, to have adopted a conciliatory and respectful tone in his communications with the Governor, instead of using language of passion and reproach. On the other hand, Her Majesty's Consul seems to have honestly intended to protect a British subject from what he conceived to be great oppression and wrong. It is not for me to suggest to your Lordship the propriety of complying with Mr. Consul Barrow's request to remove him to another post in a more civilized country, but I may perhaps venture to observe that the mode in which he has dealt with the difficulties in Mr. Blair's case is a bad earnest of his capacity to grapple successfully with future difficulties of a like nature which may beset him if he is continued in his present post.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 120.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 8.)

*Temple, March* 6, 1868.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence, as noted in the list inclosed, relative to a case of two British engineers charged with murder in Russia, and to request that I would take these papers into consideration and furnish your Lordship with any observations I may have to offer thereupon.

In obedience to your Lordship's commands I have the honour to report—

That it appears from Mr. Carruthers' despatch of 21st December, 1868, that Mr. Nichol, one of the British engineers, has been released by the Preliminary Commission from all further prosecution, and I presume that no question can be raised before the Criminal Court at Novo Tcherkask as to his guilt or innocence. With regard to the other engineer, Mr. Miller, it is not quite clear from Mr. Carruthers' despatches whether he is to be formally tried before the Criminal Court at Novo Scherkask, in which case the evidence of Mr. Nickel would be of the greatest value to him, or whether that Court will proceed to pass sentence upon Miller upon a review of the facts proved in evidence before the Parliamentary Commission. On the supposition that Miller is to undergo a formal trial before the Criminal Court, it would clearly be desirable that Mr. Carruthers should procure a sufficient delay of the trial to allow of Nichol giving evidence on behalf of Miller. If, on the other hand, the evidence is closed, and all that remains for the Criminal Court is to declare what section of the Russian statute law is applicable to the facts of the case, it would be advisable for Mr. Carruthers to ascertain whether counsel may be heard upon the point of law, as the alternative suggested in Mr. Carruthers'

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despatch of February 15, 1869, between "incarceration during a certain time," and "penal servitude in Siberia for eight years," would imply that the law applicable to the case is by no means clear. The release of Nickel by the Preliminary Commission, in my opinion, goes a long way to corroborate the story told by the engineers how the Russians assaulted them. How far Nichol may have confirmed Miller's statement that Nichol was in peril of his life, when Miller fired and shot the driver, does not appear. The difficulty in Miller's case may possibly be found in the circumstance that he fired his revolver three times when struggling with the driver's companion, which he accounts for by saying that the latter endeavoured to wrest his revolver from him. If Counsel may be heard before the Criminal Court on behalf of Miller upon the point of law, I venture to suggest that Mr. Zitsorenco, or some other competent person, should be instructed to appear on behalf of Miller, as the Procureur is stated to have prejudicially affected the Criminal Court by a protest, and a Russian newspaper is also reported to be exercising an unfavourable influence on the opinion of the Criminal Court, so that there may be some risk of that Court being biassed by statements not in evidence before the Preliminary Commission, the effect of which Counsel might be able to neutralize, if allowed to be heard. If Counsel, on the other hand, are not permitted to be heard before the Criminal Court, it would be desirable at least that some one should attend when Miller is called upon to receive sentence, and report the grounds of the Court's decision, and if that decision should be widely at variance with the view taken by the preliminary Commission, your Lordship would be enabled to judge from the report how far your Lordship might be justified in intervening with a view to procure an arrest of judgment on the ground of an unfair decision, or otherwise to obtain a mitigation of the sentence as excessive.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 121.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 24.)

*Temple, March* 24, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed to transmit to me the accompanying letter with its inclosures from Mr. Furness, stating the course he wishes to have taken in order to inquire into and settle a difference in regard to a contract entered into by Messrs. Furness and Co. with the Paving Committee at Odessa; and Mr. Hammond was pleased to request that I would take this case into my consideration, and report to your Lordship my opinion thereupon,

In obedience to your Lordship's commands I have the honour to report—

That the most convenient solution of the difficulty in this case will probably be found in the appointment of an Umpire, whose competency and impartiality should not be open to any reasonable question. The Paving Committee of Odessa, under the terms of the paving contract, have an unfettered discretion in the selection of an arbitrator on their side in case of any misunderstanding with Messrs. Furness and Co. upon pecuniary questions, and I think your Lordship may properly decline to instruct Her Majesty's Ambassador at St. Petersburgh to intervene, as suggested by Mr. George Furness, for the purpose of procuring, through the action of the Imperial Government, the cancellation of the appointment made by the Paving Committee, as it is not essential to justice that the arbitrator on the side of the Paving Committee should be a disinterested party. Different considerations, however, may apply to the appointment of an umpire; and as the paving contract has pointed out how that appointment should be made, I consider that Messrs. Furness and Co., before having recourse to your Lordship's aid, should endeavour to bring about the appointment of an impartial person as umpire, by an amicable arrangement between the two arbitrators before they enter upon the examination of the accounts. If the arbitrator on the side of the Paving Committee should decline to concur in the appointment of a disinterested person as umpire, and the appointment should devolve under the terms of contract to the Paving Committee and the contractors, an occasion may arise in which it would not be unreasonable for Messrs. Furness and Co. to request your Lordship's aid, and under which it might be proper for your Lordship to use your good offices with the Imperial Government.

In the present state of the proceedings I think Messrs. Furness and Co. would act wisely if they were to offer to waive the objection which they had raised to the appointment of Prince Surion Michaelevitch Woronzow, against whom personally they appear to

have no objection, on the understanding, if it can be brought about, that the Paving Committee will be prepared to consent to the appointment of a disinterested party as umpire.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 122.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received May* 26.)

*Temple, May* 25, 1862.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 18th instant, stating that he was directed to transmit to me the accompanying letter from Messrs. Robinson and Preston, dated the 8th instant, preferring, on behalf of Dr. Buckell, a claim for compensation at the rate of five guineas a-day for his detention at Poti, owing to the delay of the Russian authorities in granting him a passport. A despatch from the British Vice-Consul at Poti reporting the facts of the case was also inclosed, and Mr. Murray was pleased to request that I would furnish your Lordship with my opinion as to the course which should be pursued in this matter.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may, I think, instruct Her Majesty's Minister at St. Petersburgh, to bring to the attention of the Russian Minister of Foreign Affairs the conduct of the Director of the Custom-House at Poti, as reported by Her Majesty's Vice-Consul at that place, and to inquire whether his refusal to countersign Mr. Buckell's national passport, after the Chief of the Police had put his *visé* to it, and when the police at Poti had no Russian passports to deliver to him, was justified by any Russian law or regulation of the Imperial Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 123.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June* 17.)

*Temple, June* 16, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that, with reference to my Report of the 24th of March last, respecting the claim of Messrs. Furness and Co. on the Paving Committee of Odessa, he was directed to transmit to me a further letter with its inclosures from Mr. G. Furness, reporting the steps taken since the date of my above-mentioned Report to bring about a settlement of his claim; and to request that I would take this case into consideration and report to your Lordship my opinion as to the course that it would be right and proper to take in the matter.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Mr. G. Furness is acting in so reasonable a manner and in so fair a spirit, that he deserves any assistance that Her Majesty's Government can afford him. The difficulty arises from the existence of a written contract, and an express provision for settling all disputes by arbitration in a particular manner. But as it appears from the letter of Mr. Consul-General Stevens that the arbitrator named on behalf of the Paving Committee is absent in Paris, and that the arbitration may be indefinitely deferred, I see no objection to your Lordship directing Her Majesty's Minister at St. Petersburgh to bring the circumstances of the case to the attention of the Russian Minister for Foreign Affairs, and to request the good offices of the Imperial Government, if they can be properly afforded, to procure a speedy settlement of Messrs. Furness' claim by arbitration in accordance with the terms of their contract with the Paving Committee.

I have, &c.
(Signed) TRAVERS TWISS

1869

### No. 124.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December* 15.)

*Temple, December* 14, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that, with reference to my Report of the 25th May last, he was directed to transmit to me the accompanying despatch from Her Majesty's Ambassador at St. Petersburgh, respecting the detention of Mr. G. A. Buckell, at Poti, by the Russian authorities; and Mr. Hammond was pleased to request that I would take this case into my consideration and furnish your Lordship with my opinion thereupon.

The previous papers were inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that your Lordship cannot properly press this question further on the attention of the Russian authorities. It appears that the Custom-house officers at Poti were acting in conformity with the Russian regulations as to passports in refusing to allow Dr. Buckell to leave the Empire without a Russian passports, and that Dr. Buckell might, if he had made proper inquiry, have obtained a Russian passport at Kutais, where he was resident, before he left that town. I am of opinion that his ignorance of the Russian regulations, if he was ignorant of them, cannot entitle him to claim compensation from the Russian Government for his detention at Poti, until a proper passport could be procured by him.

I have, &c.
(Signed) TRAVERS TWISS.

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## Salvador.

### No. 125.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received September* 18.)

*Temple, September* 17, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed to transmit to me accompanying despatch from Her Majesty's Chargé d'Affaires in Central America, inclosing the answer of the Salvadorian Government to his representations in support of the claim of Messrs. Kerford and Co., now represented by Messrs. Keogh and Hardiman, on account of the loss entailed upon them by a Decree of the Salvadorian Government, dated February 1865, by which certain bonds up to that time receivable in payment of 8 per cent. of Custom dues were rendered no longer so receivable, and were ordered to be exchanged for "billetes" of considerably less real value. That this claim, as I should see from the accompanying correspondence, was brought before Her Majesty's Government in 1865, and that, acting on the advice of Sir Robert Phillimore, they gave it their support, first, through Her Majesty's Consul at Sonsonate, and afterwards through Mr. Corbett; and Mr. Hammond was pleased to request that I would take Mr. Corbett's despatch into my consideration, together with the former papers, and furnish your Lordship with my opinion as to the course which should be pursued in regard to this claim.

In obedience to your Lordship's commands I have the honour to report—

That the question in this case appears to me to depend upon the terms upon which the Government of Salvador are prepared to give the new "billetes" in substitution for 8 per cent. orders held by the representatives of the late Messrs. Kerford and Co. I think your Lordship will be justified in claiming for those gentlemen the full value of the 8 per cent. orders at the time when the law was passed declaring them no longer receivable at the Custom-house, and that, if the Salvadorian Government is prepared to give "billetes" at their present value in exchange for the 8 per cent. orders at their current value estimated at the time when the new was law passed, it will be an equitable arrangement which the representatives of Messrs. Kerford and Co. will do well to accept.

I have, &c.
(Signed) TRAVERS TWISS.

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## Saxony.

### No. 126.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 21.)

*Temple, April* 20, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 17th instant, stating that he was directed by your Lordship to forward us a despatch from Mr. Burnley, Her Majesty's Chargé d'Affaires at Dresden (No. 7), inquiring whether there is any limitation as to the hour at which marriages can be celebrated at his house, under the Act 4 Geo. IV, cap. 91, and inclosing a telegraphic inquiry received from Mr. Burnley in September last, as to the legality of marriages celebrated in his house under the Act in question, together with the instruction addressed to him in reply (No. 20, September 14, 1868), from which Mr. Otway stated we would perceive that it was considered that, as Her Majesty's Chargé d'Affaires at the Court of Dresden, Mr. Burnley must be held to be the permanent head of a Mission, and, as such, a Minister for the purposes of the Act.

Mr. Otway inclosed a copy of the Act for the purpose of reference, and further stated that he was to request that we would take the papers into our consideration, and favour your Lordship, at our earliest convenience, with our opinion whether the instructions thus given to Mr. Burnley were correct, and if so, what further directions should be given to him as regards the hour at which marriages should be solemnized in his house.

Mr. Otway further stated that it was necessary to observe that Mr. Burnley did not, as might be supposed from Lord Stanley's despatch of the 14th September, hold what is technically called a "commission" as Her Majesty's Chargé d'Affaires at the Court of Dresden, but that his appointment was made in the usual manner by a letter from Her Majesty's Secretary of State for Foreign Affairs to the Minister of Foreign Affairs at Saxony, of which a copy was therewith inclosed.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That the instructions given to Her Majesty's Chargé d'Affaires at Dresden in September last are, in our opinion, correct. There is no legal restriction as to the hours within which marriages may be solemnized abroad under 4 Geo. IV, cap. 91.

We also think that Mr. Burnley is a Minister within the meaning of that Act.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 127.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June* 3.)

*Temple, June* 1, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 29th ultimo, stating that I, on the 21st of February, 1868, reported upon the subject of the imprisonment of a Mr. Joseph Warburton at Dresden, and expressed my opinion that the case was not one which called for the interference of Her Majesty's Govern-

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ment. That since that date further papers had been received on the subject, from which it appears that no further attempt has been made to obtain the assistance of Her Majesty's Government by Mr. Warburton's friends, but that a Mr. Lister, who is his accuser, has been applying to Her Majesty's Representative at Dresden to assist him in obtaining materials for the prosecution of Mr. Warburton's brother in this country, and seems to think that he has reason to complain of the dilatoriness of the Saxon Courts of Justice. That Mr. Otway was accordingly directed by your Lordship to forward these papers to me, together with my previous Reports, and the papers bearing on them, and to request that I would favour your Lordship with my opinion as to whether there is anything in the case in its present phase, which would justify the intervention of Her Majesty's Representative.

In obedience to your Lordship's commands I have the honour to report—

That there does not appear to be any sufficient grounds for the intervention of Her Majesty's Representative at Dresden, in the present stage of the proceedings against Mr. Joseph Warburton.

It appears from Dr. Gruner's Memorial to Mr. Burnley, that the books to which Mr. Lister refers are the books of the firm, which were embargoed by the Counsel of Mr. Joseph Warburton as necessary for his defence, and not the books of Mr. Lister himself. And the statement on the Lister-Warburton case, drawn up by Mr. Lister's own lawyer at Dresden, sufficiently explains the circumstances under which the preliminary proceedings have extended over so long a period of time, the fact being attributable partly to the character of the numerous documents to be used in the case, which require to be translated for the use of the Court, and partly to an interruption in the proceedings caused by Mr. Lister's own application to have the books and other documents delivered up for transmission to England.

I have, &c.
(Signed) TRAVERS TWISS.

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## Spain.

### No. 128.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 27.)

*Temple, January* 26, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed to transmit to us, with reference to the Report of the Law Officers of the 8th September last, the accompanying despatch from the British Vice-Consul at Santo Domingo, containing an answer to the inquiries which under their advice he was called upon to furnish with regard to the claim of Mr. Moxey on the Spanish Government on account of loss of property sustained by him on the occasion of the capture of the British steamer "Forward," by a Spanish cruizer for attempting to break the blockade of St. Domingo in 1864; and Mr. Hammond was pleased to request that we would take the same, together with the previous correspondence, into our consideration, and furnish your Lordship with our opinion. 1. As to the manner in which Mr. Moxey's claim should now be dealt with. 2. How Mr. Leon should be instructed to deal with the money which was handed over to him by the Commander of the Spanish steamer "Africa," on account of certain passengers on board the "Forward;" and 3, whether the money so paid to him can properly be applied to the relief or necessities of the persons on whose account he received it.

In obedience to your Lordship's commands we have the honour to report—

That on a perusal of the papers we have been unable to satisfy ourselves of the good faith of Mr. Moxey, or of the evidence of any real foundation for his claim. Nothing really has been added by the despatch of Mr. Leon of the 7th November, 1868, to the facts or information already before Her Majesty's Government, and we entirely

concur in the reasoning and the conclusions of the former Law Officers on this part of the case contained in their two Reports of the 30th December, 1867, and the 8th September, 1868, respectively.

We think that the statement of Mr. Moxey should be communicated to the Spanish Government, and that they should be requested to take the necessary steps to ascertain from the captain of the "Africa" whether he received any and what sum of money from Mr. Moxey, as Mr. Moxey alleges. If the captain admits the receipt of it, the Spanish Government ought to insist on its restitution. If, as is most probable, he denies any such receipt, his denial, we think, may properly be accepted.

2. We think Mr. Leon can only discharge himself of the moneys he has received by paying them to the persons, or to the legal representatives of the persons, on whose account he received them from the Spanish Government. If the keeping of the moneys in specie at the Consulate is either inconvenient or unsafe he must place them elsewhere, but, in such a case, at his own risk.

3. As far as relates to the three passengers on whose account he received money, Mr. Leon would probably have a right in any action brought by them against him to recover their money in an English Court, to set off what he had paid for their necessary relief and subsistence. And in the event of any demand from or on behalf of these three persons he would be justified, we think, in paying what he has received for them, less any sum which for such objects he has paid for them.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 129.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 17.)

*Temple, February* 17, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us the accompanying letters from the Colonial Office and Admiralty, inclosing correspondence which related to the state of affairs in connection with the insurrection in Cuba, and to the use which is being made of the Port of Nassau by the insurgents, for the purpose of carrying on their operations; with the request that we would take the papers into our consideration, and favour your Lordship at our earliest convenience with our opinion as to the course which Her Majesty's Government should pursue under the circumstances.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That as the Spanish Consul, in his letter of January 1869, to the Governor of the Bahamas, complains of English subjects making use of those islands for the purpose of raising recruits, which would clearly be a breach of the Foreign Enlistment Act, we think that Her Majesty's Secretary for the Colonies may properly instruct ths Governor to issue a Proclamation warning all persons against so doing, or otherwise infringing the Foreign Enlistment Act; and on proper evidence, to put in force the provisions of that Act, both such as relate to prosecutions and the detention of vessels; and as the Governor anticipates a considerable movement amongst the inhabitants of Nassau to give active support to the rebels, we consider it would be prudent to direct a ship of war to be placed upon that station, as suggested by the Governor.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 130.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 18.)

*Temple, February* 18, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th February instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office, dated the 14th ultimo, inclosing a copy of a despatch from the Governor of the Bahamas, in which he requested instructions for his guidance in regard to the claim of Spain to exercise jurisdiction to a distance of three miles from the outlaying Cays off the Island of Cuba.

Mr. Hammond was pleased also to transmit to us the correspondence which had previously passed upon the subject,* and also the correspondence referred to in Governor Rawson's despatch, as having taken place in 1842–63, relative to a similar claim put forward by Her Majesty's Government in regard to jurisdiction off the coast of the Bahamas; and to request that we would take the papers into our consideration, and that we would favour your Lordship with our opinion as to the answer which should be returned to the Colonial Office.

In obedience to your Lordship's commands we have taken the papers submitted to us into our consideration, and have the honour to report—

That it is difficult to answer confidently the question put to us, without some definition of the word "Cay," and some description of the character and situation of the particular "Cays" to which the question refers. The evidence on the subject, however, so far as it is before us, tends to the conclusion that the "Cays" are capable of being the objects of territorial dominion, and that Spain has acquired such territorial dominion over them; in which case the Spanish jurisdiction will extend to three miles from their coasts.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 131.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 3.)

My Lord,
*Temple, April* 2, 1869.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul-General at the Havana, reporting the circumstances under which the British schooner "Galvanic" has been seized and condemned by the authorities in Cuba whilst, as is stated, on a voyage between Nassau and Santo Domingo. Mr. Murray was pleased also to inclose copies of despatches from the Governor of the Bahamas referring to this vessel; and to request that we would take this subject into our early consideration, and to report to your Lordship our opinion as to the instructions which should be addressed to Mr. Dunlop for his guidance in dealing with the case.

Mr. Murray also inclosed the draft of a letter to the Colonial Office in which, in consequence of our Report of the 17th ultimo, your Lordship suggested that a Proclamation should be issued by the Governor of the Bahamas, warning all persons against infringement of the Foreign Enlistment Act. That your Lordship is not, however, as yet informed as to the actual issue of such Proclamation.

In obedience to your Lordship's commands we have taken this subject into consideration, and have the honour to report—

That we are unable to form any definite opinion as to the equity of the sentence under which the "Galvanic" has been declared lawful prize, not having before us the proceedings and evidence in the case, nor the protest of the master. We think there were circumstances of great suspicion attaching to her voyage, and probably sufficient evidence to warrant her condemnation, if the reasons recited in the sentence may be relied upon. But assuming that the "Galvanic" was carrying passengers to join the insurgents, and that such an employment of a neutral vessel would warrant her condemnation as lawful prize of war, we are of opinion that it would not justify criminal proceedings against the master and crew as "guilty of revolt," unless they are Spanish subjects, which we presume them not to be. Although, therefore, we should wish to reserve our final opinions as to the lawfulness of the sentence of condemnation until we may have an opportunity of perusing the proceedings, we consider that your Lordship may properly instruct Her Majesty's Chargé d'Affaires at Havana to transmit to General Dulce or to the proper authority a formal remonstrance against the proposal to try the master and

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* Vol I, 1837-46; Vol. II, 1847-49; Vol. III, 1850-59; Vol. I, Maritime Jurisdiction, Case of "Fortuna" and "David," 1848-53; Colonial Office, November 15; Law Officers, December 8. 1862; Admiralty, January 29; Colonial Office, May 18; Law Officers, May 1, 1863.

## No. 130*.

*The Law Officers of the Crown and Queen's Advocate to the Earl of Clarendon.*—(*Received March* 19.)

Maritime jurisdiction over Islands

My Lord,
*Temple, March* 18, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, with reference to our Report of the 18th ultimo, he was directed by your Lordship to transmit to us an accompanying correspondence* which had since passed between the Department of the Foreign Office and the Colonial Office, relative to the question that has arisen as to the limits of Spanish jurisdiction off the coast of Cuba, and that he was to request that we would favour your Lordship with our opinion upon this question.

In obedience to your Lordship's commands we have considered the question referred to in the said letter, and have the honour to report—

That the cays on the north coast of Cuba, as laid down in the Chart of 1858, appear to us to come within the principle laid down by Lord Stowell in the case of the "Anna" (5 Ch: Robinson, p. 385), and that the Spanish right of jurisdiction extends to a distance of a marine league seawards from those cays, and over all the banks which may be inclosed within those cays and the mainland of Cuba. We should wish to reserve our opinion in regard to any other cays, as each group of cases may require to be separately considered.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Colonial Office, February 19; to ditto, February 20; Colonial Office, March 4, 1869.

## No. 130*.

*The Law Officers of the Crown and Queen's Advocate to the Earl of Clarendon.*—(*Received March 19.*)

Maritime jurisdiction over Islands

My Lord, *Temple, March 18, 1869.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, with reference to our Report of the 18th ultimo, he was directed by your Lordship to transmit to us an accompanying correspondence* which had since passed between the Department of the Foreign Office and the Colonial Office, relative to the question that has arisen as to the limits of Spanish jurisdiction off the coast of Cuba, and that he was to request that we would favour your Lordship with our opinion upon this question.

In obedience to your Lordship's commands we have considered the question referred to in the said letter, and have the honour to report—

That the cays on the north coast of Cuba, as laid down in the Chart of 1858, appear to us to come within the principle laid down by Lord Stowell in the case of the "Anna" (5 Ch: Robinson, p. 385), and that the Spanish right of jurisdiction extends to a distance of a marine league seawards from those cays, and over all the banks which may be inclosed within those cays and the mainland of Cuba. We should wish to reserve our opinion in regard to any other cays, as each group of cases may require to be separately considered.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Colonial Office, February 19; to ditto, February 20; Colonial Office, March 4, 1869.

crew of the "Galvanic" criminally for taking part in the revolt. We have to observe that Consul Dunlop reports the vessel to have been captured in British waters; if this statement be correct it will be proper to remonstrate against the sentence, and to demand the restitution of the vessel. We suggest that further inquiry should be made upon this subject. With respect to the refusal to receive representations from the British Consulate, the Court of Admiralty acting judicially upon the evidence might be justified in declining to receive such representations, but the right to remonstrate with the Government, if the sentence be manifestly wrong, or if the vessel were captured by an invasion of British territory, or if British subjects be improperly put upon their trial, is undoubted, and Her Majesty's Government cannot permit it to be questioned.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 132.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received April 17.*)

My Lord, *Temple, April 17, 1869.*

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit to me a despatch from Her Majesty's Consul-General at Havana, inclosing a copy of a Decree issued by General Dulce, with regard to vessels captured off the coast of that island, having on board men, arms, ammunition, or any article which could in any way contribute to the aid of the insurrection; and Mr. Hammond was pleased to request that I would favour your Lordship with my immediate opinion on that Decree.

In obedience to your Lordship's commands I have the honour to report—

That whatever warrant the Spanish authorities in Cuba may have in right of the territorial sovereignty to exclude from Spanish waters, under pain of death against the crews, all foreign vessels, which are laden with supplies calculated to promote or encourage the insurrection, there can be no doubt that it will be a glaring violation of the law of nations, if they capture any such vessel on the high seas and treat the crews as pirates.

I think your Lordship may properly lose no time in protesting against the enforcement of the edict against British vessels captured on the high seas, and may properly represent to the Spanish Government that Her Majesty's Government will regard with the deepest concern the enforcement of the edict against the crew of any British vessel captured within Spanish waters, where the crew had had no warning of its promulgation.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 133.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received April 19.*)

My Lord, *Temple, April 19, 1869.*

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to transmit to me the accompanying correspondence upon the subject of the capture by a Spanish man-of-war off Ragged Island, and, as is alleged, in British waters, and the subsequent condemnation by the Spanish Tribunal of an American vessel named the "Mary Lowell," laden with arms and munitions of war; and Mr. Hammond was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon, with the least possible delay.

In obedience to your Lordship's commands I have taken this case into consideration, and have the honour to report—

That there can be no reasonable doubt, I think, upon the affidavits of the two pilots, that the "Mary Lowell" was within that distance of the south east point of Little Ragged Island when she was captured, which would place her within British waters, if Little Ragged Island is to be regarded as British territory. I see no grounds, as at present informed, for not considering Little Ragged Island as British territory, and

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measuring the extent of the maritime jurisdiction of the British Crown from the shores of that island. It is possible that the Spanish Captain in representing to Commander Phillimore that "the brig was eight miles from Ragged Island" when captured by the "Andaluza," has intended to speak of Great Ragged Island, as he seems at the same time to have stated that the hatches of the brig "were sealed by the authorities at Ragged Island," who must, I presume, be taken to be the Custom-house authorities at Great Ragged Island.

The telegram from Consul-General Dunlop, announces that the "Mary Lowell" has been condemned, against strong evidence, as "Prize taken on the high seas." It may, therefore, be advisable before Her Majesty's Consul-General is instructed by your Lordship to take any further steps, that he should obtain a copy of the proceedings before the Court. Meanwhile, it will be open to the Government of the United States to claim the restitution of the ship on the finding of the Court, "that she was captured on the High seas," inasmuch as the Proclamation of the Spanish Governor is an implicit negation of the existence of a state of war, which would entitle Spanish cruizers to exercise belligerent rights on the high seas against neutral vessels.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 134.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 24.)

*Temple, April* 24, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed to transmit to us a note which your Lordship has received from the United States' Minister at this Court in regard to the circumstances connected with the capture, on the 15th ultimo, by a Spanish steamer of war of an American brig called the "Mary Lowell," while lying within British jurisdiction off Ragged Island, one of the Bahamas; and to request that we would furnish your Lordship at our earliest convenience with our opinion on that passage in Mr. Reverdy Johnson's note, in which he states that the United States' Government will look to that of Her Majesty for indemnification for any losses and injuries which citizens of the United States interested in the "Mary Lowell" may sustain, in consequence of the illegal seizure and condemnation of that vessel by the Spanish authorities.

In obedience to your Lordship's commands we have the honour to report—

That there appears to have been a violation of British territory by Spain, for which reparation is due, primarily to this country, and this country is, on considerations of its own dignity and its relations of amity with the United States, bound to resent the violation in question, and to exact reparation for it. The extent of the reparation to be demanded is a question of common sense, and not of Law. The United States have reason to expect that the reparation we exact from Spain should be ample, and should include restitution of the ship, cargo, and crew, and a full indemnification to all who have been injured. This reparation, however (assuming that it might possibly become due in the event of our failing to take any steps to obtain redress from Spain), is not now due from ourselves to the United States, and until we fail in doing our best to obtain indemnification from Spain, no question of indemnification between us and the United States need arise or be discussed. It follows from this that the claim made by Mr. Reverdy Johnson in the passage of his despatch referred to us by your Lordship is, as we understand it, not warranted by any principle of International Law.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 135.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 24.)

*Temple, April* 24, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd April instant, stating that, with reference to his letter of the 22nd instant,

inclosing a letter from the United States' Minister at this Court relative to the capture, in British waters, by a Spanish cruizer, and to the subsequent condemnation by the Spanish authorities of the United States' vessel "Mary Lowell," he was directed by your Lordship to transmit to us the accompanying copies of two despatches and their inclosures from the Governor of the Bahamas relative to that matter, and to request that we would take the papers into our consideration and inform your Lordship whether, under the circumstances stated therein, it seems necessary to await the sentence of the Prize Court, or whether the Spanish Government should not be at once called upon to grant redress for the violation of British territory.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That, under the circumstances stated, we are of opinion that your Lordship will be fully justified in calling upon the Spanish Government at once to grant redress for the violation of British territory.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 136.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 24.)

*Temple, April* 24, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 23rd instant, stating that, with reference to his letter of that date he was directed by your Lordship to transmit to us copies of further despatches from the Governor of the Bahamas,* relative to the proceedings of Spanish vessels of war in the waters of that Colony; and to request that we would take those papers into our immediate consideration, and inform your Lordship whether they do not, in our opinion, afford ground for urgent remonstrance with Spain.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That the proceedings of the Spanish vessels of war, in firing upon and capturing vessels in British waters, and in landing armed men on British territory, under pretext of searching for pirates, and committing therein various acts of violence against the person and property of British subjects afford serious ground, in our opinion, for urgent remonstrance with Spain.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 137.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 28.)

*Temple, April* 27, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Otway's letter of the 13th instant, stating that, with reference to our report of the 2nd instant, he was directed by your Lordship to transmit to us the further papers connected with the case of the "Galvanic,"† which were noted in the margin, and to call our special attention to the observations of the Lords of the Admiralty as to the waters in which the vessel was seized.

Mr. Otway was further pleased to state that your Lordship was aware that the Admiralty, in making those observations, had only before them the facts of the case as stated in Mr. Dunlop's despatch, which facts had been insufficient to enable us to report conclusively on the point, but your Lordship thought it desirable that the papers should be referred to us in case we should wish to offer any suggestion in the matter.

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* Nos. 41, 42, 47, 48, 50, 51, 53, and 54. (In Colonial Office letter of April 22.)

† Mr. Dunlop, No. 13; to Mr. Dunlop, Nos. 10, 12, and 13; Colonial Office, April 9, Bahamas' despatches.

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In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That we consider the "Galvanic" to have been captured on the high seas, if she was captured near the spot marked on the Admiralty chart.

We do not observe any mark upon the chart of land not covered by water within a maritime league of the spot.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 138.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 29.)

*Temple, April* 29, 1869.

Ma Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating that, with reference to reports of the 24th instant, respecting the proceedings of Spanish cruizers in the West Indies, he was directed to transmit to us the draft of a letter to the Lords Commissioners of the Admiralty, stating the instructions which Her Majesty's Government consider might properly be issued for the guidance of Her Majesty's Naval Forces in that quarter, and to request that we would take the same into our immediate consideration and report to your Lordship our opinion as to whether the proposed instructions are right and proper. Mr. Hammond was also pleased to inclose, to be considered with the proposed instructions, a Proclamation issued by the Governor of Cuba, as transmitted to the Admiralty by Captain McCrea, of Her Majesty's ship "Favourite," in his accompanying despatch, and also to request our particular attention to the marginal observations of Mr. Childers in pages 9, 12, and 14.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the proposed instructions are, in substance, right and proper. We would suggest that for the expression "neutral vessels" occurring in page 10 and in subsequent parts of the draft of Mr. Hammond, "vessels under the flag of other nations," or words of similar import, should be substituted, because, strictly speaking, there are no neutrals where there are no belligerents. We think that the words "by force," suggested by Mr. Childers in pages 9 and 12 should be inserted. The question raised by Mr. Childers in his note to page 14 is one of more difficulty. We should have been disposed to advise that the forcible interference of our cruizers should not be extended to the rescuing of vessels captured out of their sight, but for the astounding character of the Proclamation of General Dulce, which authorizes Spanish cruizers to capture all vessels which may be passing near Cuba on the high seas with any goods on board which, in the opinion of the Spanish cruizer, "may in any way contribute to encourage the insurrection," a description which might (for example) apply to a cargo of corn; and further authorizes the immediate shooting of all persons found on board. We think that, so long as this Proclamation (to which the attention of the Spanish Government should be immediately called) remains in force, the further instruction suggested by the question of Mr. Childers would be justified, and we would suggest, for your Lordship's consideration, whether it might not be well to inform the Spanish Government that such instructions have been given and will be acted upon as long as General Dulce's Proclamation remains unrecalled.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 139.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 7.)

*Temple, May* 6, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that with reference to our Report of the 24th ultimo, in the case of the "Mary Lowell," he was directed by your Lordship to transmit to us the

accompanying letters from the Admiralty, inclosing despatches from Captain McCrea of Her Majesty's ship "Favorite," the last of which contained a *précis* of the proceedings of the Prize Court at Havana, together with the sentence of the Court condemning the "Mary Lowell" as a lawful prize; and also inclosing copies of letters which Captain McCrea addressed to the Spanish Admiral; and of the despatches of the four seamen taken on board that vessel, and Mr. Hammond was pleased to request that we would take the papers into our consideration, and favour your Lordship at our earliest convenience with a Report upon the justice of that condemnation.

The previous papers in this case were annexed for reference if required.

In obedience to your Lordship's commands, we have taken the papers into our consideration and have the honour to report—

That we see no grounds for varying our opinion that the capture of the "Mary Lowell" took place within British waters. We think the evidence of the Officers of Her Majesty's Customs, and of her own crew, coupled with the probabilities of the case, so strong as to justify Her Majesty's Government in disputing the validity of the condemnation.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 140.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 20.)

*Temple, May* 20, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that with reference to our Reports of the 6th instant and 24th and 29th ultimo, he was directed to transmit to us, for any observations we may have to make thereupon, the accompanying further correspondence relative to the seizure of the "Mary Lowell," and other proceedings of the Spanish authorities in the West Indies.

In obedience to your Lordship's commands we have the honour to report—

That as far as concerns the case of the "Mary Lowell" we have only to observe, that the additional papers sent to us tend to confirm our opinion of the illegality of her capture.

With respect to the complaint against Lieutenant Dacres, the nature of which does not very clearly appear, it does not seem to us necessary that any notice of it should be taken by Her Majesty's Government. The papers disclose that the Spaniards have captured the "Commanditorio" in British waters; have landed and pursued the crew in British territories, threatened British subjects, and plundered gardens and fields. It would appear from the letter of Captain McCrae, addressed to Admiral Malcampo, of the 20th April, 1869, that the Spanish Admiral admitted the landing and chasing the crew of the "Commanditorio."

It would further appear that General Dulce has made some demand for the extradition of accused persons, a demand for which there is no foundation.

A further allusion is made to "the forcible stoppage and search" of the British schooner "Elva," but we have not sufficient information to advise upon this matter. We have only to add the general observation, that the additional papers appear to us to strengthen the case for remonstrance with the Spanish Government to which we before advised your Lordship that the proceedings of General Dulce in our opinion gave rise.

We have, &c.
(Signed) R. P. COLLIER.
J. D COLERIDGE.
TRAVERS TWISS.

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## No. 141.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received May* 24.)

*Temple, May* 22, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 12th instant, stating that he was directed by your Lordship to transmit to me a

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letter from Mr. Stokes of Doctors' Commons, dated the 8th instant, calling attention to the claim of the owners of the British vessel "Phillis and Mary," for damages for injuries sustained by a collision with the Spanish steam-frigate "Villa de Madrid."

That I should perceive from the papers noted in the margin* that this case was originally brought under the consideration of Her Majesty's Mission at Madrid, but that your Lordship considered it desirable that it should be brought directly under the notice of the Foreign Department.

That your Lordship apprehends that the course to be pursued in this matter should be the same as that recommended in the case of the collision between the "Meg Merrilees" and the "Estaphniah," the latter being a Portuguese vessel of war, which was referred for my opinion in a letter from the Foreign Office of the 24th of December last. But, that, before taking any steps in the matter, your Lordship would be glad to learn my opinion as to the course which should be pursued regarding it.

In obedience to your Lordship's commands I have the honour to report—

That before your Lordship takes any steps to bring the claim of the owners of the "Phillis and Mary" to the attention of the Spanish Government, your Lordship may properly require Mr. Stokes to furnish your Lordship with the evidence upon which he proposes to rely, to establish the identity of the Spanish steam-frigate with the vessel which was in collision with the "Phillis and Mary." Mr. Stokes states in his letter of 8th May, 1869, that the identification of the colliding vessel was effected by Her Majesty's Consul at Cathagena, but he has not laid before your Lordship any certificate from Her Majesty's Consul to that effect, nor does he state how the identification was made, and it appears from the protest of the master and crew, that they are unable to say more than that the colliding vessel was "a large war steamer with painted ports."

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 142.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received May 22.)*

*Temple, May* 22, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that, with reference to our Report of the 10th of December last, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid, from which we should perceive that the Spanish Government decline the proposal of Her Majesty's Government, that the case of the "Tornado" should be referred to a special Tribunal.

The previous correspondence on this subject was likewise inclosed, and Mr. Hammond was pleased to request that we would favour your Lordship, at our early convenience, with our opinion as to the course which should now be pursued in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the failure of the owners of the "Tornado," for reasons of their own (which appear to us as they seem to have appeared to our predecessors—wholly insufficient), to defend themselves on the merits before the Prize Tribunal of Cadiz, is not only a circumstance suspicious in itself, considering the strong *primâ facie* case which must be taken to exist against the "Tornado," but is also one which makes it very difficult for the English Government to take exception to the course adopted by the Council of State in confirming the decision of the Cadiz Court.

Even if, as may be the case, the owners expected to have an opportunity of defending themselves before the Council of State, yet having allowed judgment to go by default below, they cannot remonstrate with much force against a Court of Appeal (if it was such), allowing this fact to be decisive against them.

From the recent Report of the Council of State it should seem, however, that they might have appeared before the Council of State, and have defended themselves upon the merits; and there seems much ground to believe that they could not, in fact, have been ignorant of the form in which they were to present their reclamation and proofs before that Council.

The petition to the Minister of Marine and the letter to Sir John Crampton of Don Eusebio Casaes, appear to us, we must confess, to suggest the idea that he knew his proceeding was illusory, and that he was preparing to complain of not being heard instead

of taking the proper steps to be heard; steps which the Council say were laid down clearly and explicitly in a Royal Order of July 27, 1867. This Order is not before us.

It is, therefore, to us in the highest degree doubtful, whether the owners *bonâ fide* intended to prosecute their appeal if they could have done so. It is certain that they made no defence at Cadiz, and we think the Government cannot interfere further without being first satisfied that the "Tornado" was unjustly condemned. On this we offer no opinion, but we share in the opinion of our predecessors, that for all that appears in these papers it may have been condemned most righteously.

We concur in what our predecessors have written on this subject, with the single exception, that we should not have advised an application to the Spanish Government to appoint a special Tribunal for the hearing of this case. The English Government would certainly not have listened to such an application from a foreign Power in similar circumstances.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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I concur in the above Report with the exception of the last paragraph. Assuming the statement in the Report of the Council of State to be correct, that the owners of the "Tornado" might have appeared before that Council, and that they could not have been ignorant of the form in which they were to present their reclamations and proofs before it, I am of opinion that the Spanish Government has good grounds for declining the proposal of Her Majesty's Government that the case of the "Tornado" should be referred to a special Tribunal.

I concurred with the former Attorney-General and Solicitor-General in suggesting to your Lordship's predecessor that an application to that effect should be made to the Spanish Government on the faith of the representation of the owners of the "Tornado," that they had been precluded from appearing before the Council of State to defend themselves on the merits, by their inability, after careful inquiry, to ascertain the proper form of presenting their reclamations and proofs before that Council, for which representation on their part there now appears to be no foundation of truth, if full reliance is to be placed on the Report of the Council of State.

I have, &c
(Signed) TRAVERS TWISS.

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## No. 143.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received May 25.)*

*Temple, May* 25, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that with reference to our report of that day, he was directed by your Lordship to transmit to us the accompanying letters and their inclosures from the Admiralty and Colonial Office, respecting the proceedings of Spanish vessels of war in the West Indies, and the instructions which had been given by Admiral Mundy to Her Majesty's Senior Naval Officer in the Bahamas; and that he was to request that we would take the same into our consideration and favour your Lordship at our earliest convenience with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report—

That the instructions which have been issued by Vice-Admiral Mundy to Her Majesty's Senior Naval Officer in the Bahamas are in our opinion right and proper. We have to observe that they do not extend to the exceptional measures which were thought necessary to protect British life and property on the High Seas in consequence of the Proclamation of General Dulce unless, indeed, these measures are indicated in the confidential instructions referred to.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Sir J. Crampton, No. 55; to M. Stokes, April 22, 1869.

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## No. 144.

*Draft Report for consideration of the Attorney-General and Solicitor-General.*

WE are of opinion that under the circumstances stated the Governor has power to detain the vessel under the 5th section of the Foreign Enlistment Act, and that it is his duty to detain her.

R. P. C.
J. D. C.

*May* 31, 1869.

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## No. 145.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 3.)

*Temple, June* 3, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that with reference to our report respecting the case of the British steamer "Salvador" at Nassau, which is embodied in the inclosed copy of a letter to the Admiralty, by which Department the case was first brought to your Lordship's notice, he was directed to transmit to us a copy of a despatch from the Governor of Nassau, inclosing the report of the Attorney-General of the Colony on the case, the substance of which alone was contained in Captain McCrea's despatch, which was also inclosed; and Mr. Hammond was pleased to state that, as the mail for the Bermudas is despatched this evening, your Lordship would be glad, if possible, to apprize Earl Granville in time to act upon the information by that opportunity, whether the reasons given by the Attorney-General in any way modify the opinion which we gave on the general tenour of his report given by Captain McCrea.

In obedience to your Lordship's commands we have the honour to report—

That there appears to us evidence that some persons are (in the words of section 2 of the Foreign Enlistment Act) in one of Her Majesty's Colonies, procuring persons to be employed &c., in the service of the Cuban insurgents; and that the "Salvador" has on board some such persons (whether British subjects or not is immaterial) so procured, and who are departing from Her Majesty's dominions with the intent of enlisting &c. (within section 5). Of course an information to this effect would be required, but an information could be obtained if the authorities at Nassau are in earnest. In such cases some responsibility and some risk of failure to establish a legal case must be incurred. We continue to be of opinion that the vessel should be detained.

We have, &c.
(Signed) R P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

The Solicitor-General entirely concurs in the inclosed report; but he desires to add for himself (being unable for want of time and because of the Attorney-General's engagement in the House of Commons, to consult him and the Queen's Advocate) that in his opinion the warlike force of the vessel having been, as he understands, augmented, there is quite sufficient reasons for detaining her by an act of State Sovereignty, even independently of the provisions of the Foreign Enlistment Act. The ship, if an armed ship, augmenting her force in British waters belongs to persons who break our law. In such a case, I am of opinion that acts of Sovereign force are justifiable to detain the vessel.

(Signed) J. D. COLERIDGE.

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## No. 146.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 5.)

*Temple, June* 4, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that, with reference to our Report of the 29th of April and other Reports upon the subject of the proceedings of the Spanish Authorities in the West Indies, he was directed to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid (No. 157), inclosing the answer of the Spanish Government to the Note which, by your Lordship's instructions, he addressed to Señor Lorenzana upon the subject of General Dulce's decree of the 24th March; and he was pleased to request that we should take the same into consideration and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we are not aware of the precise nature of the information said to have been conveyed to your Lordship by the Spanish Government as to the instructions transmitted to General Dulce on the 28th April, but it appears that his Proclamation is still in force, and that the Spanish Government have, in a great measure, left it to his discretion how far it is to be acted upon. Under these circumstances, we do not think that the Spanish Government can properly call upon Her Majesty's Government to withdraw the instructions they have sent to the British officers in the Bahamas and the seas adjoining.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 147.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June* 9.)

*Temple, June* 8, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Murray's letter of the 29th ultimo, stating that, with reference to my Report of the 22nd ultimo upon the claim of the owners of the "Phillis and Mary" for compensation for injuries sustained by a collision with another vessel, presumed to be the Spanish steam frigate "Villa de Madrid," he was directed to transmit to me a letter from Mr. Stokes, dated the 28th ultimo, containing the evidence upon which he relies to establish the identity of the colliding vessel; and Mr. Murray was pleased to request that I would furnish your Lordship with my opinion whether this evidence is sufficient to justify your Lordship in bringing the claim to the notice of the Spanish Government, and if so, that your Lordship would be glad to be advised as to the course which should be pursued in the matter.

In obedience to your Lordship's commands I have the honour to report—

That I have felt some difficulty in this case from the doubt which may be reasonably entertained upon reading the protest of the master and crew of the "Phillis and Mary," made shortly after the collision, whether their statement makes out such a *primâ facie* case of wrong against the Spanish war vessel as would justify your Lordship in proposing to the Spanish Government to allow the claim of the owners of the British vessel to be referred to the Judge of the High Court of Admiralty for his friendly arbitration. In the case of the "Prinz Frederick" (2 Dodson, p. 451), which is the leading case on the subject of such arbitration, the Swedish war vessel had been brought by the salvors into a British port, so that the High Court of Admiralty of England was the proper *forum* for the salvors to proceed in, and a warrant of arrest was, in fact, taken out against the vessel; but, from considerations of comity towards a public ship of a friendly nation, the Judge held that he ought not to allow the civil action to proceed, and thereupon the matter was, by consent, referred to his friendly arbitration. In the present case, as the Spanish vessel has never been within British jurisdiction since the collision, there does not appear to me to be any sufficient reason why the owners of the British vessel should not be required to observe the well-known principle of jurisprudence expressed in the maxim "*Actor sequitur forum rei.*" The letter of Lloyd's agent, which has been supplied by Mr. Stokes, raises, I consider, a presumption that the "Villa de Madrid" was the vessel which was in collision with the "Phillis and Mary" on the 29th November last, sufficient at least to warrant your Lordship in authorizing Her Majesty's Minister at Madrid to bring the complaint of the owners of the "Phillis and Mary" to the attention of the Spanish Government; and, inasmuch as that Government has acceded to the Regulations for Preventing Collisions at Sea (XI Hertslet, p. 1,089), Her Majesty's Minister may, I think, be properly instructed by your Lordship to ask that Government to designate a tribunal, whether it be that of a Judge or Arbitrator, before which

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the owners of the British vessel may have an opportunity of submitting the question whether on the occasion of the collision those regulations were duly observed by the Spanish vessel.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 148.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 16.)

*Temple, June* 16, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 15th instant, stating that he was directed by your Lordship to transmit to us therewith a letter from the Admiralty, dated the 14th instant, inclosing a copy of a despatch from Commodore Phillimore, in which that officer reported that he had been informed by the Spanish authorities in the West Indies that a British subject is not entitled, of right, to ask for the presence of a sworn interpreter or Consular Officer during his trial before a Spanish Court of Justice; and that he was to request that we would take the same into our immediate consideration, and at our earliest convenience report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we do not think that Her Majesty's Government can claim, as an essential to justice, that a licensed Interpreter or Consular Officer from the British Consulate shall be allowed to attend on occasions of a British subject being tried before a Court of Justice in Cuba. We consider that a British subject, if he cannot understand Spanish, ought to be allowed the advantage of an interpreter, if he is to be tried for his life, and that in questions of prize, British witnesses ought to be allowed the assistance of an interpreter, but we consider that justice will be satisfied on such occasions if they have the services of a sworn interpreter approved by the Court.

That no interpreter should be allowed to be present on any such occasion would, in our opinion, make the sentence of any foreign tribunal so arrived at a nullity in an English Court, as being contrary to the substance of justice.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 149.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 19.)

*Temple, June* 19, 1869.

My Lord,

WE are favoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th May last, stating that he was directed by your Lordship to transmit to us an accompanying despatch from Her Majesty's Minister at Madrid, upon the subject of the claim of the crew of the "Tornado" for compensation for their detention and alleged ill-treatment by the Spanish authorities, and further stating that the papers relating to the question were included in the collection forwarded to us with his letter of the 12th May upon the subject of the condemnation of the "Tornado;" and that he was to request that we would take the same into our consideration, and favour your Lordship, at our early convenience, with our opinion as to the course which Her Majesty's Government should pursue in regard to the claims of the crew and the widow of John McPherson.

We are also favoured with a note from Mr. Hammond, dated the 27th of May last, stating that, with reference to our observation in our report of the 22nd May on the case of the "Tornado," that the Royal Order of the 27th July, 1867, was not before us, he was directed by your Lordship to suggest that Inclosure No. 2 in Sir J. Crampton's despatch of the 25th August, 1857, contained the substance of the Order referred to.

We are also favoured with a further note from Mr. Hammond, dated the 31st day of May, stating that he was directed by your Lordship to transmit to us therewith Sir John Crampton's despatch, No. 136, of the 9th May, inclosing the final report of the Council of State with regard to the "Tornado," which was not among the papers then under our consideration with regard to the claim of the crew of that vessel, and further stating that the papers, a copy of which was inclosed, had not been laid before Parliament, and was the first paper referred to at the conclusion of the report, and that the second paper, viz., the report of the Council of the 11th July, 1868, would be found at page 32, Part I, Parliamentary Papers of 1869.

We are also favoured with your Lordship's commands, signified in Mr. Hammond's letter of the 9th instant, stating that, with reference to our report of the 22nd May last on the refusal of the Spanish Government to accede to the proposal of Her Majesty's Government that the case of the "Tornado" should be referred to a Spanish tribunal, he was directed by your Lordship to inform us that before Her Majesty's Government came to any final decision on the matter your Lordship considered it advisable to furnish Messrs. Isaac Campbell and Co. and Messrs. Forbes Campbell with a copy of the report of the Council of State for any further observations they might desire to submit, and more specifically as to the allegations of the Spanish Government that the owners had not availed themselves of the opportunities afforded them for obtaining a hearing; and further stating that he was to transmit to us therewith the replies returned by those gentlemen, and to request that the case, being now apparently closed, we would consider all the circumstances of it as set forth in the papers, and in those already before us, and report to your Lordship as to the course which Her Majesty's Government should now pursue with respect, not only to the condemnation of the vessel, but also to the claims of the commander and crew which formed the specific subject of the reference then under consideration.

In obedience to your Lordship's commands we have considered all the circumstances of this case as set forth in the papers before us, and we have the honour to report—

That the Attorney-General is of opinion, that although the proceedings of the Spanish Tribunals have been extremely dilatory, and in many respects objectionable and unsatisfactory, he does not, on the whole, think that there has been such a denial of justice as would authorize Her Majesty's Government to disregard the sentence of condemnation, and to demand the restitution of the "Tornado." The Attorney-General thinks it impossible to say that there was not some evidence in which a Court would be justified in coming to the conclusion that the vessel was, to say the least, contraband of war, one of the grounds on which her condemnation is based. The Attorney-General, therefore, adheres to the opinion on the subject which the Law Officers had the honour before to express to your Lordship.

The question relating to the treatment of the crew is a different one; and the Attorney-General cannot accede to the proposition of General Calorege, that "it is an admitted principle that once a vessel is declared to be good prize, neither the owners nor the crew can lay claim to any kind of indemnity."

This doctrine, if adopted in its breadth, would justify, or at least place beyond redress, any ill-usage of a crew carrying contraband, and would reverse the well-known rule of international law, that persons carrying contraband are not to be treated as criminals, or punished. See 1 Kent, page 158 (10th edition), Opinions of Attorney-General, vol. i., page 62.

The impression left on the Attorney-General's mind by a perusal of the whole of the papers is, that making allowance for some exaggeration, the crew were subject to much unnecessary violence and ill-usage at the time of their capture, and during their detention on board the "Gerona;" but that, after being brought on shore, they had not much to complain of, except the length of their detention. The Spanish Government at first sought to justify the detention on the ground of their being wanted as witnesses. (See Letter of General Calorege, November 21, 1866, of M. de Rubalcana, December 11, 1866, &c). They now put forward a different ground of justification, viz., that the crew were detained as prisoners of war; and this change would seem to indicate that the Spanish Government do not feel much confidence in being able to justify the length of their detention, on the ground originally adopted. The claim to treat them as prisoners of war is now justified for these reasons, viz., "that they were actually engaged in the military service of Chili, while all were acting in open hostility to Spain." (Memorandum Inclosure 2, in paper No. 2 of 1869).

The Attorney-General is desirable to discover in the papers any evidence of the truth of these allegations. With the exception of McPherson (on whose behalf no claim for the consideration of Her Majesty's Government appears to be maintainable), the Attorney-General is not aware of any evidence of the crew having enlisted in the Chilian service; it is certain that they, as well as the vessel were, at the time of the capture, unarmed, and neither committing, nor capable of committing, actual or open hostility: the number of the crew, the state of the vessel, and other considerations, point to the

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extreme improbability, if not impossibility, of her having been intended to commit hostilities, until the then voyage should have ended, and she had been commissioned and equipped in Chili.

It may be that the information which Mr. Thompson forwarded to Lord Stanley from Santiago was correct, "that Messrs. Isaac and Co. had agreed deliver the 'Tornado' to the Chilian Government at a Chilian port, for a sum agreed on." It was part, indeed, of Mr. Thompson's information, that "the real port of her destination was carefully concealed" from all on board except McPherson; but even if this were not so, and the crew knew that they were engaged in a contraband adventure, which the Attorney-General thinks probable, still the Attorney is of opinion that the Spanish Government would not be entitled to treat them as prisoners of war.

On these grounds, and having regard also to the consideration that the Spanish Government, when they may be presumed to have known their own case, did not claim to treat the crew as prisoners of war, and that probably, if they had made such a claim, Lord Stanley would peremptorily have insisted on their immediate release, the Attorney-General is of opinion that Her Majesty's Government are entitled to dispute the claim now set up by the Spanish Government to justify either the unnecessary violence used to them, or the length of time for which they were detained on the plea of their being prisoners of war. The Attorney-General is of opinion, that their treatment at the time of capture affords strong ground of complaint. It should be borne in mind, that the duty of peaceful submission to belligerent capture, which is inculcated by civilized Governments upon their subjects, is based upon the understanding that no unnecessary hardship or severity will be inflicted by the captors; and it is for Her Majesty's Government to consider whether Spain should be allowed to violate this understanding without remonstrance. The length of time for which the crew were detained, which appears on the whole to have exceeded all reasonable limits, on the supposition of their being detained merely as witnesses, appears to the Attorney-General to furnish an additional, though not perhaps an equally, strong ground of complaint.

Whether or not having regard to all the circumstances, and to the state of our relations with Spain, a specific claim for indemnity should be made, and insisted on, is a question of policy to be determined by Her Majesty's Governmeut.

The Solicitor-General desires, for himself, to add to the above Report, that he does not entirely concur in the concluding portions of it. He is not prepared to advise Her Majesty's Government that there is any claim for compensation even to the crew of the "Tornado," which could be fairly and properly enforced against Spain. It appears to him, that there is reasonable ground for treating them as prisoners of war; and although in the earlier stages of the business, another and different ground for the detention was put forward, it does not seem to the Solicitor-General that Spain is precluded from taking this ground, if there is good reason for her doing so, now that all the circumstances are known. If so, although there may be matter for remonstrance as to the excessive rigour with which (if their story be true), the crew were treated before they came on shore, there is matter for nothing more. Even on this subject it is to be remembered, that it is perhaps hardly reasonable to treat the *ex parte* statements of the crew as absolutely correct. There is every probability that they knew the character of the ship. and the extent of the risk they ran; and they were taken under circumstances to account for much exasperation in the mind of the Spaniards. But even if they did not know what they were about, which may be the case, still their remedy, if any, is against those who deceived them when they entered on board the vessel; and not against the foreign Government which captured it; which now gives at any rate very grave reasons to show that it was a ship of war, and if so, that its crew were prisoners of war, and might be treated as such.

The Queen's Advocate desires to say, that he concurs with the Solicitor-General in his reservation, and that he is of opinion that Her Majesty's Government cannot, under the circumstances, proparly claim any indemnity for the crew of the "Tornado" from the Spanish Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

## No. 150.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 22.)

*Temple, June* 22, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that, with reference to our various recent Reports on the proceedings of the Spanish authorities in British waters in the West Indies, and, especially, to our Report of the 24th of April, he was directed by your Lordship to transmit to us, for any observations we might have to make thereon, an accompanying copy of a despatch from Her Majesty's Chargé d'Affaires at Madrid, inclosing a translation of the answer of the Spanish Government to the representation which Sir John Crampton made to them on the subject, by your Lordship's direction, on the 1st ultimo.

The previous papers were therewith inclosed, together with some subsequent correspondence, showing the steps which have been taken to prevent an improper use being made of British territory by the Cuban insurgents.

In obedience to your Lordship's commands we have the honour to report—

That it is not easy in the present state of the evidence to say for certain what are the exact facts as to the conduct of the Spanish ships. Laxity, as we have already intimated, does appear to have prevailed at the Bahamas, and it is possible that the Spanish Government may have cause of complaint. The Spanish Minister should be asked, however, to be more specific in his statements in this matter; but we think the Governor of the Bahamas should be warned to be on his guard against any connivance on the part of the inferior officials of the Bahamas, with breaches of the Foreign Enlistment Act.

The reply of the Spanish Minister, however, is very unsatisfactory. Specific charges of acts of violence committed by Spain within British jurisdiction are not met by general and vague charges against British officials. These definite and specific charges the Spanish Minister passes by or disregards, nor does he make any allusion to the Proclamation of General Dulce, and we think your Lordship may properly, if you think fit, call his serious attention to these charges, requiring, in our opinion, a definite and specific answer on the part of Spain, telling him at the same time, if your Lordship pleases, that no time will be lost in prosecuting inquiries as to the matters complained of by way of recrimination in his despatch, as soon as he will point out specifically and in detail the precise act or omission of duty of which he thinks he has a right to complain.

We have, &c,
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 151.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 23.)

*Temple, June* 23, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st June instant, stating that, with reference to our Report of the 19th instant, on the case of the "Tornado" and her crew, he was directed by your Lordship to transmit to us the accompanying drafts of a despatch and of letters founded on our opinion, which your Lordship proposes to address to Her Majesty's Chargé d'Affaires at Madrid, to Mr. Forbes Campbell, and to Messrs. Isaac Campbell, and Co., and to request that we would take the same into our consideration and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That the proposed despatch and two letters may, in our opinion, be properly addressed to the parties in question.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 152.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June 24.*)

*Temple, June* 24, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that, with reference to our Reports of the 1st and 3rd instant respecting the case of the British steamer "Salvador" at Nassau, which, with the papers relating to the matter, were also transmitted to us for convenience of reference, he was directed to transmit to us a copy of a despatch from Captain McCrea, of Her Majesty's ship "Favorite," to the Secretary of the Admiralty, reporting that the "Salvador" had been seized on her return to Nassau under the Foreign Enlistment Act, and that an action had been commenced against the Receiver-General and Captain McCrea on account of that seizure; and Mr. Hammond was to request that we would take this matter into immediate consideration and report to your Lordship our opinion thereupon. Some further letters from the Admiralty and Colonial Office were also transmitted.

In obedience to your Lordship's commands we have the honour to report—

That we think the proceedings against the "Salvador" may be sustained under the 6th section of the Foreign Enlistment Act. In the present state of the evidence we do not feel sure that the "Salvador" falls also under the operation of section 7, but we think it very likely that, in the result, the opinion of the Attorney-General of the Colony may prove to be sound.

As to the action against the Receiver-General and Captain McCrea, mentioned in Mr. Hammond's letter of the 18th, we think that your Lordship may properly advise that they should be defended or, at least, indemnified by the Government.

We think it our duty to inform your Lordship that, after perusing these papers, it appears that the embarkation of Cubans on board the "Salvador," and the escape of that vessel, shows, beyond a doubt, that the English law has been publicly defied in the Bahamas, under circumstances of great aggravation, and without any effective measures being taken betimes by the authorities of the place to prevent or punish the offenders. This has happened also in a manner justly calculated to arouse the suspicions of the Spaniards as to the good faith, as well as the vigour, of the local officials.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 153.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June 24.*)

*Temple, June* 24. 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 21st instant, stating that, with reference to our Report of the 16th instant, with regard to the right of a British subject to ask for a sworn interpreter or Consular Officer when on trial before a Court of Justice in Cuba, he was directed by your Lordship to transmit to us an accompanying draft of an instruction, founded on our opinion, which your Lordship proposed to address to Her Majesty's Chargé d'Affaires at Madrid; and, that he was to request that we would take the same into our consideration and inform your Lordship whether it is right and proper.

In obedience to your Lordship's commands we have taken the accompanying draft instruction into our consideration and have the honour to report—

That we are not disposed to think that your Lordship could properly object to a sworn interpreter appointed by the Court on the ground of his being an officer of the Court, and, therefore, having an interest in its proceedings; but we think that a Government interpreter, if Consul March means by that expression an official of the Executive Government, could hardly give the same security for impartial interpretation to a prisoner as an interpreter of the Court, and may fairly be objected to on that ground.

We hnve, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 154.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June 28.*)

My Lord, *Temple, June* 28, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that, with reference to our Report of the 20th ultimo, and to previous Reports on the case of the seizure of the "Mary Lowell," he was directed by your Lordship to transmit to us therewith a despatch from Her Majesty's Consul-General in the Havanna, inclosing copies of further evidence in the case which he had received from His Excellency Governor Sir James Walker, and also to forward to us an accompanying letter from the Colonial Office, with a copy of a despatch from the Governor of the Bahamas, covering a letter from Commodore Phillimore, stating his opinion as to the position of the "Mary Lowell" at the time of capture, and as to the justice of the decision of the Cuban Prize Court, and Mr. Hammond was pleased to request that we would take these papers into our consideration, and favour your Lordship with our opinion thereupon.

The previous papers were sent herewith for convenience of reference.

We are also honoured with a further letter from Mr. Hammond of the 14th instant, stating that he was directed by your Lordship to transmit to us therewith two letters from the Board of Admiralty respecting this case, and to request that we would take them into our immediate consideration, together with the papers already before us, and report our opinion at our earliest convenience to your Lordship, as to the course now to be pursued.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That we have hitherto not troubled your Lordship with any observations on these papers, as we understood that delay was desired by your Lordship. As we now understand that our opinion is desired, we report as follows:—

It is highly probable that Commodore Phillimore has arrived at sound conclusions upon the facts of the case; but we apprehend that the duty of Her Majesty's Government is not to go into any other question or consideration, but the simple matter of fact whether or not the "Mary Lowell" was or was not captured within British waters, and to act accordingly. We do not think that the capture was complete when the ship was hailed. A chase may not be pursued into neutral territory, and the real question is whether armed violence has been used within Her Majesty's jurisdiction by a Spanish man-of-war. The case, however, has materially altered its aspect since the first papers connected with it arrived in this country, and it would not be proper to proceed to further action against Spain, until certain points are made more clear than they can be said to be on the evidence at present.

We venture to suggest that the Admiralty should request Commodore Phillimore to report in full, and with reasons for his conclusions, upon the following matters, marking the charts to illustrate his answers:—

*a.* The respective distances of the "Mary Lowell," and the Spanish ship from the shore at the time when the Spaniard hailed the "Mary Lowell," and lowered a boat.

*b.* The Spaniard ranged alongside.

*c.* The sails were lowered, and the colours hauled down.

*d.* The vessel was boarded and the crew secured.

It may be proper, when Commodore Phillimore's Report is received, to place it, together with the evidence, in the hands of the United States' Government, explaining to them the aspect now assumed by the case of the "Mary Lowell," and requesting them to furnish the English Government with any comments thereupon, which they may think desirable. But this question, perhaps, will more properly arise for consideration, after the Report of Commodore Phillimore has been received here.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

1869

## No. 155.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June 29.*)

*Temple, June* 29, 1869.

My Lord,

WE are honoured with your commands signified in Mr. Hammond's letter of the 21st instant, stating that with reference to the papers then before us in the case of the "Mary Lowell," he was directed by your Lordship to transmit to us therewith a despatch from Her Majesty's Chargé d'Affaires at Madrid, containing the answer of the Spanish Government to the representations which Sir John Crampton had made respecting the capture of that vessel; and that he was to request that as no further explanation is now expected from Madrid on the subject, we would take the case into our early consideration and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have taken this case into our consideration, and we have the honour to report—

That we think it very likely that the "Mary Lowell" may prove in the result to have been properly captured.

We have, however, expressed in a report upon some papers sent to us earlier our views as to certain specific information on matters of fact to be obtained, if possible, from Commodore Phillimore. To those views we adhere. The case should be thoroughly sifted in point of fact because we have at least moral responsibilities to the Government of the United States, and though this country might well leave the matter where it is as far as our own interests are concerned, we are bound to the United States to leave nothing undone to ascertain the facts. This, if your Lordship thinks fit, might be explained to the Spanish Government, and the reason pointed out to them why in a matter which does not directly or immediately concern this country we are bound to be particularly vigilant.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 156.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received July 7.*)

*Temple, July* 6, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed to transmit to me the accompanying correspondence relative to the arrest and ill-treatment by the authorities in Cuba of two British subjects, Mr. Kelly and Mr. Fergusson, and to request that I would take the same into my consideration and furnish your Lordship with my opinion upon these cases.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it seems open to some doubt, whether the ostensible authorities are in fact the real authorities at the present moment in the Island of Cuba, even in places where the authority of the Crown is maintained, but this circumstance would not in my opinion relieve the Spanish Government from the obligation to make compensation to Mr Fergusson and Mr. Kelly for the unmerited personal sufferings to which they have been exposed, whether it be from the malice or from the feebleness of the ostensible authorities at Manzanillo, and at Santiago. I observe that Mr. Ffrench in his despatch to the Spanish Minister of State has confined his observations to the personal ill-treatment to which the two British subjects have been exposed. If I may venture to express an opinion, I consider that the course which he has adopted is judicious, as the claim of Mr. Fergusson for compensation from the Spanish Government for the destruction of his property on the estate of Don F. Vicente Aguilera is not free from difficulty, for it appears that Don Vicente himself was one of the principal leaders of the insurgents, and the property was plundered or destroyed in a sally made by the garrison of the town against the insurgents.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 157.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received July 9.*)

*Temple, July* 8, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th July instant, stating that he was directed by your Lordship to transmit to us the accompanying copy of a letter from the Colonial Office, inclosing a memorial from Mr. J. J. Thompson of Nassau, Bahamas, praying for compensation for losses sustained by him through the capture of his sloop the "Jeff. Davis" by the Spanish authorities off the coast of Cuba in March last.

Mr. Hammond was pleased further to say, that the previous papers relating to the case were likewise annexed,* and that he was to request that we would take them into our consideration and favour your Lordship with our opinion as to the answer that should be returned to Mr. Thompson's memorial.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That it would appear, from the papers submitted to us, that the "Jeff Davis" was seized within Spanish waters for a breach of Spanish law by receiving on board Spanish subjects, as passengers, without the documents required by Spanish law.

If the statement of Admiral Malecampo on this point be correct, and it probably is so, we are of opinion that the owner of the "Jeff Davis" is not entitled to ask the Spanish Government for compensation for any losses incurred by him from the detention of his vessel by the Spanish authorities at Caibarien.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 158.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received July 13.*)

*Temple, July* 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that, with reference to our Reports respecting the case of the "Salvador," he was directed to state to us, that the board of Admiralty having suggested in a letter dated June 12, that it might be advisable to send a Circular to Governors and Naval Officers on the subject, your Lordship, on the 15th ultimo, recommended to that Department, and to the Colonial Office, that the attention of the officers named should be called to that case, and to the opinions given by the Law Officers in regard to it. That the Admiralty accordingly prepared a draft instruction to Naval Commanders, and communicated it to the Foreign Office and to the Colonial Office on the 19th ultimo. That they were informed in reply, on the 21st ultimo, that your Lordship concurred in the proposed Circular, and a communication to the same effect was made to the Colonial Office. That, on the 29th ultimo, two letters were received from the Colonial Office, the first stating, in reply to Mr. Hammond's letter of the 15th ultimo, doubts as to the expediency of sending instructions to the Colonial Governors founded on our Reports, but expressing Earl Granville's readiness to send such definite instructions to them respecting the state of the law, and the extent of their powers, as your Lordship might consider advisable; the second taking exception to the terms of the Admiralty draft Circular, and suggesting that they should be made more explicit. That similar communications seem, from the two letters of the Admiralty of the 30th ultimo, to have been sent to that Department by the Colonial Office, and that the Board of Admiralty now suggest that the draft Circular should be referred for our consideration, and call attention to the opinion of the Colonial Office, that the exact state of the law as to the detention and seizure of vessels laden with arms and munitions of war should be defined.

Mr. Hammond was also pleased to transmit the whole of the correspondence in regard to the case of the "Salvador," and, with it, a further letter from the Admiralty requesting your Lordship's judgment on the whole case; and he was to request that we would take the various matters connected with this case into our consideration, and report our opinion as to the manner in which your Lordship's replies should be framed.

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* Inclosure in Colonial Office of April 23, Governor Walker, No. 42; Inclosure in Admiralty of April 26, Lieutenant Jolly, April 22; Captain McCrew, April 6; Consul-General Dunlop, No. 48, May 19, No. 55, June 1; Memorandum, Foreign Office, July 1, 1869.

In obedience to your Lordship's commands we have the honour to report—

That we think the proposed Circular is open to objection, and that the criticisms upon it, in the letter addressed to the Foreign Office from the Colonial Office of June 29, 1869, are, speaking generally, well founded. Before any Circular is issued, a short statement ought, we think, to be drawn up, as to the powers of the Executive in various cases under the Foreign Enlistment Act; this statement to be the basis on which the Circular is to be composed. The preparation of such a statement would require some time and a good deal of care, but we think it would not be advisable to issue a Circular letter of instructions without making it, as far as possible, exhaustive.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 159.

*The Queen's Advocate to the Earl of Clarendon.—(Received July 15.)*

*Temple, July* 15, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Madrid, respecting an application which has been made to him by Mr. William White, a British subject, for assistance to obtain the restitution of his daughter from the custody of his wife, from whom he is separated, and Mr. Hammond was pleased to request that I would take the same into my consideration, and inform your Lordship what instruction should be given to Mr. Ffrench on the subject.

In obedience to your Lordship's commands I have the honour to report—

That Mr. William White should be informed that his proper course of proceeding will be to apply to the Magisterial or Judicial authorities at Seville, whichever may be the competent authorities under the Law of Spain, to enforce the restitution of his daughter, and that Her Majesty's Chargé d'Affaires cannot intervene on his behalf in the present stage of the case. At the same time Her Majesty's Consul at Seville should be instructed to give him any necessary assistance to bring his complaint properly before the local authorities of that place.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 160.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received July 15.)*

*Temple, July* 15, 1869.

My Lord,

We are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, with reference to our Reports of the 27th and 2nd of April, relative to the seizure and condemnation by the authorities of Cuba of the British schooner "Galvanic," he was directed by your Lordship to transmit to us, together with the previous papers, further correspondence as marked in the margin with regard to that matter, and that he was to request that we would again take the case into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That we beg to refer your Lordship to our Report in answer to the second letter of Mr. Hammond of the 8th instant, in which Report our opinion on the whole case is somewhat fully expressed.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 161.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received July 15.)*

*Temple, July* 15, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd July instant, stating that, with reference to his other letter of that date respecting the case of the "Galvanic," he was directed by your Lordship to transmit to us a despatch from Mr. Thornton (No. 231) inclosing correspondence with the American Government respecting the case of G. G. Curbelo, a citizen of the United States, who appeared to have been on board that vessel at the time of capture; and to request that we would take the case into consideration, more especially as regards Mr. Fish's statement as to whether Flag gives protection to persons as well as property on board a neutral vessel, and that we would report our opinion to your Lordship as to the manner in which the matter should be dealt with.

Galvanic

Blockade

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That we do not find the protest of the master among the papers, and have little further information as to the circumstances of the capture of the "Galvanic" than was before us when we made our former report. We assume that the vessel was captured on the high seas after many hours' chase, at a considerable distance from the Spanish coast, beyond any extended jurisdiction over and above three miles from the coast, which is exercised by some nations (ourselves among the number) for the purpose of enforcing laws of revenue and customs, and generally conceded to them by comity, though not acknowledged as a right. Assuming these facts, the question arises, By what right was the vessel captured?

The Cuban insurgents have not been declared or recognized as belligerents; they are not in actual possession (as far as we are aware) of any ports; no blockade has been proclaimed by Spain. Under these circumstances the Spanish Government are entitled to prohibit foreign ships entering their ports, possibly to capture such as disregard the prohibition, and to deal with those on board them by the Spanish Municipal Law; but we are of opinion that they are not entitled to pursue vessels beyond the limits of their local jurisdiction, and to exercise the belligerent right of capture on the high seas. It follows that the capture of the "Galvanic" was not warranted by International Law, and that we have a strict right to require her restitution, and the restoration of all persons on board her. Having regard, however, to the character of the vessel, to the fact of her having previously landed a cargo of arms and ammunition, and to the strong suspicion (to say the least) of her being engaged, when captured, in an adventure prohibited by Spanish Law and by the Foreign Enlistment Act, it is for Her Majesty's Government to determine whether, under the circumstances, it is expedient to insist against Spain on our extreme rights.

Closing Ports

We understand the English crew to have been surrendered up and taken to Jamaica, but the letter of Mr. Fish of June 22, represents an American citizen, described as a passenger, to have been sent to Spain, and to be still imprisoned.

We suggest that, on considerations of comity towards the United States, Her Majesty's Government should, if satisfied of the correctness of Mr. Fish's statement of facts, require the immediate release of this American citizen.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 162.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received August 4.)*

*Temple, August* 4, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 28th July, stating that he was directed to transmit to us a note, with translation, from the Spanish Chargé d'Affaires at that Court, dated the 25th ultimo, drawing the attention of Her Majesty's Government, by direction of his Government, to the case of the American steamer "Peril," which vessel, it appeared, though strongly suspected of being in the service of the insurgents in Cuba, was permitted to enter Port Royal, in Jamaica,

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for the purpose of coaling, the Governor of that island stating that he was unable to prevent her so doing; and further stating that he was to request that we would take the Marquis de Moral's note, together with the accompanying correspondence between the Colonial Office and the Foreign Department on the same subject,* into our consideration, and advise your Lordship upon the answer which you should return to the Spanish Government.

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report—

That your Lordship may, in our opinion, properly return an answer to the despatch of the Marquis del Moral to the following effect:—

"That it is the opinion of Her Majesty's Goverdment that the circumstances of the American steamer 'Peril' having been guilty of a violation of Spanish law, however flagrant, previous to her arrival at Port Royal, if it had been made known to the Governor of that island in time, would not have justified him in preventing the vessel from touching at Port Royal on her way to New York, and taking coals on board. That however desirous Her Majesty's Government may be to maintain the relations of friendship which exist between Spain and Great Britain, they cannot overlook their duties towards the flag of other nations, and they must with regret decline to comply with the request of the Spanish Chargé d'Affaires."

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 163.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received August* 6.)

*Temple, August* 5, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Otway's letter of the 27th July last, stating that he was directed to transmit to us an accompanying despatch from Her Majesty's Consul-General at the Havana (No. 75, July 10, 1869), inclosing an official copy and a translation of a new Proclamation which had been issued by the Captain-General of Cuba, and which took the place of the edict of General Dulce of the 24th of March last, which is now abrogated; and he was to request that we would take the same into our consideration, and favour your Lordship at our early convenience with our opinion on the present Decree.

In obedience to your Lordship's commands we have the honour to report—

That, with respect to so much of Article I as declares that "vessels attempting to enter the ports which are closed, or to communicate with the coast, will be chased, and if captured will be tried," &c., we have to observe that the right of chase and capture of the Spanish Government is confined to their own territorial limits, viz., three miles from the shore, and that it may be well (to prevent misapprehension) that they should be informed that Her Majesty's Government cannot permit that any British vessel, even if she should have violated the Spanish regulations, should be chased and captured on the high seas.

With respect to Article III we have to observe that the claim to treat vessels carrying contraband of war (whether military persons or otherwise) as enemy's ships, and consequently to treat their crews as enemies, *i.e.*, as prisoners of war, is not supported by any recognized rule of international law. The carrying of this species of contraband may, indeed, under conceivable circumstances, be strong, possibly conclusive, evidence of the ship carrying them being an enemy's ship, but the terms of this Article would authorize the Spanish Government to treat as prisoners of war the crew of a British ship on board which a single Cuban insurgent might be found, without any other evidence of her hostile character; in such a case the utmost to which Her Majesty's Government could be called upon to submit would be the confiscation of the ship; they could not submit to the crew being treated as prisoners of war.

Subject to these observations we do not consider that the five first Articles of the Proclamation call for any remonstrance on the part of Her Majesty's Government as regards their *primâ facie* purport. Much, however, will depend upon the application of them, and Her Majesty's Consul-General may be properly instructed to report to your Lordship from time to time upon any case in which proceedings may be instituted against any British subject or any British vessel under any of those Articles.

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* Colonial Office, June 25; to Colonial Office, June 28, 1869.

With regard to the allusion in the VIth Article to the rights of search under the Treaty of 1835 with Great Britain, we are at a loss to understand how the rights of search conceded under that Treaty can be applicable to the cases contemplated in the Proclamation. As far as we understand that Treaty, rights of search are only conceded in regard to vessels which "may, upon reasonable grounds, be suspected of being engaged in the traffic of slaves, or of having been fitted out for that purpose, or of having, during the voyage on which they are met by the said cruizers, been engaged in the traffic of slaves, contrary to the provisions of the Treaty." (4 Hertslet, p. 441, Article X of Treaty of June 28, 1835.)

We think your Lordship may properly instruct Her Majesty's Minister at Madrid to ask for some explanation as to the intention of this Article, as, if it is intended thereby to authorize cruizers to search British vessels on the high seas under any of the conditions of suspicion specified in the Treaty, *mutatis mutandis*, as regards aid or supplies furnished to the insurgents, the Article may be open to grave objection.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 164.

*The Queen's Advocate to Mr. Spring Rice.*—(*Received August* 21.)

*Temple, August* 20, 1869.

My dear Sir,

PERHAPS the substitution of the word "might" for "may" would show more clearly that the observation of the Law Officers was intended to be general, and not to point to the existing state of things, whatever that may be, in Cuba; and the insertion of the words "where war exists" after the words "under conceivable circumstances" would render this more clear. It was the intention of the Law Officers to call Lord Clarendon's attention to the circumstance that, even in time of war, not every carrying of enemies on board a neutral vessel would expose its crew to be treated as enemies, although, under conceivable circumstances, it might work that effect, whereas, under the Proclamation, every conveyance of individuals in the service of the insurrection is to expose the crew as well as the vessel to be adjudged as enemies.

The terms "hostile," "contraband," "enemies," all point to a state of war, although the word "war" itself is not in Article III. The word, however, does occur in Article V: "armed for war." At the same time, unless the Spanish cruizers attempt to give effect to the Proclamation on the high seas, no question of belligerent right need arise.

Very, &c.
(Signed) TRAVERS TWISS.

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## No. 165.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received September* 20.)

*Temple, September* 18, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence as marked in the margin,* upon the subject of a case lately forwarded from Belgium to Liverpool by the steamer "Gannet," containing an implement of war, which was alleged to be intended for the use of parties in insurrection against the Spanish Government.

Mr. Hammond was pleased to state that we should learn from the papers that the case in question was at present detained by the Customs authorities at Liverpool, and he was to request that we would favour your Lordship, at our earliest convenience, with our opinion as to the steps which should now be taken in regard thereto.

In obedience to your Lordship's commands we have the honour to report—

That we are not aware of any law under which, in the absence of a Proclamation or Order in Council prohibiting the export of arms, the Customs authorities at Liverpool would be authorized to prevent the exportation of the instrument in question on the ground of a suspected ultimate destination to the insurgents in Cuba.

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* Señor Rances, September 6; to Treasury, September 7; Treasury, September 11, 1869.

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We think, however, as the package has been reported incorrectly, the Custom-house authorities may detain it until it is claimed, and they are satisfied that it is to be shipped for exportation, and what vessel. But this is probably in excess of the legal powers of the Government, and is to be justified, if at all, only as an act of courtesy to a friendly nation.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 166.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October 5.*)

*Temple, October* 2, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd September ultimo, stating that, with reference to that part of our Report to the Colonial Office of the 6th ultimo, a copy of which has been communicated to the Foreign Office, in which we drew the attention of Her Majesty's Government to the fact of the capture of "La Have" by the Spanish ships of war on the high seas, he was directed by your Lordship to transmit to us, for any observations we might have to offer thereupon, a further despatch from Her Majesty's Chargé d'Affaires at Madrid, inclosing a copy and translation of a note addressed to him by the Spanish Minister for Foreign Affairs justifying the capture of the vessel.

Mr. Hammond likewise inclosed, together with the former papers, a letter from the Admiralty, with a report from Commodore Phillimore containing further information in this case.

In obedience to your Lordship's commands we have perused the papers submitted to us, and have the honour to report—

That we are of opinion that your Lordship is not called upon to take any further step in this matter. We consider that this is not a case in which any damages can now be properly claimed, and that as Her Majesty's Chargé d'Affaires has formally notified to the Spanish Government the view with which Her Majesty's Government entertains as to the illegality of the capture, your Lordship has sufficiently guarded yourself against the case being invoked on any future occasion by the Spanish Government as a precedent to justify captures made in time of peace on the high seas.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 167.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October 5.*)

*Temple, October* 4, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us therewith a letter from the Treasury, having reference to a representation made by the Spanish Minister in regard to an apprehended shipment of munitions of war for the use of the insurgents in Cuba; and Mr. Hammond was pleased to request that we would take the same into consideration, together with the note of the Spanish Minister, also inclosed, and favour your Lordship, at our earliest convenience, with our opinion as to the course which should be taken in the matter.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That it appears that the cases containing arms have been duly reshipped on board the "Alar," we are of opinion that the Collector at Falmouth will not be justified in withholding clearance to that vessel by reason of the character of her cargo. The Spanish Government may, if your Lordship thinks fit, be informed that Her Majesty's

Government cannot undertake to prevent the export of arms (as distinguished from armed vessels) whatever may be their suspected destination.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 168.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October 5.*)

*Temple, October* 4, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd September last, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, dated the 20th ultimo, inclosing copies of a letter and its inclosures from the Governor of the Bahamas, with reference to a request made to him by the Spanish Consul at Nassau to issue a proclamation, similar to that of the Governor of Jamaica, prohibiting the exportation of arms and munitions of war from that island; and he was to request that we would take this matter into our consideration, and inform your Lordship whether, in our opinion, it would be advisable to direct the Governor of the Bahamas to procure, if possible, the passing of a Law to prevent the exportation of contraband of war from that Colony.

In obedience to your Lordship's commands we have the honour to report—

That the question referred to us by your Lordship involves, in our opinion, considerations of policy as well as of law; but, assuming Her Majesty's Government to consider that on grounds of policy no objection can arise, we are of opinion that it would be advisable, in point of law, that there should be conformity in the legislation of Colonies in such close vicinity to each other as Jamaica and the Bahamas, and that the Governor of the Bahamas may be properly instructed to procure the passing of a Law to give him like powers of preventing the exportation of arms, ammunition, &c., from that Colony to those which it appears that the Governor of Jamaica has been authorized by the legislation of that island to exercise in regard to Jamaica.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 169.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October 5.*)

*Temple, October* 4, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 21st September, stating that, with reference to our Reports of the 28th and 29th of June last, upon the case of the "Mary Lowell," he was directed by your Lordship to transmit to us the inclosed letters from the Board of Admiralty, as marked in the margin*, containing Reports from Commodore Phillimore, with answers to the specific questions put in our Reports above referred to; and he was to request that we would favour your Lordship with our opinion on the case as it now stands.

The former papers were annexed for reference, if required.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that there are sufficient materials before your Lordship for determining the course which Her Majesty's Government should take in this case. We think that nothing turns upon the "Mary Lowell" being in charge of a British Custom-house officer, as it appears that Mr. Wilson, who was in charge of her, had ceased for the time to have any connection with Her Majesty's Customs, and was, in fact, acting-master of her. We consider that the question is purely one of territorial right on the part of Her Majesty's Government to protect the "Mary Lowell" from capture, and that the question of right depends entirely upon the place where the capture of the "Mary Lowell" was effected. We would observe, however, that the claim of territory is to be taken as a matter *stricti juris*, and to be made out by clear and unimpeached evidence (the "Vrow Anna Catherina," 5 ch., Robinson, p. 17), and that therefore, if any doubt should still exist upon the subject, it would not be proper for Her Majesty's Government, on the strength of that doubt, to insist upon the "Mary Lowell" being released.

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* Admiralty, July, 15, 19, 1869.

We have examined very minutely the charts and documents which Commodore Phillimore has prepared in illustration of the courses and of the positions of the two vessels at four different periods, and we think your Lordship may, for the purpose of determining the place of capture, rely upon the accuracy of those charts and documents. It results from them that the "Mary Lowell" was at the distance of between five and six miles from Little Ragged Island, when she tacked to the northward, and the Spanish frigate lowered a boat with the intention to board her (Chart No. 1); that as the "Mary Lowell" continued her course, the Spanish frigate ranged along side of her, and brought a gun to bear upon her, and at this moment the "Mary Lowell" was about three miles and three-quarters from Little Ragged Island (Chart No. 2); that the "Mary Lowell" had probably neared the shore about another half mile when she lowered her sails and flag (Chart No. 3); and that the "Mary Lowell" was about two miles from Little Ragged Island when she was boarded and taken possession of by the captors. Assuming this to be the fair result of the evidence, we are of opinion that the capture was effected when the flag and sails were lowered (the "Rebekah," 1 ch. Rob., p. 233; the "Edward and Mary," 3 ch. Rob., p. 306); and that, as the act of formal submission took place on the high seas, the subsequent taking possession of the prize was not an act of violence forbidden by the law of nations to take place within the territory of a third Power (the "Eliza Ann," 1 Dodson, p. 245), and which would entitle that Power to claim the restoration of the vessel.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 170.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received October 11.)*

My Lord, *Temple, October* 9, 1869.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 29th of September last, stating that with reference to his letter of the 23rd September relative to the case of the "La Have," he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Acting Consul-General at the Havana, dated the 23rd August last, which he was to request that we would take into our consideration, together with the papers now before us.

In obedience to your Lordship's commands we have the honour to report—

That no general rule can be laid down for the guidance of Her Majesty's Consul-General, as desired by him. Each case of restitution after capture must depend upon its peculiar circumstances, and we are not aware of any rule of Maritime International Law which requires the captors upon the release of a vessel, which proves to have been unlawfully captured, to tow her back to the place where she was seized.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 171.

*The Attorney- and Solicitor-General to the Earl of Clarendon.—(Received October 20.)*

My Lord, *Temple, October* 20, 1869.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office, dated the 8th instant, inclosing a copy of a despatch from Governor Walker, containing further evidence with regard to the case of the "Mary Lowell;" and he was to request that we would take the same into our consideration, and inform your Lordship whether there is anything in these papers to lead us to alter or modify the opinion expressed in our Report of the 4th instant.

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## Spain.

### No. ~~[illegible]~~ 169*.

*The Law Officers of the Crown and the Queen's Advocate to the Earl of Clarendon.—(Received October 7.)*

My Lord, *Temple, October* 7, 1869.

WE are honoured with your Lordship's command signified in Mr. Hammond's letter of the 21st September, stating that he was directed by your Lordship to transmit to us a correspondence, as noted in the margin,* which had passed between your Lordship and the Lord Bishop of London relative to the proposed extension of the limits within which the Episcopal jurisdiction of the Bishop of Gibraltar had been hitherto restricted, and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion, as to whether there was any legal objection to carrying out the views of the Bishops of London and Gibraltar in regard to that matter.

In obedience to your Lordship's commands, we have taken this matter into consideration, and have the honour to report—

That the Bishop of Gibraltar is a Colonial Bishop, not a Bishop in a foreign country. To extend his patent so as to give him jurisdiction over congregations in foreign countries would be impossible, except so far as an Act of Parliament confers such power on the Crown. The Act of 5 Vict., cap. 6, gives power to consecrate Bishops in foreign countries, but not to extend a Bishop's patent from a colony to a foreign country. A Bishop for a foreign country must therefore, we think, be specially consecrated as such. We are therefore disposed to regard as improper and annomalous any attempt to alter the patent of the Bishop of Gibraltar, so as to give that prelate jurisdiction in other foreign countries; and the extension of the patent in this sense would, we think, be legally inoperative. But we see no reason why an order should not issue to the effect suggested by the Bishops of London and Gibraltar, on the precedent of the order mentioned in Lord Aberdeen's letter of the 20th October, 1812. The jurisdiction so conferred would not, however, have any legal validity. If the change proposed be of such importance, the only way legally to deal with it would be to pass an Act enlarging the powers of 5 Vict., cap. 6, so as to deal expressly with the case of a Colonial Bishop where jurisdiction is sought to be extended over English clergymen and congregations resident in neighbouring foreign countries.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Bishop of London, August 13; to Bishop of London, August 27; Bishop of London, September 14, 1869.

## Spain.

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### No. 169.

*The Law Officers of the Crown and the Queen's Advocate to the Earl of Clarendon.—(Received October 7.)*

My Lord, *Temple, October 7*, 1869.

WE are honoured with your Lordship's command signified in Mr. Hammond's letter of the 21st September, stating that he was directed by your Lordship to transmit to us a correspondence, as noted in the margin,* which had passed between your Lordship and the Lord Bishop of London relative to the proposed extension of the limits within which the Episcopal jurisdiction of the Bishop of Gibraltar had been hitherto restricted, and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion, as to whether there was any legal objection to carrying out the views of the Bishops of London and Gibraltar in regard to that matter.

In obedience to your Lordship's commands, we have taken this matter into consideration, and have the honour to report—

That the Bishop of Gibraltar is a Colonial Bishop, not a Bishop in a foreign country. To extend his patent so as to give him jurisdiction over congregations in foreign countries would be impossible, except so far as an Act of Parliament confers such power on the Crown. The Act of 5 Vict., cap. 6, gives power to consecrate Bishops in foreign countries, but not to extend a Bishop's patent from a colony to a foreign country. A Bishop for a foreign country must therefore, we think, be specially consecrated as such. We are therefore disposed to regard as improper and annomalous any attempt to alter the patent of the Bishop of Gibraltar, so as to give that prelate jurisdiction in other foreign countries; and the extension of the patent in this sense would, we think, be legally inoperative. But we see no reason why an order should not issue to the effect suggested by the Bishops of London and Gibraltar, on the precedent of the order mentioned in Lord Aberdeen's letter of the 20th October, 1842. The jurisdiction so conferred would not, however, have any legal validity. If the change proposed be of such importance, the only way legally to deal with it would be to pass an Act enlarging the powers of 5 Vict., cap. 6, so as to deal expressly with the case of a Colonial Bishop where jurisdiction is sought to be extended over English clergymen and congregations resident in neighbouring foreign countries.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Bishop of London, August 13; to Bishop of London, August 27; Bishop of London, September 14, 1869.

The previous papers were also sent therewith for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That it is impossible to deny that the papers now forwarded to us by your Lordship from the Colonial Office throw considerable doubt upon the accuracy of Commodore Phillimore's Report and Maps, and upon the character of the evidence by which he was brought to his conclusions. There has been, it would seem, some amount of feeling imported into that officer's investigations, which, as it may have injured their impartiality, may also tend to lessen their value as materials for forming a sound judgment upon the facts of this case. In our last Report we assumed that what Commodore Phillimore reported might be implicitly relied on as correct in point of fact. We are not sure that, on a careful consideration of the papers forwarded from the Colonial Office, we could now say so much; and if the substance of our Report depended on Commodore Phillimore's absolute accuracy, we should be compelled materially to qualify it. But it does not so depend. As we pointed out before, the claim of territory is one *stricti juris*, and to be made out by clear and unimpeached evidence It cannot be said to be so made out in this case. For the Reports and opinion of Commodore Phillimore must be allowed in any point of view to throw doubt upon Sir James Walker's conclusion. We do not, therefore, desire to alter the practical result at which we before arrived, although, in communicating our determination to the American Government, it may be necessary to use language somewhat different from that which might have been used, if Commodore Phillimore's despatches had remained entirely unanswered and unimpeached by the Bahama authorities.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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I agree with their report.

*October* 29, 1869.

TRAVERS TWISS.

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### No. 172.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received October 30.)*

My Lord, *Temple, October* 29, 1869.

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 21st instant, stating that with reference to our Report of the 20th instant, stating that we do not desire to alter the practical result at which we had before arrived with regard to the case of the "Mary Lowell," but that in communicating on the subject with the United States it would be necessary to use language different from that which might have been used, if Commodore Phillimore's despatches had remained entirely unanswered and unimpeached by the Bahama Authorities, he was directed to transmit to us the accompanying draft despatch, which has already been prepared on our Report of the 4th instant, and to request that we would adapt it to our present views, so that Her Majesty's Minister at Washington may be instructed to communicate a copy of it to the Government of the United States.

In obedience to your Lordship's commands we have the honour to report—

That we have perused and considered the draft despatch transmitted to us by Mr. Otway, and we beg to suggest that after the words "capture of the vessel" in page 2 of the draft, the words which we have inserted should be substituted for those which are placed within brackets, and that after the words "being released" in page 4 of the draft, the passage which we have inserted should be substituted in lieu of the following and concluding part of the draft.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

1869

## No. 173.

*The Queen's Advocate to the Earl of Clarendon.—(Received November 2.)*

My Lord, *Temple, October* 30, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th ultimo, stating that with reference to Sir R. Phillimore's Report of March 22, 1864, upon the subject of the claim of Mr. Marcella, to compensation for loss occasioned by the capture and detention of his vessel the "Criticado" by a Spanish Revenue cruizer in 1860 on a charge of smuggling, he was directed to transmit to me the accompanying letters from Mr. Marcella, in which he incloses copy and translation of the opinion given on his case by Don Manual Cortina, an eminent Spanish lawyer; and Mr. Hammond was pleased to request that I would take these letters into my consideration, together with the former papers which were also inclosed, and that I would furnish your Lordship with my opinion as to the answer that should be returned to Mr. Marcella.

In obedience to your Lordship's commands I have the honour to report—

That the difficulty in this case, upon which the report of my predecessor in office was founded, is not removed by the opinion of the eminent Spanish jurists which Mr. Marcella has submitted to your Lordship, so as to warrant your Lordship in directing this question to be re-opened at Madrid.

The case of the "Criticado" was appealed in the first instance to the Court of the public Treasury of the Province of Cadiz, which revoked the decision of the Administrative Board, and decreed the release of the vessel and cargo, with official costs to the owner, but made no order as to damages, although damages were prayed for by the Appellant. From this sentence the captors appealed to the Superior Court of Audience of Seville, which afirmed the sentence of the Inferior Court of Cadiz, as regards the release of the vessel and cargo with costs. The owners, on the other hand, did not appeal from the decision of the Inferior Court not awarding them damages in accordance with their prayer. It is upon this omission of the owners to make any such appeal, that Señor Pacheco, in his letter of March 7, 1864, addressed to Her Majesty's Minister at Madrid, rests the refusal of the Spanish Government to entertain any claim for damages on the part of the owners. Señor Pacheco has asserted that the owners were authorized by law to apply to the Court of Audience against the decision of the Inferior Court of Cadiz not awarding them damages, and that as they have omitted to do so, they have acquiesced in the decision of the Seville Court. On the other hand, the eminent Spanish jurists admit that, if the question of damages were a question of law, it would have been competent for the Court of Audience to entertain an appeal on the part of the owners upon the question of damages, but they express a doubt in the first instance to the question being one of law; and they further express an opinion that, because the Court of Seville passed over the prayer of the owners for damages in silence, it did not adjudicate upon that question so as to give them the right of appeal, which they might have had from an express decision of the Court.

I am unable to acquiesce in the doubt which the eminent jurists have suggested, as to the question of damages not being a question of law, and therefore a proper matter of appeal. This question, as well as the question of practice, has been carefully considered in the Courts of the United States, and the Judgment of Mr. Justice Story, in a case of municipal seizure (Canton v. The American and Ocean Marine Insurance Company, 3 Peters' Reports, page 307), is both valuable in itself, and most apposite to the present case: "When damages are claimed," says that learned Judge, "by the libellant or claimant in the original proceedings, if a decree for restitution and costs only passes, it is a virtual denial of damages, and the party will be deemed to have waived the claim for damages unless he then interposes a cross appeal to sustain that claim."

I think that your Lordship may properly direct Mr. Marcella to be informed that very careful consideration has been given to the opinion of the eminent Spanish jurists, but that it has failed to satisfy your Lordship that the Spanish Government is not intitled to hold that the owners of the "Criticado" have submitted to the Judgment of the Provincial Court of Cadiz, decreeing restitution and costs only, when they did not interpose a cross appeal against that Judgment.

I have, &c.
(Signed) TRAVERS TWISS.

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# Spain.

## No. 174*.

*The Law Officers of the Crown and the Queen's Advocate to the Earl of Clarendon.—(Received October 7.)*

My Lord, *Temple, October* 7, 1869.

WE are honoured with your Lordship's command signified in Mr. Hammond's letter of the 21st September, stating that he was directed by your Lordship to transmit to us a correspondence, as noted in the margin,* which had passed between your Lordship and the Lord Bishop of London relative to the proposed extension of the limits within which the Episcopal jurisdiction of the Bishop of Gibraltar had been hitherto restricted, and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion, as to whether there was any legal objection to carrying out the views of the Bishops of London and Gibraltar in regard to that matter.

In obedience to your Lordship's commands, we have taken this matter into consideration, and have the honour to report—

That the Bishop of Gibraltar is a Colonial Bishop, not a Bishop in a foreign country. To extend his patent so as to give him jurisdiction over congregations in foreign countries would be impossible, except so far as an Act of Parliament confers such power on the Crown. The Act of 5 Vict., cap. 6, gives power to consecrate Bishops in foreign countries, but not to extend a Bishop's patent from a colony to a foreign country. A Bishop for a foreign country must therefore, we think, be specially consecrated as such. We are therefore disposed to regard as improper and annomalous any attempt to alter the patent of the Bishop of Gibraltar, so as to give that prelate jurisdiction in other foreign countries; and the extension of the patent in this sense would, we think, be legally inoperative. But we see no reason why an order should not issue to the effect suggested by the Bishops of London and Gibraltar, on the precedent of the order mentioned in Lord Aberdeen's letter of the 20th October, 1842. The jurisdiction so conferred would not, however, have any legal validity. If the change proposed be of such importance, the only way legally to deal with it would be to pass an Act enlarging the powers of 5 Vict., cap. 6, so as to deal expressly with the case of a Colonial Bishop where jurisdiction is sought to be extended over English clergymen and congregations resident in neighbouring foreign countries.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Bishop of London, August 13; to Bishop of London, August 27; Bishop of London, September 14, 1869.

1869

# Spain.

## No. 174*.

*The Law Officers of the Crown and the Queen's Advocate to the Earl of Clarendon.—(Received October 7.)*

*Temple, October* 7, 1869.

My Lord,

WE are honoured with your Lordship's command signified in Mr. Hammond's letter of the 21st September, stating that he was directed by your Lordship to transmit to us a correspondence, as noted in the margin,* which had passed between your Lordship and the Lord Bishop of London relative to the proposed extension of the limits within which the Episcopal jurisdiction of the Bishop of Gibraltar had been hitherto restricted, and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion, as to whether there was any legal objection to carrying out the views of the Bishops of London and Gibraltar in regard to that matter.

In obedience to your Lordship's commands, we have taken this matter into consideration, and have the honour to report—

That the Bishop of Gibraltar is a Colonial Bishop, not a Bishop in a foreign country. To extend his patent so as to give him jurisdiction over congregations in foreign countries would be impossible, except so far as an Act of Parliament confers such power on the Crown. The Act of 5 Vict., cap. 6, gives power to consecrate Bishops in foreign countries, but not to extend a Bishop's patent from a colony to a foreign country. A Bishop for a foreign country must therefore, we think, be specially consecrated as such. We are therefore disposed to regard as improper and annomalous any attempt to alter the patent of the Bishop of Gibraltar, so as to give that prelate jurisdiction in other foreign countries; and the extension of the patent in this sense would, we think, be legally inoperative. But we see no reason why an order should not issue to the effect suggested by the Bishops of London and Gibraltar, on the precedent of the order mentioned in Lord Aberdeen's letter of the 20th October, 1842. The jurisdiction so conferred would not, however, have any legal validity. If the change proposed be of such importance, the only way legally to deal with it would be to pass an Act enlarging the powers of 5 Vict., cap. 6, so as to deal expressly with the case of a Colonial Bishop where jurisdiction is sought to be extended over English clergymen and congregations resident in neighbouring foreign countries.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Bishop of London, August 13; to Bishop of London, August 27; Bishop of London, September 14, 1869.

## No. 174.

*The Queen's Advocate to the Earl of Clarendon.—(Received November 3.)*

*Temple, October* 30, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 30th instant, stating that he was directed to transmit to me the accompanying despatch and its inclosures from Her Majesty's Acting Consul-General in Cuba, reporting the circumstances under which a claim to British protection has been put forward by a Mr. John Terry, a resident at Cienfuegos in that island, but at present in New York, whose property has been confiscated by the Spanish authorities on the ground of his having abetted the Cuban insurrection; and to request that I would take this case into consideration and furnish your Lordship with my opinion as to the claim to British nationality put forward by Mr. Terry.

In obedience to your Lordship's commands I have the honour to report—

That it is an understood rule among nations that the cession of territory puts an end to the obligations of allegiance on the part of its inhabitants towards the ceding power, if they continue to reside in that territory, the continuance of domicil being held to conclude their absolute allegiance to the new State. Under the circumstances of the cession of Curaçoa to Holland, Mr. Terry, having been born in the Island during British occupation, would have had the option of continuing to enjoy the rights of a natural-born British subject by leaving the Island and adhering to the political system under which he was born. He elected to remain in the Island, and, as I understand from Mr. Crawford's despatch, is at present domiciled in Havana.

Under these circumstances, I consider that your Lordship may properly instruct Mr. Crawford that Mr. Terry is not entitled to claim British protection against the Spanish authorities.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 175.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received November 17.)*

*Temple, November* 17, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Charles Spring Rice's letter of the 9th instant, stating that, with reference to our report of the 7th ultimo, he was directed by your Lordship to transmit to us, together with the previous correspondence, a letter from the Colonial Office, dated the 4th instant, setting forth Earl Granville's views as to the proposed extension of the spiritual superintendence of the Bishop of Gibraltar.

Mr. Rice was pleased also to inclose the draft of a letter which your Lordship proposed to address to the Bishop of Gibraltar on that subject, and of a Circular to Her Majesty's Diplomatic and Consular Agents in the countries and places concerned; and he was pleased to request that we would report to your Lordship whether we concur in the terms of those drafts.

In obedience to your Lordship's commands we have the honour to report—

That we think that the draft letters and Circular are proper for the occasion, but we would suggest that a verbal alteration should be made in your Lordship's letter to the Bishop of Gibraltar, and in the Circular—that instead of "the same congregations" the words "the like congregations" be substituted.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

1869

## No. 176.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received November* 19.)

My Lord, *Temple, November* 17, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that he was directed to transmit to me the accompanying letter from Mr. Ellis, relative to the cases of the British vessels "President" and "Eliza," both of which were captured, in 1864, off San Domingo, for an alleged violation of the blockade of that port; and that, with reference to the latter vessel, and to the report of the Queen's Advocate of December 15, 1866, in regard to it, he was to request that I would take Mr. Ellis' letter into consideration and furnish your Lordship with my opinion as to the answer which should be returned to that gentleman, and as to whether any further steps can now be taken with regard to the "Eliza."

Mr. Hammond was also pleased to state that I should observe that the answer of the Spanish Government in regard to this vessel was sent to the Colonial Office on the 14th August, 1867, and that it has been found on inquiry that it was at once transmitted by that Office to the Governor of Turk's Island, who, it appears, had neglected to communicate the contents to the claimants, and that the matter has thus remained in abeyance until the present year.

The previous correspondence was also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That I am unable to arrive at any certain conclusion as to the grounds upon which the "Eliza" was seized and ultimately restored to her owners. The reports of my predecessor, Sir R. Phillimore, are grounded at one time upon the assumption that she was seized for a breach of Custom-house Regulations; at another time upon the view that she was seized for breach of blockade. It is clear, however, from the correspondence, that the "Eliza" had entered a blockade port on her voyage to Puerto Plata, and her master has endeavoured to excuse himself in his protest, on the grounds of inevitable necessity. Such an excuse, however, is not to be received on light grounds, and even when it has been admitted in English Prize Courts, it has not been held to entitle the owners of the vessel to any demurrage on her restoration. (The "Fortuna," 5 Ch. Robinson, p. 28.) Assuming, therefore, that the "Eliza" had been compelled to enter the port of Soflé on her voyage to Puerto Plata by stress of weather, which is the most favourable view for the owners, they would not, in my opinion, have been entitled, of right, to claim demurrage in the Prize Court upon her restoration. At most, they might have had an equitable claim under the special circumstances of her protracted detention at Puerto Plata. But it appears from the despatch of Sigñor Anazola of the 31st July, 1867, in reply to Sir J. Crampton's request, that an allowance by way of demurrage should be paid by the Spanish Government to the owners of the "Eliza;" that the Spanish authorities have ascertained that a passenger on board the "Eliza," after she entered Soflé, communicated with the rebels, and that letters addressed to the rebels were found in his luggage. Such a fact, if it had been proved before a Prize Court, would have fully justified the Court in rejecting the excuse of the master of the "Eliza" and in condemning the ship.

Upon any view of this case, therefore, I am of opinion that the owners of the "Eliza" have no just ground of complaint on account of demurrage not being granted to them. Your Lordship may, I think, properly direct that Mr. Ellis should be informed that Her Majesty's Government have made frequent and earnest representations to the Spanish Government in favour of the owners of the "Eliza" being allowed some demurrage on the ground of the prolonged detention of this vessel at Puerta Plata, but as the claim of the owners of the "Eliza" is, in the opinion of Her Majesty's Government, only an equitable claim, they do not feel justified in urging it any further upon the attention of the Spanish Government after the communication which Sir J. Crampton has received from the Spanish Minister at Madrid, that his Government is in possession of facts which throw discredit on the story of the master of the "Eliza."

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 177.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December* 14.)

My Lord, *Temple, December* 13, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating, that with reference to my report of the 30th October last on the case of the "Criticado," he was directed to transmit to me, for any observations I may have to offer thereupon, the accompanying letter from Mr. Marcella, inclosing a further legal opinion in support of his claim.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may properly require Mr. Marcella to explain more fully the passage which occurs in the second opinion of the Spanish jurists, to wit, "3rd. That the sentence which neither concedes nor denies the indemnity for damages claimed could not legally do so, such being foreign to the nature of the principle invoked." Whether it is thereby intended that it was not competent for the Court of Audience of Seville, before which the owners of the "Criticado" made a prayer for damages, to entertain that prayer.

The Spanish Government says that an appeal lay from the Court of Audience to the Court of Cassation on the question of damages. The Spanish jurists, whose opinion has been submitted to your Lordship, say that no such appeal would lie to the Court of Cassation consistently with the Royal Decree regulating such appeals. They seem further to say that the Court of Audience could not have legally given or refused damages. If this latter point can be made clear, it would materially alter the aspect of the question, as regards the acquiescence of the owner of the "Criticado" in the silence of the Court on the subject of damages.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 178.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received December* 21.)

My Lord, *Temple, December* 21, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that Lord Granville has communicated to your Lordship a copy of our report of the 30th ultimo, on the two despatches from Governor Walker reporting the circumstances which led to the detention of the steamship "Lilian," sailing under the flag of the Insurgents in Cuba, and claiming to be a Cuban Government vessel, and that with reference to that report he was directed by your Lordship to transmit to me the accompanying letter from the Colonial Office, inclosing additional despatches which have been received from the Governor of the Bahamas, reporting his further proceedings with regard to this vessel, which appears to have been released and subsequently recaptured, while attempting to coal, and is about to be proceeded against under the 7th section of the Foreign Enlistment Act, and Mr. Hammond was to request that we would take these papers into our consideration at our earliest convenience, and furnish your Lordship with our opinion thereupon, and more specifically as to whether all that has been done has been legal, and whether the law admitted of anything more or better being done. The previous papers relating to this case were also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that all which has been done as regards the "Lilian" and the vessel which attempted to supply her with coal within British waters, has been perfectly legal, and we are not aware of anything more or better that could have been done under the circumstances.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 179.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received December* 21.)

*Temple, December* 21, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 27th ultimo, stating that on the 23rd of June last, Mr. Hammond transmitted to us, by your Lordship's directions, draft of a despatch and letters founded on our opinion of the 9th of that month, which your Lordship proposed to address to Her Majesty's Representative at Madrid, to Mr. Forbes Campbell, and to Messrs. Isaac, Campbell and Co., informing them of the acquiescence of Her Majesty's Government in the condemnation of the "Tornado," and, as regarded the crew of that vessel, that their case would be submitted to the favourable consideration of the Spanish Government. That these letters, meeting with our concurrence, were forwarded to their respective destinations.

That he was now directed by your Lordship to transmit to us the accompanying correspondence, which has since ensued with regard to the claims of the crew, from which we should perceive that, in deference to the representations of Her Majesty's Government, the Government of Spain have offered the sum of 1,500*l.* for distribution among the sufferers.

This offer has been communicated to Mr. Forbes Campbell, as representing the interests of the crew, and Mr. Otway was pleased to request that we would take the accompanying letter, which had been received from that gentleman in reply, into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to it.

That as it must be borne in mind that the "Tornado" is held to be lawful prize, it is unnecessary to offer any remarks with regard to the preposterous demand made by Mr. Forbes Campbell; but Mr. Otway was to observe that the Spanish Government cannot be said to admit their wrong, as that gentleman affirms, by offering any money at all; that since they have made this offer of 1,500*l.* in consequence of the repeated requests of Her Majesty's Government that they would compensate the crew for their long detention; and looking to the exhausted state of the Spanish Treasury should this offer be declined, it doubtless will be withdrawn, and the crew will obtain nothing.

The previous papers relating to this case were sent therewith for convenience of reference; and Mr. Otway was to point out that the opinion of Her Majesty's Attorney-General, alluded to by Mr. Forbes Campbell, and upon which that gentleman appears to rely, will be found at page 11 of Part XI of the printed correspondence.

In obedience to your Lordship's commands we have taken the letter, &c., into consideration, and have the honour to report—

That Mr. Forbes Campbell may be informed, in reply to his letter of the 22nd of November last, that he has misapprehended the purport of Mr. Hammond's letter of the 16th of that month, in supposing that the Spanish Government proposes to award any sum of money to the officers and crew of the "Tornado," as a compensation for their ill-usage and unjust imprisonment.

That the sum of money which the Spanish Government has proposed to pay over to Her Majesty's Government is intended by that Government as pecuniary assistance to the crew of the "Tornado," in view of their unfortunate position in consequence of their having engaged themselves in the service of that vessel, and that it is not intended thereby in any way to relieve the parties who may have engaged the crew of that vessel, from the payment of any wages which may be due from them.

That Her Majesty's Government must decline to renew the demand which Sir J. Crampton was instructed to make on February 11, 1867, whilst the cause was still pending, and when Her Majesty's Government relied on the representations of Mr. Forbes Campbell that there had been no infringement of the belligerent rights of Spain, which question must now be taken to have been decided by a competent tribunal adversely to those representations.

That Mr. Forbes Campbell, as he claims to act for the crew of the "Tornado," should be required to state whether he is authorized by them to decline to accept the sum of money which the Spanish Government, in deference to the representations of Her Majesty's Government, is prepared to place at its disposal for their assistance, as Her Majesty's Government cannot, under any circumstances, make a further demand on the Spanish Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Sweden.

### No. 180.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 21.)

*Temple, June* 19, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us the correspondence respecting a complaint preferred by the Swedish Minister of an assault having been made upon the Swedish Vice-Consul at Hayle, in Cornwall, while engaged in looking after a derelict Swedish vessel, which had been towed into St. Ives; and Mr. Otway was pleased to say that your Lordship would be glad to be favoured, at our early convenience, with our opinion as to the answer which should be returned to the Minister upon the facts of the case, and upon the claim for indemnity, which, it appears from his note of the 31st ultimo, is likely to be preferred at some future date by the Swedish Government on behalf of the owner of the vessel.

We are also honoured with Mr. Murray's letter of the 15th istant, inclosing a letter which had been received from the Board of Trade, and a report upon the circumstances attending the case.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government might, in our judgment, properly express their regret to the Government of Sweden and Norway that Mr. Rawlings has, whether by design or not, been thrown down. But there is some conflict of evidence upon the facts; it is pretty clear that the crowd were not aware that Mr. Rawlings was Swedish Vice-Consul, and intended no insult to him in that character. As to the fact, if Mr. Rawlings can point out any person who has injured him, Her Majesty's Government should prosecute that person. If he cannot, the Government can only express their regret, and give directions for the future that care shall be taken to protect the Swedish Vice-Consul from insult, and especially the police should be instructed to this effect.

We think that that there is no evidence that at present the owners of the ship have suffered any loss for which Her Majesty's Government would be responsible.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Switzerland.

### No. 181.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 14.)

*Temple, January* 13, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed to transmit to me a copy of a Convention signed at Geneva on the 22nd August, 1864, for the amelioration of the treatment of persons wounded in the field in time of war, to which Convention Her Majesty's Government acceded by an Act, dated the 18th of February, 1865. That in October last a fresh Conference assembled at Geneva, and prepared a draft of Articles additional to the

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Convention of 1864, and intended, first, to effect some improvement in the provisions of that Convention; and, secondly, to extend its provisions to naval warfare. A printed copy of the draft was also inclosed. That the French Government have, for the reasons stated in the inclosed note from the French Ambassador, proposed an additional paragraph to the 9th of the additional Articles relating to hospital ships. A copy of the paragraph was also inclosed. That Her Majesty's Government are disposed to approve of the draft additional Articles, as well as of the addition thereto suggested by the French Government, but that, before they make any communication to that effect to the Swiss or French Government, your Lordship would be glad if I would take into my consideration the terms of the Convention of 1864, and of the draft additional Articles, especially with reference to the 10th of the additional Articles, which relates to the neutrality of the cargo of a merchant vessel used as an hospital ship by a belligerent, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That it would be desirable to ascertain from the French Government what is the precise interpretation which it proposes to give to the provision in the 10th of the additional Articles:—"Si le bâtiment de commerce contenait en outre un chargement, la neutralité *le* couvrivrait *encore*, pourvu que ce chargement ne fût pas de *nature* à être confisqué par le belligérant."

Under the existing practice of nations, if a ship under a cartel has entered the port of an enemy for the purpose of exchanging prisoners, or it may be for the purpose of bringing away sick and wounded, the master would be bound to abstain from all traffic whatever, and any infringement of this rule would work a confiscation of the ship, if captured. Under one interpretation of the passage above recited, the provisions would have a limited operation, and its intention might be held to be to exempt vessels employed in "evacuations" from capture and confiscation, although the master might have availed himself of the opportunity to bring out cargo, provided the cargo was not contraband of war.

The words "la neutralité *le* couvrierait *encore*," on this hypothesis, would mean that neutrality would still cover *it*, that is, the *vessel*.

Under another interpretation, the passage might be held to give protection to the *cargo*, as well as to the *vessel*, and, if it should be so intended by the French Government, then enemy's goods on board an enemy's ship might be privileged from capture as prize, provided only some sick and wounded persons were on board the vessel. With regard to proviso, I consider that the words "pourvu que ce chargement ne fût pas de nature à être confisqué par le belligérant," must be taken to refer to the quality of the goods, as contraband of war or not, and not to their ownership.

There is another point as regards this Article which may deserve your Lordship's consideration, namely, under what limitations are "evacuations" of the wounded and sick to be made. For instance, as regards evacuations made by sea, it is intended, in the case of a blockaded town, that a vessel may come out of the port with sick and wounded and be privileged from capture. It may be desirable, in the interests of humanity, that they should be removed, but under such circumstances their removal would tend to prolong the resistance of the besieged party.

I submit the above observations to your Lordship with some diffidence, as I may not have fully appreciated the use of the term "evacuations." I have presumed it to mean the removal of the sick and wounded from temporary or permanent hospitals at the discretion of either belligerent. With regard to the proposed addition to Article 9 of the additional Articles it appears to me to be unobjectionable.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 182.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 3.)

*Temple, March* 3, 1869.

My Lord.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that he was directed by your Lordship to acquaint me, that in consequence of my report of the 13th of January last, your Lordship consulted the French Government as to the interpretation given by them to the 10th of the draft additional Articles respecting the treatment of sick and wounded in time of war, prepared by the Conference which met at Geneva in October last.

Mr. Hammond was pleased to transmit to me the reply which your Lordship has received from the French Government, dated the 26th ultimo, and to request that I would take it into my consideration, and report to your Lordship my opinion whether, under the explanations therein given, Her Majesty's Government can now properly approve the Draft Additional Articles.

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That, under the explanations given by the French Government, your Lordship may properly approve the Draft Additional Articles.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 183.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June* 26.)

*Temple, June* 25, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th ultimo, stating that on the 25th of April and the 6th of May last year I reported to your Lordship upon the claim put forward by the Swiss authorities at Lausanne to be paid duty on the estate of the late Mr. Chauncey H. Townshend in this country, before permitting the executors to have access to the papers and property left by the deceased in the villa rented by him at Lausanne.

Mr. Hammond now, by direction of your Lordship, has transmitted to me a correspondence, of which a list was inclosed, which has subsequently taken place between the Foreign Department, Her Majesty's Minister at Berne, Mr. Farrer (the solicitor to the executors), and the Council Office, setting forth the steps which have been taken by the parties interested, and the assistance afforded by Her Majesty's Mission at Berne, in resisting the claim of the Swiss Cantonal authorities, not only with reference to the special interests to be protected by the executors, but also for the assertion of general principles under Treaty involved in this question, and which, for the benefit of any other parties who might be interested in the succession of British subjects dying in Switzerland, it was important to uphold.

That I should perceive, however, that in a manner entirely unexpected by the Foreign Department, the question at issue with the Swiss authorities was suddenly compromised by an arrangement effected by an agent of the South Kensington Museum, which Department was interested in the acquisition of a portion of the works of art bequeathed to them by Mr. Townshend.

That the question, however, now remains whether it would be desirable that Her Majesty's Government should take some further steps, or make some representation to the Swiss Government through Her Majesty's Minister at Berne, in order to place the general question upon a more satisfactory footing, and to prevent Mr. Owen's proceedings, and the mode in which the case has been dealt with, from being made a precedent in any future case of a parallel nature.

Mr. Hammond was pleased to request that I would have the goodness to inform your Lordship what instructions it will be expedient to address to Mr. Bonar upon this subject.

My previous reports, and the papers on which they are founded, were annexed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That without seeking to disturb the arrangement which has been made between the representatives of the South Kensington Museum, as legatees under the will of Mr. Chauncy Hare Townshend, and the authorities of the Canton of Vaud, which, under the circumstances, your Lordship would probably deem not to be advisable, your Lordship may, I think, properly instruct Her Majesty's Minister at Berne to represent to the Federal authorities that Her Majesty's Government has given no countenance to that arrangement, and that the executors, on whose behalf Her Majesty's Minister has been instructed to invoke the aid of the Federal authorities, were in no respect parties to it.

That whilst your Lordship refrains from calling upon the Federal Council to take any further measures to secure for the parties interested the privileges granted to British subjects by Treaty, as the legatees, for whose benefit the executors were acting, have chosen voluntary to effect a compromise with the Cantonal authorities, and have therefore obtained possession of the property bequeathed to them; your Lordship nevertheless

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deems it right to request the Federal Council to take note that Her Majesty's Government disapproves the conduct of the agent of the legatees in making any such compromise, and would decline to allow the mode, in which the present case has been dealt with by the Cantonal authorities, to be invoked as a precedent in any future case of a like character.

I have, &c.
(Signed) TRAVERS TWISS.

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## Turkey.

### No. 184.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received February* 2.)

My Lord, *Temple, February* 1, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that, with reference to my Report of the 16th of November last, respecting the claims of the Société Agricole d'Egypte against the Viceroy, he was directed by your Lordship to transmit to me the accompanying despatches from Colonel Stanton, from which I should perceive that the question of the Viceroy's liability is now about to be referred to a tribunal at Constantinople. Mr. Hammond was pleased also to transmit to me a letter from the Committee of British Shareholders, to whom the substance of these despatches has been communicated, asking to be furnished with the instructions necessary to guide them in the prosecution of their claims before that tribunal; and to request that I would report to your Lordship, at my early convenience, my opinion as to the answer which should be returned to that application.

The previous papers in this case were likewise inclosed, and Mr. Hammond was pleased to add that your Lordship would be glad to receive any suggestions which I may have to offer in regard to any further instructions which it might be advisable to address to Mr. Elliot.

In obedience to the commands of your Lordship I have the honour to report—

That it will be sufficient at present for your Lordship to inform the Committee of British Shareholders that copies of the whole of the correspondence connected with the claims of the shareholders have been transmitted to Her Majesty's Ambassador at Constantinople, but that your Lordship has not at present received any information as to the names of the parties who are to institute the proposed tribunal, and that, until such information has been furnished by Her Majesty's Ambassador, your Lordship cannot furnish the Committee with any instructions to guide them in the prosecution of their claim, but that as soon as such information arrives it shall be communicated to the Committee.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 185.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received February* 9.)

My Lord, *Temple, February* 8, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that he was directed by your Lordship to transmit to me the accompanying letter, which your Lordship has received from the Committee of British Shareholders of the Société Agricole, applying for your Lordship's interference in order that their agent at Alexandria may obtain access to books in the possession of the

### No. 183*.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received September* 17.)

My Lord, *Temple, September* 14, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed to transmit to me a letter from Messrs. Dawes and Son, stating that the Swiss authorities have put forward a claim to be paid succession duty in respect of property left in this country by Miss England, an English lady, who recently died at Montreux, and Mr. Hammond was pleased to request that I would take this paper into my consideration, and furnish your Lordship with my opinion as to the steps that should be taken in this case.

In obedience to your Lordship's commands I have the honour to report—

That the propriety of the claim made by the authorities of the Canton of Vaud depends upon the domicile of Miss Frances England at the time of her death, whether it was Swiss or English. It appears from the letter of Messrs. Dawes and Son, that Miss F. England died at Montreux in that Canton, having resided there for many years previous to her death. *Primâ facie*, therefore, her testamentary domicile would be Swiss, and it is so assumed to be in the letter of M. Borcade, the Juge de Paix at Montreux, of the 25th August last. Messrs. Dawes and Son, however, state that Miss F. England never lost her original domicile as an Englishwoman, but as this is a conclusion of law, which must depend upon a variety of facts, Messrs. Dawes and Son may be properly required to satisfy your Lordship that their view of the law applicable to Miss F. England's case in regard to her domicile is well founded, before your Lordship can entertain the question raised by them, as to the application of the Treaty of the 6th September, 1855, to the duty claimed by the Swiss Government on the personal estate of Miss F. England in this country.

I have, &c.
(Signed) TRAVERS TWISS.

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Liquidators of that Company, and facilities for procuring information requisite for the prosecution of their case before the proposed tribunal at Constantinople; and Mr. Hammond was pleased to request that I would take this application into consideration, and report to your Lordship, at my early convenience, my opinion as to the course which it would be proper for your Lordship to take in the matter.

In obedience to your Lordship's commands I have taken this application into consideration, and have the honour to Report—

That the application of the Committee for your Lordship's intervention is premature, as the Tribunal of Arbitration is not yet constituted.

The Société Agricole et Industrielle d'Egypte having been constituted and passed into liquidation under the provisions of the Law of Egypt, if the British shareholders wish at present to inspect the books of the Liquidators pending the liquidation, they should apply to the proper Egyptian Court for an order to inspect, just as a foreign shareholder, in a company formed under British law, would have to make application to the Court of Chancery.

The case, however, may assume a different aspect as soon as it comes before the proposed international tribunal, and if the shareholders should then make an application to the Liquidators for an account of the estate of the Company, stating that it is required by them for the purpose of being laid before that tribunal, and it should be refused, they may then properly make an application to your Lordship, and the altered circumstances of the case will probably justify your Lordship in giving them support to prevent a failure of justice before the tribunal at Constantinople.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 186.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received March* 3.)

My Lord, *Temple, March* 2, 1869.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 20th February ultimo, stating that with reference to the Law Officers' report of the 23rd of October, 1867, he was directed by your Lordship to transmit to us the accompanying despatch from Mr. Lane, the Legal Vice-Consul at Alexandria, dated the 30th of January last, with a petition which had been filed in that Court by Pantalion Schilizzi, praying that he might be registered a British subject, and inclosing the certificate of birth.

Mr. Murray was pleased to say that your Lordship would point out that in your opinion the course to be pursued in this matter should be considered both with reference to expediency, and in its strictly legal aspect. That in the petition forwarded by Mr. Lane, Mr. Pantalion Schilizzi, who is a minor, represents himself as being a merchant, and states that his father is by birth a Greek. That Mr. Lane, however, states in his despatch that the lad is only a clerk in his father's house of business; and Sir P. Francis, in his despatch No. 10 of June 1867, stated that the father was born at Scio, which belongs to the Ottoman Dominions.

Mr. Murray was pleased further to say, that it was clear from those different statements that the object sought is to obtain British protection for a Turko-Greek firm, and a compliance with that request might prove a source of much inconvenience hereafter; and that he was to request, therefore, that we would take the subject into our consideration, and favour your Lordship with our opinion as to the nature of the instruction which should be addressed to Mr. Lane.

In obedience to your Lordship's commands we have taken the subject into consideration, and have the honour to report—

That as it appears from Mr. Lane's despatch, that no instance of an application for protection under circumstances similar to those of the minor child of J. P. Schilizzi, can be adduced in the British Consulate or any other, we see no reason why your Lordship should not affirm the view taken by your Lordship's predecessor upon the advice of the Law Officers, that the minor, whilst he forms part of his father's family, should not be taken under British protection.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 187.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 18.)

My Lord, *Temple, March* 18, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed to transmit to me the accompanying memorial from a Mr. Spraight, requesting, under the circumstances therein set forth, the assistance of Her Majesty's Ambassador at Constantinople in the recovery from the Turkish Government of certain property belonging to his wife and his father-in-law, Mr. Beretta, an Ionian merchant. A despatch from Mr. Elliot with its inclosures, containing a full report of all the circumstances connected with Mr. Beretta's claim against the Turkish Government, and the steps taken in order to obtain a settlement of the same, was also inclosed. Mr. Hammond was also pleased to state, that I should perceive that this case was originally taken up by Her Majesty's Embassy when Mr. Beretta was, as an Ionian subject, entitled to British protection, but was allowed to remain dormant until after the expiration of the time when, under an arrangement, on the cession of the Ionian Islands to Greece, the management of Ionian matters devolved on the Greek Missions; and Mr. Hammond was to request that I would take these papers into my consideration, and report to your Lordship my opinion thereupon, in order that your Lordship may be enabled to judge as to the propriety of instructing Mr. Elliot to lend his good offices to his Greek colleague in support of Mr. Beretta's case.

In obedience to your Lordship's commands I have the honour to report—

That there does not appear to be anything exceptional in the circumstances of Mr. Beretta's claim, which could justify him on that account in refusing to listen to the mode of arrangement proposed to him by the Malieh in 1862, as detailed in Mr. Pisani's report of August 9, 1862. Mr. Beretta's conduct on that occasion was not, in my opinion, that of a reasonably prudent man, and as the proposal of the Malieh had been brought about by the intervention of Her Majesty's Embassy, it was not becoming in Mr. Beretta, after requesting the delay of a few days to think over the arrangement, to quit Constantinople and leave the affair in abeyance for so many years without any communication with Her Majesty's Embassy, or with the Turkish authorities.

With regard to the claim the particulars of which are set out in the Memorial of Mr. Beretta, I think your Lordship may properly decline to authorize Mr. Elliot to give any support to it; but if your Lordship should be disposed to accord some assistance to Mr. Beretta under the heavy pecuniary loss which he has sustained, it should, I venture to suggest, be confined to instructing Mr. Elliot to lend his good offices to his Hellenic colleague to bring about the completion of the arrangement proposed by the Malieh in 1862, if Mr. Beretta is now disposed to accede to it.

I have, &c.

(Signed) TRAVERS TWISS.

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## No. 188.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received March* 20.)

My Lord, *Temple, March* 19, 1869.

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 26th February ultimo, stating that, with reference to the Reports of the Law Officers of the Crown of the 9th of December last upon Messrs. Carver and Gill's claims, arising out of a law-suit against Ernani Bey, in the Mixed Commercial Courts in Egypt, he was directed by your Lordship to transmit to us a further letter and its inclosures from Mr. Charles Gill upon this case, dated the 20th ultimo.

Mr. Murray was also pleased to say that the previous correspondence therewith inclosed would furnish the history of the matter, and that in his present letter Mr. Gill decidedly refuses to accept Cherif Pasha's proposal that application should be made to the Alexandrian Court for arrest of judgment in favour of Ernani Bey, that Mr. Gill further contends that the justification of the proceedings of the Egyptian authorities, put forward in a despatch from Zoulfikar Pacha of the 27th of June, 1868, contains admissions which prove that the Alexandrian Court of Appeal acted in contravention of the law, and was unduly controlled by the executive in admitting Ernani Bey to deposit securities instead of cash, and in neglecting to entertain Messrs. Carver and Gill's application for a provisional execution of the sentence of the Cairo Court of First Instance.

That Mr. Gill further inclosed a letter from Mr. Bleton, one of the Judges of the Alexandrian Court, containing his account of what passed at the hearing of the case, and confirming the statement of Mr. Liddell, another Judge, with regard to the false translation of a letter from Messrs. Carver and Gill, upon which the adverse decision of the Court is said to have been founded.

That Mr. Gill conceives that this evidence is sufficient to prove his charge of wilful and corrupt perversion and denial of justice against the Alexandrian Court.

Mr. Murray was pleased further to say that he was to request that we would take the whole case into our consideration in connection with the statements and evidence contained in Mr. Gill's last letter and favour your Lordship with our opinion as to the course which Her Majesty's Government can properly pursue in the present position of the matter.

In obedience to your Lordship's commands we have taken the matter into our consideration, and have the honour to report—

That it appears from Mr. Charles Gill's letter of the 20th February last that, after consultation with his legal adviser at Cairo, he has signified to your Lordship his definite refusal to adopt the proposal of Cherif Pasha; that upon being served with notice of the Judgment of the Alexandrian Court he should object to it, "par la voie de l'opposition," and so obtain a re-hearing of his case. Under these circumstances we think your Lordship cannot well insist upon Messrs. Carver and Gill adopting that course.

With regard to the objection again raised and discussed at great length in Mr. Charles Gill's letter, that the Alexandrian Court acted corruptly in holding the deposit of securities instead of money by Enani Bey to be sufficient, we see no reason to dissent from the opinion already expressed by the Law Officers, that such acceptance of securities instead of money was not necessarily contrary to law, and did not nullify the subsequent proceedings.

We attach more importance to the second objection, founded upon the 24th Article of the Capitulations. Colonel Stanton has already contended that the Alexandrian Court ought not to have proceeded with the Appeal in the absence of the British Consul and Dragoman, and against the protest of the former We concur with Mr. Charles Gill in thinking that the objections taken by Zoulfikar Pacha against the application of the Article to the Mixed Commercial Courts are not conclusive, and we may observe that the proceedings of the Alexandria Court in serving notice on the British Consul instead of the Respondent personally is not reconcileable with Zoulfikar Pacha's view.

The most serious charge remains, which we think may be regarded by your Lordship as sufficiently proved, namely, that the Judgment of the Alexandrian Court proceeded upon a false translation of a letter from the respondent to the appellant, the falseness of which which was pointed out to the Court by Mr. Liddell, the British member of it. But we are not prepared to say, however glaring may have been the miscarriage of justice, that your Lordship would be justified in denouncing the Judgment of the Alexandrian Court as "corrupt," seeing that Mr. Liddell and Mr. Bleton, and a third member of the Court, who dissented from the Judgment, attached their signatures to it, and neither Mr. Liddell nor Mr. Bleton thought the matter of such importance as to require them to protest against the Judgment. How the falsified document found its way into the registry of the Alexandrian Court does not appear. That it was not produced in the Inferior Court at Cairo may, we think, be taken for granted, and we rather gather from Mr. Liddell's statement of 31st January, 1868 (No. 2 in Colonel Stanton's No. 24), that it was produced for the first time in the Alexandrian Court. The Court appears to have relied upon it as the groundwork of its Judgment, notwithstanding Mr. Liddell had pointed out to the Court that it was a false translation.

Under the very delicate circumstances of this case we feel some difficulty in advising your Lordship as to the course which your Lordship can properly pursue. We think as Colonel Stanton has taken the objection to the proceedings of the Alexandrian Court on the ground of the non-observance of Article 24 of the Capitulations, that he may endeavour to procure the proceedings to be declared null and void on that ground, and that he may strengthen his position at the same time by stating that Messrs. Carver and Gill are prepared with evidence to show that the Judgment of the Alexandrian Court was founded on a false translation of a letter from the respondent to the appellant, improperly produced behind the back of the respondent, and notwithstanding the remonstrance of Mr. Liddell against the Court accepting the false translation, which would have been impossible if the British Consul had been present to protest against the acceptance of the document.

But we are not prepared to advise your Lordship to go further, as we think Messrs. Carver and Gill ought never to have allowed the Court at Alexandria to proceed by default, and that what has happened is in a great measure their own fault.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 189.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 30.)

*Temple, April* 29, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 6th instant, stating that he was directed to transmit to us the accompanying correspondence on the subject of the new Law, which has recently been promulgated by the Port in respect to naturalization in Turkey, that we should perceive from these papers the view taken by the different Governments interested in this question; and Mr. Murray was pleased to request that we would take the matter into our consideration, and report to your Lordship our opinion in regard to the Law in question, accompanied by any suggestions which he may have to offer, as to the course which it would be right and proper to take respecting it.

We are also honoured with Mr. Hammond's letter of the 15th instant, transmitting certain documents received from Baron Brunnow, namely, General Ignatiew's remarks on the Turkish Law of Naturalization, and a notice on the same subject communicated by M. Rangale.

In obedience to your Lordship we have the honour to report—

That if Turkey is to be treated as a Sovereign State, she has a right to make such Municipal Law as she chooses respecting naturalization, except that she has no right to make Municipal Law in violation of any existing Treaty obligations, and that if the Municipal Law she makes is generally obnoxious to and inconvenient for other European nations, there is nothing unreasonable or improper in concerted action on their part to obtain from Turkey a relaxation of such obnoxious or inconvenient Law. It is no doubt further conceivable, that a Municipal Law might be so framed as to be inconsistent with the accepted code and practice of all civilized nations, and this might in popular language be said to be contrary to International Law. We do not think there is anything in the Turkish Law of 19th January, 1869, at variance with the Law of Nations. Nor are we disposed to agree with General Ignatiew in considering Article II open to the objection, that it is opposed to the principles of universal legislation. If he means that the Municipal Law of Turkey is not like the Municipal Law of other countries, there is nothing in his objections; and if he means that the provisions of this Law are at variance with the Law of Nations, he does not seem to us to be justified by facts in so saying. There is nothing that we know of in the Law of Nations which compels a country in its Municipal Law to acknowledge the doctrine of perpetual allegiance. Treating the question, however, as one not of International Law, but of diplomacy, it is plain that the Law of January 19th may be open to objection on two points. First, it may in some of its provisions be at variance with the Treaties already existing between Turkey and some one or more of the foreign Powers. Secondly, it may be a Law which, though within the competency of Turkey to make, is nevertheless likely to lead to complications between her and her neighbours, especially Greece. The retroactive effect of the new Law might not improbably have this result. Although, therefore, the Law as a Municipal Law is one which Turkey is (apart from special Treaties) competent to make, there is no reason why Turkey should not be urged to examine the Law of January 19th with reference to existing Treaties and to possible future difficulties. But this is matter rather for your Lordship's discretion than for our opinion.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

### No. 190.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 30.)

*Temple, April* 30, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that, with reference to Mr. Murray's letter of the 6th instant, he was directed to transmit to us a note which your Lordship has received from the Turkish Ambassador at this Court inclosing a copy of a Circular which has been addressed to the Governor-General of the Vilayets of the Ottoman Empire on the subject of the Naturalization Laws recently promulgated by the Porte. The correspondence that has passed in regard to this question since the date of your Lordship's reference to us was also inclosed, and Mr. Hammond was pleased to request that we would take these papers into our consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the question raised by these papers appears to us to be one rather of diplomacy than of law, and that it does not occur to us to add anything to the Report which we had the honour to make to your Lordship in reply to Mr. Murray's letter of the 6th instant.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 191.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June* 11.)

*Temple, June* 10, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Murray's letter of the 18th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at Aleppo, in which questions are raised with regard to the conflicting laws of marriage applicable to Jews who are British subjects; and Mr. Murray was pleased to request that we would favour your Lordship with our opinion upon the points in Mr. Skene's despatch.

Mr. Murray also inclosed the Order in Council of the 30th of November, 1868, and was pleased to call our attention to the clauses which relate to the British Indian subjects.

In obedience to the commands of your Lordship we have the honour to report—

That, if the suit before the Consul at Aleppo be, strictly speaking, a matrimonial cause, the Consular Court has no jurisdiction to entertain such a suit between British Indian Jews living there under British protection. It may be, however, that it is a suit as to property, in which case it will be necessary for the Consular Court to decide the point as to the validity of the marriage in question before it. The English Court of Divorce does not recognize polygamic contracts, even when they are sanctioned by the *lex loci*. Neither do the Courts of Common Law. The English law knows marriage or legitimacy only in the sense in which it is understood amongst Christian nations; the state of the husband of one wife, and the status of children, the issue of such a union. By the 7th section of the Order in Council of 31st December, 1864, the civil jurisdiction of the Consular Court is, "as far as circumstances admit, to be exercised upon the principles of and in conformity with the Common Law of England," and the English law recognizes no such marriage as that which has here been contracted. The fact that such a marriage is tolerated by Turkish law does not affect the question. Nor does the fact, that the Jewish law enjoins or sanctions such a marriage, make any difference. Such a marriage does not become good in English law, because it does not offend a Jewish conscience.

We may add that this would appear to us a fit case to be remitted to the Supreme Consular Court under section 30 of the Order in Council, unless there be objections to this course, of which we are not aware.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 192.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received July* 26.)

My Lord, *Temple, July* 24, 1869.

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 19th instant, stating that he was directed to transmit to me a correspondence with Mr. J. S. Galatti, a naturalized British subject, resident in this country, respecting his application for the permanent protection of Her Majesty's Government in favour of his firm at Alexandria, consisting of his two nephews, one of whom is stated to be also a naturalized British subject; and Mr. Spring Rice was to request that I would take these papers into my consideration, with reference to the precedents quoted at page 76 of the accompanying Report of the Commissioners on Naturalization, and furnish your Lordship with my opinion as to the answer that should be returned to Mr. Galatti's application.

In obedience to your Lordship's commands I have the honour to report—

That Mr. John Sergio Galatti should be requested to inform your Lordship whether the firm of Constantin S. Galatti and Fils, at Alexandra, consists of himself alone, or whether his nephews, whom he describes as managers, or any other persons have an interest in that firm.

As Mr. J. Sergio Galatti states his London firm to have been founded by his late brother Pandia S. Galatti, the Alexandrian firm of Constantin S. Galatti and Fils, would appear from its name to have had another origin, and may not be identical in its interests with the London firm.

If the Alexandrian firm should not be identical in its interests with the London firm, but should consist either of Mr. J. Sergio Galatti and his two nephews, or, as suggested in Mr. Spring Rice's letter, of his two nephews, one of whom only is stated to be a naturalized British subject, it may be a question whether the interests of the firm, being partly foreign, can properly be allowed British protection.

With regard to the nephew at Alexandria, who is stated to be a naturalized British subject, his certificate of naturalization has not been submitted to your Lordship, and it does not appear that he has obtained a license from any of Her Majesty's Secretaries of State to be absent more than six months, which would be a necessary condition for his claiming any British rights or capacities whilst resident in Egypt. It may be observed that the certificate of Mr. J. Sergio Galatti's contains the express exception "of any rights and capacities of a natural-born British subject out of and beyond the dominions of the British Crown." I am disposed to think that this clause should not be interpreted as debarring Mr. J. Sergio Galatti from obtaining British protection, as long as he is resident within British dominions, for the interests of his house at Alexandria, if that house is exclusively his own, and his nephews are his agents; but in such a case his nephews would only be intitled to British protection for the interest which they represent, not for themselves personally nor for their own private interests.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 193.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received August* 18.)

My Lord, *Temple, August* 18, 1869.

i AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 12th instant, stating that, with reference to my Report of the 21st ultimo, upon the subject of Mr. Galatti's petition for the permanent protection of Her Majesty's Government in favour of his firm at Alexandria, he was directed by your Lordship to transmit to me the inclosed correspondence with Mr. Galatti regarding the points referred to in my Report as requiring farther explanation; and to request that I would furnish your Lordship with my opinion whether Mr. Galatti's application can be entertained.

In obedience to your Lordship's commands I have the honour to report—

That Mr. John Sergio Galatti has omitted to give a direct answer to the first question addressed to him by your Lordship, whether the firm at Alexandria consists of himself alone, or whether his nephews, whom he describes as managing the firm, have an interest in it.

His first application to your Lordship of 7th July, 1869, in which he states that he had thought it advisable to place his firm in Alexandria under British protection, which

the British Consulate had readily accorded, is suggestive of a firm belonging exclusively to himself, to which Her Majesty's Consul-General in Egypt would have been justified in granting British protection agreeably to the precedent in Mr. D. Cassavetti's case in 1851 (Report, No. 76). But Mr. J. S. Galatti's last letter is suggestive of a firm in which his nephews have an interest, in which case, as both the nephews are foreigners, one of whom only has obtained British naturalization, the house at Alexandria having foreign interests, would not be entitled to the protection of Her Majesty's Consul-General except in so far as the direct interest of British subjects, apart from those of foreigners, should be involved. Such would appear to be the view which your Lordship's predecessor, Earl Russell, took upon the advice of the Queen's Advocate in regard to the application of Mr. Sophocle's Theologo, 1862, and I consider the view to be right and proper.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 194.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received August* 28.)

My Lord, *Temple, August* 26, 1869

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 24th instant, stating that he was directed to transmit to me the letter which your Lordship has received through Mr. Bouverie, M.P. from Mr. White, a manufacturing chemist of Glasgow, asking for the support of Her Majesty's Embassy at Constantinople in obtaining the fulfilment of a contract negotiated by his son with certain parties at Constantinople; and Mr. Spring Rice was pleased to request that I would furnish your Lordship with my opinion whether this a case in which Her Majesty's Government can properly interfere, and, if so, to what extent.

In obedience to your Lordship's commands I have the honour to report—

That this is not a case in which Her Majesty's Government can, in my opinion, properly interfere.

I have, &c.
(Signed) TRAVERS TWISS.

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## United States.

### No. 195.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 11.)

My Lord, *Temple, January* 11, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed to transmit to me the accompanying letter, dated the 4th instant, from Madame Chantems, a lady of English birth, married to a Swiss, from whom she is apparently separated, requesting your Lordship's assistance in support of a claim which she is preferring against General Clay, late American Minister at St. Petersburgh. That I should see from the previous papers, which were also annexed, that on a former occasion your Lordship refused to interfere on her behalf, and Mr. Hammond was pleased to request that I would take Madame Chantems present application into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to it; and to add, that your Lordship would be glad to be furnished with my opinion as soon as convenient, as Madame Chantems states that she proposes to proceed to the United States in the course of this week.

In obedience to your Lordship's commands I have the honour to report—

That it appears from the narrative of facts which is annexed to the petition which Madame Chantems has addressed to Her Majesty's Ambassador at St. Petersburgh, that her husband, who is a Swiss by birth, is by naturalization a Russian subject, and was resident at St. Petersburgh at the time when the events took place respecting which she proposes to sue General Clay in the Courts of the United States, and further, that he has been personally mixed up in the transactions with General Clay.

As Madame Chantems is a married woman, and the cause of action has arisen during her coverture, notwithstanding she may be living apart from her husband, she must sue General Clay in her husband's name, and the law of Russia will govern the action in regard to the merits and rights involved in it. Her proper course, therefore, would be, to address herself for protection at Washington to the Russian Authorities, as her nationality by birth has been merged in the nationality of her husband, and none but Russian interests are involved in her complaint.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 196.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received January 15.)*

My Lord, *Temple, January* 14, 1869.

We are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us for perusal a confidential despatch from Mr. Thornton (No. 382), respecting the departure from New Orleans of two ironclad vessels purchased by the Peruvian Government from the Government of the United States, and which have been for some time under seizure at that port by orders from the Treasury Department at Washington, and we have the honour to report thereon—

That we have perused the despatch from Mr. Thornton, which does not appear to call for any observations on our part.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 197.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received April 27.)*

My Lord, *Temple, April* 26, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that, with reference to our Report of the 14th January he was directed by you to transmit to us for perusal, and for any remarks we might have to offer thereupon, a despatch from Mr. Thornton and its inclosures, giving a further account of the departure from the United States of the vessels of war and transports purchased by the Peruvian Government; and further stating that the previous papers were annexed for reference if required.

In obedience to your Lordship's commands we have perused the despatch and inclosure referred to, and have the honour to report—

That the departure from the United States of the vessels in question does not involve, in our opinion, any breach of neutral obligation on the part of the United States' Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 198.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received June 14.)*

My Lord, *Temple, June* 14, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed to transmit to us a despatch and

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# UNITED STATES.

## No. 196A*.

## [February 24, 1869.]

*The Law Officers of the Crown to the Earl of Clarendon.—(Received February 24.)*

My Lord, *Temple, February* 23, 1869.

Claims of Messrs. Parr and Mrs. Luck Losses during Civil War.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st ultimo, stating that he was directed to transmit to us the accompanying papers respecting various claims prepared by Isaac and William Parr and Mrs. Luck against the Government of the United States on account of injuries and losses sustained in Texas during the late Civil War; and Mr. Hammond was pleased to request that we would take the same into consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands, we have the honour to

*Report*—

That we are of opinion that no representation founded on a claim of right can be made to the American Government on behalf of the applicants. The losses sustained by them during the war at the hand of the Confederate Government and their officers are clearly not the subject of claim against the United States' Government, and, inasmuch as the Parrs actually served in the Confederate Forces, the United States' Government were entitled, *primâ facie* at least, to confiscate their property, nor can we insist on the statement of the Parrs being accepted that they were enlisted against their will. Nevertheless, as there seem some grounds for believing this, and, as it appears that after the conclusion of the war the United States' Government took possession of some of their property, we think that there is enough to justify the commendation of their case to the favourable consideration of the United States' Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

*List of Papers.*

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|---|---|
| Petition .. .. .. .. .. .. | November 19, 1868. |
| Mr. I. Parr .. .. .. .. .. | December 3, „ |
| Ditto .. .. .. .. .. .. | December 16, „ |
| Former papers— | |
| Messrs. Parr .. .. .. .. .. | October 15, 1867. |
| To ditto .. .. .. .. .. | November 18, „ |
| Messrs. Parr .. .. .. .. .. | January 14, 1868. |
| Law Officers .. .. .. .. .. | April 20, „ |
| To Messrs. Parr .. .. .. .. | April 23, „ |

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## UNITED STATES.

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### No. 196 A.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 16.)

My Lord, *Temple, February* 15, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st ultimo, stating that he was directed to transmit to us the accompanying letter from Mr. Forbes Campbell, urging the claims of the owners of the cargo of the British vessel "Springbok" on account of the condemnation of their property in the Prize Courts of the United States in 1863. A letter addressed to Mr. Forbes Campbell by your Lordship on the 17th ultimo, refusing to make such a claim on the United States' Government, together with the Reports of the Law Advisers of the late Government, on which that letter was founded, is also inclosed; and Mr. Hammond was pleased to request that we would take the case into our consideration, and furnish your Lordship with our opinion as to the answer which should be returned to Mr. Campbell's present application. A volume of manuscript correspondence, a collection of papers printed for Parliament, but not presented, and other documents relating to this case, were also inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That we think it is too late for the claimants now to make up what was wanting in their case before as to the *bonâ fide* destination of the cargo by declarations dated in January 1869. It is impossible not to ask why these declarations were not converted into proofs and laid before the Supreme Court of the United States. The fair presumption is that the claimants feared they could not make them good under cross-examination. As to the absence from Nassau of the "Gertrude," it is clear from the language of the Supreme Court that the decision was not based upon the presence of that vessel, and the language of our predecessors places this part of the subject in what we conceive to be the true light. We think it impossible to say that there has been a clear failure of justice. The utmost which can be said is that the inferences of fact drawn by the Supreme Court as to the destination of the cargo may have been erroneous, but there seems to us to be a great deal of evidence to justify the decision of the Court, and it is the fault of the claimants only if they choose to abstain from producing in America the proofs which they now put forward *ex parte* to their own Government.

We have, &c.

(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 196 B.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received March* 27.)

My Lord, *Temple, March* 25, 1869.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 27th February ultimo, stating that, with reference to our Report of the 15th February last on the case of the "Springbok," he was directed by your Lordship to transmit to us a further letter which you had received from Mr. Forbes Campbell upon that subject, and further stating that he was also to transmit to us the previous papers, as marked in

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the margin,* in regard to this case, and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the matter into our consideration, and we have the honour to report—

That the grounds alleged in the further letter of Mr. Forbes Campbell of the 25th February, 1869, why the supplementary declarations now submitted to your Lordship were not converted into proofs and laid before the Supreme Court, do not, in our opinion, furnish any new support to the application of the claimants for the intervention of Her Majesty's Government.

It ought not to be overlooked in this case that the Supreme Court, in the concluding part of its Judgment, laid stress on the "remarkable fact that not only no application had been made by the claimants for leave to take further proof in order to furnish some explanation of the concealment of the character of the cargo attempted in the bills of lading and the manifest, but that no claim sworn to personally by either of the claimants had ever been filed." Had the opportunity of applying to give such further proof been confined by the practice of the United States' Prize Courts to the District Court, the excuse suggested in the opinion of Mr. Mellish, Q.C., and Mr. Vernon Harcourt, Q.C., for the "very unfortunate circumstance that the statement of Mr. B. W. Hart was not put in evidence in the District Court," might have had some weight. But it is the practice of the Supreme Court of the United States to show greater indulgence in respect of allowing further proof than is granted by British Prize Courts, and the Supreme Court allows application to be made to it by appellants to bring in further proof after the cause has been heard by it in the first instance upon the evidence transmitted from the inferior Court. (The "London Packet," 2 Wheaton, p. 371.)

It also deserves remark that in the present case the definitive Judgment of the Supreme Court was not delivered for many months after the cause had been heard by it upon the evidence before the District Court. There was thus ample opportunity for the claimants to have applied to the Supreme Court to be allowed to repair any neglect of which they had been guilty in the District Court. No such application, however, was made by them, although the Judgment of the District Court was eminently calculated to awaken the claimants of the cargo to the propriety of applying to give further proof of its alleged destination for sale in the market of Nassau.

The proof of such a destination was needed as much after the Judgment of the District Court had condemned both ship and cargo as it would have been if the District Court had taken the more lenient view which the Supreme Court did as regards the ship. The continued silence of the claimants of the cargo led the Supreme Court to presume everything against it from its character, and it is now too late, in our opinion, for the claimants to allege that they have been taken by surprise by the Supreme Court condemning the cargo whilst it released the ship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* List of papers.

## UNITED STATES.

### No. 197 A.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 30.)

My Lord, *Temple, April* 29, 1869.

WE are honoured with your Lordship's commands signified to us in Mr. Murray's letter of the 12th instant, stating that, with reference to our Report of the 25th ultimo, he was directed by your Lordship to transmit to us a further letter which your Lordship had received from Mr. Forbes Campbell in regard to the case of the "Springbok;"* and that he was to request that we would take that letter into our consideration, and inform your Lordship whether we saw any reason to alter the opinion we expressed upon Mr. Campbell's previous letter upon that subject,† which was therewith returned to us, together with the letter addressed to him in reply,‡ and founded on our above-mentioned Report.

In obedience to your Lordship's commands we have the honour to report—

That the point now raised by Mr. Campbell is one which he has not raised distinctly before, and which, indeed, he hardly raises directly now. But if it ever could be raised it ought to have been raised before the Supreme Court. It was not so raised. His course, therefore, as, if your Lordship thinks fit, he may be told, was to have applied to the Supreme Court and to have tendered the additional evidence he professes to have at his command; there is no reason from what he says to suppose or to believe that he ever tendered to Judge Betts nor to the Supreme Court the particular evidence he now adduces *ex parte* with the view of convincing his own Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* April 7, 1868. † January 27, 1869. ‡ March 31, 1869.

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its inclosures from Her Majesty's Minister at Washington, respecting the detention of the British steamer "Colombia" by legal process at New York, and to request we would take the same into consideration, and report to your Lordship at our earliest convenience our opinion as to the course which Her Majesty's Government should pursue in regard to this matter.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that there is no ground for any interference on the part of Her Majesty's Government, and that such an interposition as Consul Archibald urges Mr. Thornton to make, would be improper and inexpedient.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 199.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received July* 1.)

My Lord, *Temple, June* 30, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed to transmit to us, for our perusal, and for any observations we might have to offer thereupon, a despatch which had been received from Her Majesty's Minister at Washington, inclosing a printed copy of lecture recently delivered by Professor Woolsey, of Yale Valley, in the State of Connecticut, in regard to the questions which have arisen between this country and the United States out of the late civil war in America.

In obedience to your Lordship's commands we have the honour to report—

That we have read with attention the lecture of Professor Woolsey, forwarded to your Lordship by Mr. Thornton, and suggest that your Lordship's reply may properly express, that you share in Mr. Thornton's hope as to the moderate views of the lecturer having weight with his countrymen.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 200.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received July* 15.)

My Lord, *Temple, July* 14, 1869.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit to us, for perusal, a despatch from Mr. Thornton No. 204 June 6, 1869, inclosing a copy of papers presented to Congress in 1858, showing the policy of neutrality pursued by the United States during the civil war in Peru in 1857.

In obedience to your Lordship's commands we have the honour to report—

That we have perused the despatch of Mr. Thornton and the collection of documents transmitted with it, which your Lordship has sent to us. We hardly know how far your Lordship expects or wishes a detailed comment upon them from us; but it may be well, as the arguments deducible from these papers are in the nature of *argumenta ad hominem*, to point out what these papers do show, and how far they may be safely used in any possible controversy. Such arguments have an element of irritation in them, and are seldom useful unless they are absolutely conclusive.

They do establish, we think, that the United States in 1857-58 contended for the two following propositions, which they asserted in their then controversy with Peru.

1. When a port belonging to a State is occupied by belligerents exercising a *de facto* authority in defiance of the State law, the State laws are then for the time suspended, so far as regards neutral vessels within the port, and they are not bound to do more than to conform to such *de facto* laws as they find established. (See p. 23 and the opinion of the United States' Attorney-General p. 30.)

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2. The second point insisted on was that in the case of the "Darcas C. Yeaton." There being no blockade, it exceeds the acknowledged belligerent right of search and capture, if a neutral vessel be boarded and taken possession of on the high seas for the alleged offence of intending to violate the municipal law of one of the belligerents.

But neither of these propositions amount to or are quite equivalent with the two propositions which Mr. Thornton has deduced from these papers, as asserted by the United States in 1857-58.

It is, indeed, very probable that the United States would have contended for the first of Mr. Thornton's propositions, if it had been necessary. But we cannot say that these papers show that they did so contend in fact.

It is doubtful whether Mr. Thornton's second proposition is true, except with some qualification, and it certainly does not appear to have been contended for in terms by the United States in these papers. They do contend for the doctrine that no blockade existing, and no question of contraband of war arising, vessels have a right to sail on the high seas towards and with the intention of trading with an insurgent port. But this is not quite the same thing.

We wish to guard against the danger of pushing too far the argument to be derived from these papers, and we have no further observations to make upon them.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 201.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received October* 5.)

*Temple, October* 4, 1869.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Charles Spring Rice's letter of August 31, 1869, stating that he was directed by your Lordship to transmit to us copy of a note from the Minister of the United States calling the attention of Her Majesty's Government to the inconveniences which result from the absence of any Convention between the two Governments defining the rights, powers, and duties of Consular officers.

Mr. Rice was pleased to annex to the note the draft of a Consular Convention which Mr. Motley stated he had full powers to negotiate with Her Majesty's Government.

Mr. Rice was further pleased to state that the question as to the Consular Convention with the United States was one which, as we were aware, had been frequently under consideration, and the matter was included in a Report upon the whole question as to Conventions of that nature, which had been drawn up for the use of Her Majesty's Government by Mr. Reilly, under the authority of the Lords of the Treasury.

That he was to inclose a copy of that Report, in which we would find the full particulars of what had already passed between Her Majesty's Government and the Government of the United States on the subject, and from which we would learn the grounds upon which it was suggested that Her Majesty's Government should provide for existing evils rather by legislation than by the negotiation of Consular Conventions with foreign Governments.

That your Lordship directed him to state that, in your Lordship's opinion, such a Convention as that proposed by Mr. Motley was much needed, as without it Her Majesty's Consuls were at a disadvantage with other nations who had entered into such Conventions, and the want of which was much felt by American citizens at Liverpool and other ports in this country.

That your Lordship was aware that the laws of England would interpose great difficulties in the way of such an arrangement as that which Mr. Motley proposed, but that your Lordship conceived that it might be possible for us to suggest means for overcoming some of the difficulties; and that your Lordship accordingly requested that we would take the subject into our consideration, and at our early convenience report our opinion as to the course which Her Majesty's Government should pursue in dealing with the matter.

And that he was to add that your Lordship thought we might be glad to read the inclosed despatch from Mr. Consul Bernal, as setting forth the matter with much clearness.

In obedience to your Lordship's commands we have taken these matters into our consideration, and have the honour to report—

That, with respect to Article I, we see no insuperable objection on principle against exempting Consular officers, subjects, or citizens of the State by which they are appointed from arrest as proposed, and from personal services as proposed, and from all *personal* taxation. But we think that great objections exist against exempting houses and lands which they may occupy from local rates.

Article II. We see great difficulty in acceding to Article II.

Article III. We think that the privilege of inviolability should be limited to the *archives* of the Consular office, or if extended to the Consular office, the privilege should be confined to cases where the Consul is not engaged in trade.

Article IV. We see no objection to this Article.

Article V and VI. We have much doubt whether it would be possible to legislate so as to give effect to Articles V and VI, and without legislation of course these Articles would be practically inoperative. A more practicable basis of legislation appears to us to be laid down in Mr. Farrer's letter of August 1866, page 2 of the paper entitled Consular Conventions.

Article VII. A good deal of objection may be anticipated to this Article, which confers a new and extensive jurisdiction upon Consuls, but inasmuch as it will be competent to all persons to provide against its exercise, if they think fit, we do not think the objection insuperable.

Article VIII. This Article is somewhat obscurely expressed, but if it means that the Consul is to adjudicate on all questions of salvage, we think it would be difficult to obtain the assent of Parliament to it.

Articles IX and X. We think these Articles unobjectionable.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Venezuela.

### No. 202.

*The Queen's Advocate to the Earl of Clarendon.—(Received February* 24.)

*Temple, February* 23, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to inform me that, on the coming into office of the present Venezuelan Government, they intimated that they were desirous of providing for the payment of the claims on the Republic of the subjects of foreign Powers, and submitted certain arrangements which they were prepared to make for effecting this object.

That Her Majesty's Government, so far as British subjects were concerned, accepted the proposals of the Venezuelan Government, and, as a preliminary step, obtained their assent to the appointment of a mixed British and Venezuelan Commission to examine into pending British claims.

That a Mixed Commission for this purpose was accordingly established. and is now pursuing its labours at Caraccas, and Mr. Hammond was pleased to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at that place, inclosing copies of a correspondence which has taken place between the British and the Venezuelan Commissioners, on the subject of certain claims which have been rejected by the Government of Venezuela, on the plea that the declarations testifying to the losses had not been made before the Government officer charged with the examination of the witnesses (the decree prescribing this formality having been published after the claims

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had been prepared); and to request that I would take these papers into my consideration, and favour your Lordship with my opinion as to the steps which Her Majesty's Government should take in the matter.

The previous papers were sent therewith for reference, if required.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it would be advisable in my opinion for Messrs. Blondel and Hartman to prove their claims in the manner in which other claims have been proved before the Fiscal, according to the provisions of the Law of 16th June, 1865. I do not think that the objection of the British Commission is tenable, that it is contrary to equity to give to that law a retroactive effect, as I apprehend that the object of it was to regulate the mode of proving all claims then pending against the Republic. I have not a copy of the law before me, but I observe that the Collective Note which forms the basis of the Mixed Commission refers to the Law of 14th June, 1865, as the Law whereby the Venezuelan Government was authorized to bring to a settlement all pending claims, and it is a fair presumption that the Law of 16th June, 1865, was intended to be subsidiary to that law, and was to regulate the manner of proving such claims. If such should be the case, as the Collective Note is entirely silent as to the form in which claims are to be proved before the Commission, I do not see any valid ground for asserting any exemption in favour of Messrs. Blundel and Hartman by reason of their having prepared their claims in another form prior to the passing of the Law of 16th June.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 203.

*The Queen's Advocate to the Earl of Clarendon.—(Received May 22.)*

My Lord,
*Temple, May* 21, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed to transmit to me the accompanying letter from the Colonial Office, dated the 10th instant, inclosing a petition from a Mr. Every, a British subject, native of St. Christopher, in which he claims redress from the Venezuelan Government for loss suffered by him through the detention by the Authorities at Marguerita of his vessel the "Elizabeth;" and Mr. Hammond was pleased to request that I would furnish your Lordship with my opinion as to whether Her Majesty's Government would be justified in taking any steps to support Mr. Every's claim.

In obedience to your Lordship's commands I have the honour to report—

That it appears from the protest of the Captain of the sloop "Elizabeth," and the accompanying papers annexed to the petition of Mr. Every, her owner, and marked B, that the sloop was seized by the Custom-house authorities in the Port of Van Gregor for an alleged breach of the Revenue Laws of the United States of Venezuela upon the information of certain fishermen, and was in the Court of First Instance condemned, but, on a rehearing of the case, the sentence was pronounced to be illegal, and the question referred to the High Court of Marguerita. The latter Court, after some delay, decreed the seizure of the vessel not to be a State question, and referred the petitioner to the Government of Caraccas, which ultimately, by a decree of the President (D), directed the proceedings to be cancelled, and ordered the vessel to be delivered up to the owner, after an inventory and estimate had been taken, with all her sail and apparatus.

It further appears that on the vessel being restored to the owner, much damage was found to have meanwhile accrued to the vessel itself and her cargo, and many articles were missing which were on board when she was seized.

I am of opinion that the owner of the "Elizabeth" is entitled of right to have his vessel restored to him with her cargo and all her appurtenances in the condition in which they were when they were seized by the local Custom-house authorities, or to be compensated for any damage which may have accrued to them. With regard to demurrage or detention-money and the other items set out in the account marked (D), if the purport of the decree of the President of the State (D) is to declare the seizure to have been illegal, then I think that the owner of the "Elizabeth" would be entitled to compensation for all the expenses to which he was exposed by the detention of his vessel, and to reasonable demurrage for the loss of her services. I venture, however, to suggest that before any demand is made against the Government of the United States of Venezuela, Mr. Fagan may properly be required to report upon this case to your Lordship.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 204.

*The Queen's Advocate to the Earl of Clarendon.—(Received November 2.)*

My Lord,
*Temple, October* 30, 1869.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th ultimo, stating that he was directed by your Lordship to transmit to me an accompanying despatch from Her Majesty's Acting Consul-General at Caraccas, inclosing copies and translations of certain laws affecting foreigners, which have lately been passed by the Venezuelan Legislature, and Mr. Hammond was pleased to request that I would favour your Lordship with my opinion upon the said laws.

The Treaty of October 29, 1834, with Venezuela, and that with Colombia of April 8, 1825, were annexed, and Mr. Hammond also inclosed a correspondence upon the subject of the laws in question, which had passed between your Lordship and the German and Dutch Representatives at this Court.

In obedience to your Lordship's commands I have the honour to report—

That I have carefully considered the new laws, more particularly with reference to Mr. Joel's observations that they are not only extremely onerous, but some of the provisions are in contravention of Treaty engagements. With regard to the Decree which purports to affect Venezuelan citizens as well as foreigners, passed on 12th May, 1869, I am unable to appreciate the full scope of the alterations which it will affect in the legal status of foreigners without some information as to the provisions of the Law of March 6, 1854, "respecting indemnification of foreigners," which is abrogated by the concluding Article of the Decree. The Articles, however, which *primâ facie* challenge remark, are Articles XX and XXVIII. Whether it is intended by the Venezuelan Government to apply the provisions of those Articles to reclamations on behalf of British subjects may be doubtful, seeing that the following Decree of 15th May, 1869, makes an exception in favour of existing public Treaties, but there is no corresponding reservation in favour of such Treaties to be found in the Decree of 12th May. If it should, therefore, be intended to give effect to that Decree in all cases of British claims, then it may deserve your Lordship's consideration, whether Mr. Joel should not be instructed to announce to the Venezuelan Minister of Foreign Affairs that your Lordship, as regards this Decree, reserves to Her Majesty's Government the right, if occasion should require it, to object to the Venezuelan Republic claiming at any future time to have relieved itself by its own Decree from responsibility towards Great Britain in respect of injuries done to British subjects, for which it would be liable to make compensation either under the general law of nations, or under its Treaty engagements.

With regard to the Decree passed on the 18th of May, 1869, the letter of the German Representative at this Court, addressed to your Lordship, shows how difficult it would be to form a correct opinion as to the effect of this Decree without a knowledge of the provisions of Article XII of the Constitution. That Article is imported into the first paragraph of Article II of the Decree by simple reference, and its importance might have been overlooked, if M. de Katte had not called upon your Lordship's attention to the fact that, "it requires that foreign Powers should first renounce the possibility of assisting their subjects to obtain their rights by recourse to warlike means." Such a stipulation could not, in my opinion, be properly admitted into an international Treaty, although it might be consistently admitted into a Federal compact, and your Lordship need have no difficulty, I consider, in communicating to M. de Katte that Great Britain could never consent to negotiate a Treaty on such a basis. It would not be unreasonable, I conceive, for nations to agree to refer any dispute as to the construction of a Treaty to a third Power instead of having recourse at once to reprisals for an alleged breach of it; but for a nation to renounce the right to obtain redress by force of arms for manifest wrong done by another nation, would be to abdicate its highest duty towards its own citizens, and to renounce one of the great objects for which political society exists.

The observations of the Chevalier Cadorna upon this Decree proceed also, I presume, upon the consideration of the provisions of Article CXII of the Constitution, which I have not before me. With regard to Article VIII of the Decree of 15th May, 1869, to which Mr. Joel has called your Lordship's attention as in practice likely to prove most objection-

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able, I do not consider that its provisions *primâ facie* challenge objection; nor do I think that your Lordship would be justified in anticipating that this Article will be applied by the Venezuelan Courts in such a manner as would be inconsistent with justice. If it should be so applied at any future time, it will always be competent for your Lordship to require justice to be done by the Executive Government of the Republic, when its Courts are inefficient.

The question submitted to your Lordship by M. de Katte, upon which he requests to be favoured with a confidential communication, as to whether Her Majesty's Government is of opinion that any attempt of the Republic of Venezula in the direction pointed out by the said Articles should be anticipated by a declaration at Caraccas, is a question rather of policy as regards the common action of the European Governments, upon which your Lordship will be the best judge, and upon which I do not presume to offer an opinion.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 205.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received November* 13.)

*Temple, November* 12, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to me, for my consideration, together with the papers sent to me on the 16th September last, the accompanying despatch from the British Acting Consul-General at Caraccas relative to the laws affecting foreigners, which have been recently passed by the Venezuelan Legislature, and to request that I would report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That with regard to the observation of Mr. Joel that the forms prescribed for proving claims against the Venezuelan Government will be extremely onerous on foreigners, I think it will depend very much upon the good faith with which the Venezuelan authorities act in giving effect to the new laws. I have no accurate knowledge of the Constitution of the Venezuelan Republic, but the more intricate portion of the laws seem to me to be framed to meet cases where wrong has been inflicted on foreigners by the authorities of the States which constitute the Republic, as distinguished from the Republic itself, and it also seems to me that if the forms provided for such cases should be observed the remedy would be easy of attainment.

On the other hand, provision appears to be made to meet cases where it might prove impossible to comply with the forms.

With regard to the payment of claims, to which Mr. Joel also alludes, which may may be proved, the new laws purpose to place foreigners on a platform of equality with natives, and it must be assumed, I think, until experience refutes the assumption that a platform of justice—not of injustice—has been contemplated by the Venezuelan Legislature. If it should hereafter prove that this Law is intended to work injustice to foreigners, and that it is made use of by the Venezuelan Courts for that purpose, the Venezuelan Government cannot be allowed to take advantage of its own wrong, if complaint is made by a foreign Power, nor will it be any justification of such injustice for the Venezuelan Government to allege that it is sanctioned by Venezuelan law.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 206.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received December* 21.)

*Temple, December* 20, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to transmit to me a despatch which he has received from Her Majesty's Chargé d'Affaires at Caraccas (No. 6 of November 15, 1869), inclosing copy of a protest addressed by the Diplomatic Body to the Venezuelan Minister for Foreign Affairs on the 27th of July last against the 7th Article of a law passed by the Legislature on the 15th of May last, which, in the opinion of the Diplomatic Agents infringes the immunities enjoyed by such Agents in the countries to which they are accredited; and Mr. Hammond was to request that I would take this matter into my consideration, and report to your Lordship my opinion whether the Article complained of is such as to call for, or justify a representation on the part of Her Majesty's Government. Mr. Hammond was also pleased to add that I should observe that the protest was not signed by any British Agent, there having been no British Chargé d'Affaires at Caraccas at the time.

In obedience to your Lordship's commands I have the honour to report—

That I think it probable that the object of the law in question was to define the functions of the High Federal Court of the Republic as distinguished from the State Courts, and to reserve to the former all questions touching the law of nations in its application to the Diplomatic Corps. But as the law is open to another interpretation, and the Venezuelan Government has taken time to consider whether that interpretation is or is not to be given to the law, I think your Lordship may properly instruct Her Majesty's Chargé d'Affaires to support the declaration of the other Diplomatic Agents.

I have, &c.
(Signed) TRAVERS TWISS.

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## Wurtemberg.

### No. 207.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June* 30.)

*Temple, June* 29, 1869.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 28th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Minister at Stuttgardt, inquiring whether he would be justified in marrying at the Legation two Wurtemberg subjects, one of whom has been naturalized as a British subject; and to request that I would furnish your Lordship with my opinion as to the answer which should be returned to this inquiry.

In obedience to your Lordship's commands I have the honour to report—

That unless Her Majesty's Minister at Stuttgardt is satisfied that all the preliminaries to a valid marriage which are required by the law of Wurtemberg have been observed by both parties, and that the proposed marriage will not in any way work a fraud against that law, I am of opinion, that Her Majesty's Minister at Stuttgardt ought not to allow the proposed marriage to be solemnized at Her Majesty's Legation.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 208.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received October* 16.)

*Temple, October* 16, 1869.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 6th instant, stating—1st. That he had the honour to transmit to us by direction of your Lordship, a despatch from Her Majesty's Minister at Stuttgardt, dated the 23rd ultimo, relative to the celebration of marriages abroad in which one or both parties were British subjects. The first part of the despatch referred to the more general question of British marriages abroad; bnt it was to the latter part, namely, Mr. Gordon's statement of his own practice, that he was more particularly to call our attention. 2nd. It would be seen from the despatch that marriages had recently been solemnized

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with Mr. Gordon's concurrence at the British chapels at Stuttgardt and Heidelberg, and not in the chapel or house of the British Minister, as directed by the Act 4, Geo. IV, cap. 41, the parties so married at Heidelberg having been previously married according to the law of Baden, though it was not specifically stated that that formality was observed in the case of the marriages performed at Stuttgardt. 3rd. That Mr. Hammond was pleased to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to Mr. Gordon's proceedings, and as to the answer which should be returned to his inquiry how marriages so solemnized could be registered in England.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That Mr. Gordon's proceedings are correct as regards his advising British subjects that if they are married according to the laws of the country wherein they are residing, their marriage would be held valid and legal in England, and that they are at liberty to add a religious ceremony in a British chapel, if they are so minded, for the satisfaction of any religious scruples or feelings on their own part; but Mr. Gordon is wrong, in our opinion, in requesting, as he appears to have done in the case of the marriage solemnized in the British chapel at Heidelberg by the Rev. H. Hodges, that a certificate of the German marriage of the parties, and a certificate of the English religious ceremony, or, as it purports to be, of a marriage solemnized between the parties according to the rites of the Church of England, should be forwarded to Her Majesty's Legation at Stuttgardt, if they were so required by him for the purpose either of registration at the Legation, or of registration in England. There is no legal mode of registering in England marriages so solemnized, and it is for your Lordship to consider whether it is advisable to authorize any Register for Marriages to be kept at Her Majesty's Legation, except for marriages actually celebrated in the chapel or house of Her Majesty's Minister.

We have, &c.

(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

1870

*Printed for the use of the Foreign Office. July 1878.*

CONFIDENTIAL.

(3660.)

# REPORTS

FROM THE

# LAW OFFICERS OF THE CROWN:

## 1870.

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*(Arranged according to Countries.)*

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| 21 | Queen's Advocate | Feb. 10, 1870 | Mr. Belisle, a British subject, having sworn allegiance to the Government of Honduras, and having acquired rights of citizenship there, is not entitled to British protection against that Government .. .. .. .. | 12 |
| 22 | Queen's Advocate | Mar. 9, | Mr. Belisle should appeal to the tribunals of Honduras to obtain reparation. The good offices of Her Majesty's Chargé d'Affaires might be granted to secure his access to the proper tribunal .. .. .. .. | 12 |

### NICARAGUA.

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| 23 | Queen's Advocate | May 5, 1870 | Claims of Hilario Goussen and Mathew Glenton to be British subjects, and as such, to exemption from contributing to forced loan levied by Nicaraguan Government .. | 13 |

## CHINA.

| No. | | Date. | Subject. | Page |
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| 24 | Law Officers .. | Jan. 8, 1870 | No reason to alter opinion already given on the proposed Hong Kong Ordinance for extradition of fugitives from justice from Macao. Agree in remarks made on subject of the tribunal for trial of offences .. .. .. | 14 |
| 25 | Law Officers .. | 17, | Shanghai Land Regulations. Nothing to alter former opinion as to approval of .. .. .. .. .. | 14 |
| 26 | Law Officers .. | 17, | Registration of British subjects. Pekin not within the Consular District of Tientsin. To prevent mischief, Consular jurisdiction might be conferred on some member of Her Majesty's Legation, or to join Pekin to some other Consular District .. .. .. .. .. | 15 |
| 27 | Law Officers .. | Feb. , | Inexpedient to legalize by Order in Council the formation and registration of Joint Stock Companies in China and Japan. Agree in views of Law Officers expressed in October 1868 .. .. .. .. .. | 15 |
| 28 | Law Officers .. | Mar. 4, | Further letter from Board of Trade tends to confirm opinion already expressed on subject of the formation and registration of Joint Stock Companies in China .. .. | 16 |
| 29 | Law Officers .. | 8, | Concur in views of Board of Trade that exclusive Admiralty jurisdiction, conferred on the Supreme Court in China by Order in Council in 1865 over British ships, should not be extended .. .. .. .. .. .. | 16 |
| 30 | Queen's Advocate | 8, | On subject of the British claims on the Chinese Government. (The Manzing, Ising, Yang, Hogg Brothers, and the claims against the Shang Yu Tai Bank) .. .. | 17 |
| 31 | Law Officers .. | Apr. 9, | As to the interpretation to be put on certain Articles and Rules, &c., of the Treaties of Nankin, Tientsin, and the Supplementary Convention of 1869 with China .. .. | 19 |
| 32 | Law Officers .. | June 23, | As to fees to be levied by the Supreme Court in China on registration of British subjects in China and Japan .. | 21 |
| 33 | Law Officers .. | Dec. 30, | Registration of British subjects in China. Fees should be uniform for all classes of British subjects, and should not be renewed unless from change of residence. British subjects for non-registration should not be prosecuted, if sufficient excuse be given .. .. .. .. | 21 |

## DENMARK.

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| 34 | Queen's Advocate | Jan. 19, 1870 | Her Majesty's Consul at St. Thomas not justified in detaining the British vessel "Clara Helena," nor any other vessel, on suspicion of embarking arms or ammunition of war for insurrectionary party in Hayti .. .. .. | 22 |
| 35 | Queen's Advocate | Apr. 30, | Case of the "Redgauntlet." As to the charges of Mr. Tilley on behalf of Captain Cameron, the owner of the vessel, against Her Majesty's Consul at St. Thomas, for detention of the ship's papers, whereby the owner was prevented from raising money on the vessel. No blame to Her Majesty's Consul for proceedings which resulted in the sale of the vessel .. .. .. .. .. .. | 22 |

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| 36 | Queen's Advocate | July 6, 1870 | Case of the "Redgauntlet." Further letters of Mr. Cameron do not alter opinion already given, but the provisional certificate of the sale of the vessel should be obtained .. | 24 |
| 37 | Queen's Advocate | Aug. 23, | As to course Her Majesty's Government should take with regard to telegraphic messages being sent during war between Prussia and France, through England, to their respective forces. The Conventions of 1865 and 1868 do not control the operation of the rules of International Law.. | 25 |

## DOMINICA.

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| 38 | Law Officers .. | June 30, 1870 | The decision of the Vice-Admiralty Court at Tortola in the case of the restoration of the "Telegraphs" without costs or damages, on account of the acts charged being committed within jurisdiction of the Republic of St. Domingo, is open to appeal .. .. .. .. .. | 26 |

## EGYPT.

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| 39 | Queen's Advocate | Feb. 4, 1870 | The letter of Mr. Tinney complaining against Sir P. Francis in his judicial capacity at Alexandria in the case of Polidano, should be referred to the Judge for his observations thereon .. .. .. .. .. .. | 26 |
| 40 | Queen's Advocate | 9, | No sufficient grounds to alter decision given by Law Officers in March 1868 on sentence of imprisonment against the two Maltese named Polidano, at Alexandria. Steps that should be taken to prevent the return to the Levant of deported Maltese .. .. .. .. .. | 27 |
| 41 | Queen's Advocate | 22, | Approval of the proceedings of the International Commission on judicial reforms in Egypt should be conditional, not only on the assent of the other Powers, but in the adoption of a satisfactory code of law and system of procedure .. | 27 |
| 42 | Law Officers .. | 24, | With respect to the claims of Messrs. Carver and Gill against the Egyptian Government, and the rehearing of the case before the Tribunal of Alexandria .. .. | 28 |
| 43 | Law Officers .. | Apr. 27, | The warrant of the Consular Court of Egypt under the 2nd section of the Order in Council of 1866, in the case of the brothers Polidano was a valid warrant, and they were lawfully sent to Malta for trial. Case of Bugega in 1866 not a parallel one .. .. .. .. | 28 |
| 44 | Queen's Advocate | June 3, | No ground for official interference of Her Majesty's Government on the complaint of Mr. Tinney against Sir P. Francis, Her Majesty's late legal Vice-Consul for Egyyt. Polidano case .. .. .. .. .. | 29 |
| 45 | Law Officers .. | July 7, | New Egyptian codes should be assented to by Her Majesty's Government as a basis of the new judicial system in Egypt. | 29 |
| 46 | Queen's Advocate | 7, | As to complaint against certain proceedings in Courts of Alexandria and Constantinople in the suit Paterson *v.* Bank of Egypt. Her Majesty's Government should not interfere .. .. .. .. .. .. | 30 |
| 47 | Queen's Advocate | Oct. 26, | Mr. Schlizzi not entitled to the protection of a British subject by Her Majesty's Consulate at Alexandria, but having obtained British naturalization, might be entitled to the good offices of Her Majesty's Consul .. .. .. | 30 |

## ECUADOR.

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| 48 | Queen's Advocate | Jan. 18, 1870 | As to the instructions that should be given to Her Majesty's Chargé d'Affaires at Quito, on the intention of the Ecuadorian Government to suspend payment of the interest due on the Foreign Debt .. .. .. .. | 31 |
| 49 | Queen's Advocate | June 16, | Wants further information before giving opinion as to the distinction between the position of the interest due to the Mackintosh Debt by the Ecuadorian Government, and the rest of the Foreign Debt .. .. .. .. | 32 |
| 50 | Queen's Advocate | 29, | Ecuadorian Debt. Her Majesty's Chargé d'Affaires at Quito should be instructed to express to the Ecuadorian Government that they are equally liable to the British bondholders, as to Mr. Mackintosh for the interest due, and to bind them to adopt the same principles in either case .. | 33 |

## FRANCE.

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| 51 | Law Officers .. | Jan. 14, 1870 | As to the reply to the Society of Notaries, and to Messrs. Cookson and Wainwright, with respect to "Certificats de Coutume" required by French Railway Companies .. | 34 |
| 52 | Queen's Advocate | Feb. 23, | Her Majesty's Government cannot claim exemption on behalf of Mr. Collard from service in the Militia of Réunion, unless he is willing to continue the payment required by the Local Law .. .. .. .. .. | 34 |
| 53 | Queen's Advocate | Mar. 23, | As to right of Governor of Réunion to require Coolies to be provided with papers under 20th Article of the Coolie Convention .. .. .. .. .. .. | 34 |
| 54 | Law Officers .. | July 6, | Views of French Government on the Convention for protection of Sub-Marine Cables are correct as reported by the Special Commission, and only differ from those expressed by former reports, with reference to the jurisdiction over persons wilfully injuring the cables .. .. .. | 35 |
| 55 | Law Officers .. | 19, | Judicial reforms in Egypt. Approves Draft of Note to French Ambassador concurring in principle of the new codes, as well as views taken by the Imperial Government and French Commission on the subject .. .. | 36 |
| 56 | Law Officers .. | 28, | On refusal of French Government to grant facilities to enemies' vessels destined for British Ports with British owned cargoes. No violation of neutral right, on their having granted privileges to enemies' vessels with French cargoes to French Ports .. .. .. .. | 36 |
| 57 | Law Officers .. | 30, | As to application of Captain Sherard Osborne on proposal of French Government to the Company to which he belongs, to lay down a telegraph cable from Dunkirk to Coast of North Sea. The Company would be liable under the new Foreign Enlistment Act .. .. .. .. | 37 |
| 58 | Law Officers .. | Aug. 5, | As to laying down telegraph cable to Cherbourg; leave may be given to Mr. Scrutton, but if destined for war purposes, would be liable to be captured as contraband .. .. | 37 |
| 59 | Queen's Advocate | 6, | Property of Mrs. Kozminska, who died intestate in France, must be administered to by General Frome, her representative, according to French law, and afterwards in that character to her effects in England. Her Majesty's Consul at Havre should not interfere, more than to assist General Frome .. .. .. .. .. .. | 38 |
| 60 | Law Officers .. | 13, | There is nothing contrary to the law of nations by French Government passing a law making subjects of foreigners born in France liable to military service, but due notice should be given to British subjects resident in France .. | 38 |

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| 61 | Queen's Advocate | Aug. 22, 1870 | Case of the "Meta." As to instructions to be given to Her Majesty's Consuls on the course they should pursue in like cases of captures of neutral vessels. Owners of cargo should be informed they must appear before Prize Tribunals to prove ownership | 39 |
| 62 | Law Officers | 23, | Her Majesty's Government should decline to state to Mr. Moss, a broker, and Mr. Thompson, owner of a steam collier, whether it would be an infringement of neutrality to effect a sale of that vessel to the French Government | 39 |
| 63 | Law Officers | 23, | As to notice issued by Prussian Government for engaging ships privately armed in the war service of the North German Confederation. This would not interfere with the Declaration of Paris of 1856 acceded to by Prussia, but Prussian Government might be reminded of the Declaration | 40 |
| 64 | Law Officers | 26, | Reply to be given to British subjects requesting protection to their property, and exemption from military contributions in France during the war | 41 |
| 65 | Queen's Advocate | 30, | The Prize Court alone can determine whether the British owners of the cargo of a captured German vessel may use that vessel to convey the cargo to its place of destination. The Secretary of Lloyd's Association should be told Her Majesty's Government could not interfere in case of accident | 41 |
| 66 | Queen's Advocate | Sept. 2, | No objection to publication in the "London Gazette" of the Imperial Decrees relative to the establishment of regulations of the French Prize Court | 42 |
| 67 | Queen's Advocate | 5, | Her Majesty's Consul at Bordeaux was justified in facilitating the escape of subjects of the German States. No objection to their employment as extra hands on board the "Finchale" | 42 |
| 68 | Queen's Advocate | 14, | War. France and Germany. As to the alleged intention of the French Government to burn the warehouses at Havre on approach of the German forces. No objection to foreign Consuls making a catalogue of the neutral property warehoused there | 42 |
| 69 | Law Officers | 15, | Opinion of Mr. Rothery with regard to the forfeiture of cargoes on board vessels contravening Slave Trade Acts, is correct. Claim of Messrs. Raband, Frassinet, and Co. Case of the "Salama," captured by Her Majesty's ship "Nymph" | 43 |
| 70 | Law Officers | 19, | Submarine telegraph cable. No objection on principle to the neutralization of submarine telegraphs so as to prevent destruction in time of war, but the Telegraph Company's suggestions can only be carried out by conforming to the rights of neutrality in time of war, and this would require a special Convention, for the benefit of belligerents as well as neutrals | 43 |
| 71 | Queen's Advocate | 24, | War. France and Germany. British Vice-Consul and British residents at Dieppe cannot claim exemption from forced contributions, if levied by Prussian armies | 45 |
| 72 | Queen's Advocate | Oct. 15, | As to complaint of the South Western Railway Company against Provisional Government at Tours on account of the traffic being impeded by war with Germany. Her Majesty's Government would not be justified in sending a British vessel of war to embark British subjects at Granville, unless in concert with Governor of Tours | 45 |
| 73 | Queen's Advocate | 12, | Instructions that should be sent to Her Majesty's Consul at Havre with respect to liability of British subjects in France to military requisitions, either by France or Germany during the war. Such exemptions were rightfully claimed in New Granada under Treaty | 46 |

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| 74 | Queen's Advocate | Oct. 17, 1870 | Course that should be pursued by Her Majesty's Government on account of riotous conduct of the inhabitants of Honfleur to prevent the export of provisions to England. South Western Railway Company should be advised to discontinue their trade | 46 |
| 75 | Queen's Advocate | 20, | Instructions given by Lord Lyons to Her Majesty's Consul at Cherbourg relating to a formation of an Irish Legion there, were right and proper | 47 |
| 76 | Queen's Advocate | 25, | As to the arrival of French vessels of war in the Frith of Forth with German prisoners on board. Neutral Power no right to interfere so long as prisoners are under French jurisdiction | 47 |
| 77 | Queen's Advocate | Nov. 5, | As to further instructions to be sent to Consul Segrave on the question of compulsory service of British subjects in the local militia at Réunion. British subjects resident cannot claim exemption in case of defence of the island from foreign invasion | 47 |
| 78 | Law Officers | 9, | As to protection to be afforded to British subjects having establishments in France. British capsule manufactory at Bordeaux. Requisition for military service. Messrs. Betts and Co. must bear equally the French burdens imposed by war | 48 |
| 79 | Queen's Advocate | Dec. 1, | As to liability of British subjects at Dieppe to serve in the French National Guard, or to serve in the field against the forces of a friendly Power who had issued a Declaration of Neutrality. Want to know the special law of France relative to Dieppe | 48 |
| 80 | Law Officers | 14, | Conduct of French Government in detaining crews of captured vessels belonging to German Mercantile Marine as prisoners of war is correct, and according to precedent | 49 |
| 81 | Queen's Advocate | 14, | Blockade of the River Seine established at Havre by French authorities. Notification of the Commandant of the Military and Naval Division insufficient to justify the condemnation of neutral vessels entering or leaving that river, and should be treated as such. Warning should be given to each individual vessel | 49 |
| 82 | Queen's Advocate | 14, | Estate of the late Mrs. Kozminsky. As General Frome has obtained letters of administration in the Probate Court in London, Her Majesty's Consul at Havre may assist him in obtaining recognition by French authorities, as the legal representative of the deceased, according to English law | 50 |
| 83 | Queen's Advocate | 19, | As to notification of blockade of Ports of Rouen, Dieppe, and Fécamp. Communication of Count Chaudordy to Her Majesty's Ambassador in France sufficient to warrant it. Draft notification for "Gazette" | 50 |
| 84 | Queen's Advocate | 20, | Further notice of the French authorities at Havre relative to the blockade of the Seine, does not call for any action on the part of Her Majesty's Government. Her Majesty's Consul should report in what way the blockade of Rouen is maintained | 51 |
| 85 | Law Officers | 26, | As to the detention of the British vessel "International" with telegraph cable, intended to have been laid down between the English and French coasts. Her Majesty's Government should decline to state to the Telegraph Company their views on an hypothetical case whether it was a breach of the Foreign Enlistment Act | 52 |
| 86 | Law Officers | 30, | Further report relative to the proposal of the Submarine Telegraph Company to lay down a cable between the English and French coasts for the military use of the French Government. No encouragement should be given, as contrary to British neutrality, and interference should be made to prevent the laying of the cable | 52 |

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## GENERAL.

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| 87 | Queen's Advocate | June 11, 1870 | Naturalization Act | 53 |
| 88 | Law Officers | July 16, | Draft Proclamation of Neutrality in the war between France and Prussia, and letter to public Departments, with alterations | 53 |
| 89 | Law Officers | 21, | Export of arms for France. Approves letter to Treasury, as Her Majesty's Government do not intend to put in force 150th Section of the Customs Consolidation Act | 54 |
| 90 | Law Officers | 21, | Proposed sale of Admiralty stores no breach of neutrality | 54 |
| 91 | Law Officers | 25, | Employment of British colliers for French fleet would be liable to detention under the Foreign Enlistment Act, as they would become store ships | 55 |
| 92 | Law Officers | 28, | As to the employment of pilots by ships of war by either of the belligerents. The sanction should be confined to British waters, and to English ports within three miles limit | 55 |
| 93 | Law Officers | 29, | Question of Messrs. W. and H. P. Sharp as to advance of money to belligerent Powers. Loans to belligerents would not create a criminal liability, but would be contrary to the spirit of the Queen's Proclamation | 56 |
| 94 | Law Officers | 29, | Alleged employment of British colliers to supply French fleet with coal in London and Liverpool. No ground for interference of Her Majesty's Government at present, but the utmost vigilance to be used | 56 |
| 95 | Law Officers | Aug. 3, | Draft Notice of Board of Trade for the instruction of pilots, founded on Report of the 28th July; returns with alterations | 57 |
| 96 | Law Officers | 3, | Instruction to pilots may be issued at once, without waiting for new Foreign Enlistment Act. Suggesting insertion of words respecting "ships of war in distress" | 57 |
| 97 | Attorney-General and Queen's Advocate | 5, | Neutral obligation under the Guarantee as regards Belgium. Refusal of one or more of the Guaranteeing Powers does not release the remaining Powers from their obligation | 57 |
| 98 | Law Officers | 5, | As to sale of the steam collier "Solent" to French Government. Messrs. Hein and Company should be told the vessel cannot be dispatched, and the parties to its sale run a risk of criminal prosecution | 58 |
| 99 | Law Officers | 5, | No sufficient case for interference with the vessel "Nonpareil," for the alleged shipment of steam-coal for Copenhagen, Australia, and Vancouver's Island, but grounds for suspicion | 59 |
| 100 | Law Officers | 8, | Case of the "Steady," formerly a gun boat, fitted out at Liverpool for supposed mercantile purposes. Criminal prosecution could be taken against Messrs. Bowdler and Company, who have received orders to repair the vessel, should the vessel be employed by either belligerent | 59 |
| 101 | Law Officers | 10, | Case of the "Solent," "Norseman," and "Sweden" steamers sold to French Government. Steps should be taken to find who ordered the sale of the vessels | 59 |
| 102 | Law Officers | 11, | As to the supplies of coal for the French fleet. Case of vessels "Marie" and "Emma" cleared from Cardiff for Cherbourg. Inquiries should be instituted whether Mr. H. Worms, the alleged owner, is a French subject | 60 |
| 103 | Law Officers | 11, | As to precautions taken to prevent the sale of Her Majesty's old ships of war to either belligerent. Officers of Customs should report the registered owner of the "Brisk" and the nature of her repairs | 61 |
| 104 | Law Officers | Aug. 13, 1870 | On case of the "Hypatia." Said to have been sold at Cherbourg to the French Government. Customs officers at Sunderland and Registrar-General of Seamen at Southampton should report particulars. The case apparently a violation of neutrality | 61 |
| 105 | Law Officers | 13, | As to instructions from Admiralty for guidance of naval officers during the French and German war. Not necessary to instruct them relative to sale of belligerent ships of war in British waters. Question of a belligerent captor giving up foreign mails found on board captured vessels, must be considered carefully, for fear of enemy's despatches becoming protected from discovery and seizure | 62 |
| 106 | Law Officers | 13, | Reply to Mr. Rayner, as to his proposed communications to either of the belligerents in the present war of certain improvements in efficiency of artillery. Must make them at his own peril | 62 |
| 107 | Law Officers | 19, | Cases of the steam colliers "Marie" and "Emma." No sufficient evidence of their being store ships in the French service. No justification for interference. No further steps necessary relative to the vessels "Steady" and "Brisk" | 63 |
| 108 | Attorney-General and Queen's Advocate | 20, | As to blockade of German rivers. Divergent opinions as to the French Admiral's notification of blockade being conveyed from one belligerent to another by an English man of war. Governor of Heligoland in error | 63 |
| 109 | Queen's Advocate | 20, | No further notice need be given as regards the error in the communication made by Governor of Heligoland to Her Majesty's Ambassador at Berlin, and Consul at Hamburgh, of the blockade of German rivers | 64 |
| 110 | Law Officers | 23, | No steps can be taken against former owner of the "Norseman," not fitted out before she left England, as a transport or storeship. Case of the "Sweden" already reported | 65 |
| 111 | Law Officers | 23, | Further respecting the sale of the collier "Sweden," the temporary detention was proper; may proceed to Gottenberg, but shippers should be informed she was suspected of being sold to the French Government. Consul should report her arrival | 65 |
| 112 | Law Officers | 25, | Case of the "Hypatia." Cannot be proceeded against, as she was dispatched before the Foreign Enlistment Act of 1870. | 65 |
| 113 | Law Officers | 26, | As to the supply of coal by British vessels to the French fleet. Care should be taken to ascertain whether the coals were *bonâ fide* for French ports, and that they have not been re-shipped to the Baltic | 66 |
| 114 | Queen's Advocate | 26, | Blockade of German ports, as to its validity. Messrs. Russell to be informed Her Majesty's Government would not be justified in intervening on only part of the coast of Sleswig being blockaded | 66 |
| 115 | Queen's Advocate | 27, | Opinion on notification of the blockade of the Baltic German ports | 67 |
| 116 | Law Officers | 27, | German emigrants detained at Hamburgh. As to requesting French Government's permission for them to proceed to Queensland through blockading squadron. Approves proposed draft despatch. Opinion of Queen's Advocate that there is no sufficient ground to solicit the favour if proceeding in an enemy's ship | 67 |
| 117 | Queen's Advocate | 30, | Baltic blockade. As to publishing rectification of date in the "London Gazette" | 68 |
| 118 | Queen's Advocate | 30, | Baltic blockade. Would be as well to await official notification of change of date before inserting it in the "London Gazette" | 69 |
| 119 | Attorney- and Solicitor-General | 30, | German emigrants at Hamburgh. Do not agree with Queen's Advocate as to enemy's ship being employed for the purpose. No objection to asking French Government to let it pass | 69 |

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| 120 | Queen's Advocate | Aug. 31, 1870 | Baltic blockade. Notification of the correction of error as to date of its commencement, for insertion in "London Gazette" | 70 |
| 121 | Law Officers | Sept. 14, | Complaint of Mr. A. Walker on detention of the steam-ship "Steady" by Customs authorities at Birkenhead. Vessel should not be released until proof of her destination is given | 70 |
| 122 | Queen's Advocate | 14, | French corvette "Déciés" off Heligoland. The Governor was correct in objecting to her leaving her station as one of the blockading squadron, to take in coals within British waters | 71 |
| 123 | Queen's Advocate | 18, | Draft of proposed Report on case of the "Steady." Steps to be taken at once at Liverpool; not to leave on trial trip | 71 |
| 124 | Queen's Advocate | 19, | Case of the "Steady." Vessel should not be allowed to go on trial trip without guard on board. Circumstances relating to her sale open to suspicion | 71 |
| 125 | Queen's Advocate | 20, | As to prohibition for belligerent ships of war bringing prizes into British ports. Extends also to prizes manned by a prize crew, although not accompanied by an armed ship | 72 |
| 126 | Queen's Advocate | 21, | As to complaint of Messrs. Campbell and Fraser of the insufficiency of the blockade of German ports in the Baltic | 72 |
| 127 | Attorney- and Solicitor-General | 22, | Case of the "Steady." Agree with Queen's Advocate as reported on the 19th instant | 73 |
| 128 | Queen's Advocate | 22, | Notification for insertion in "London Gazette" of the raising of the blockade of the German ports in the North Sea | 73 |
| 129 | Queen's Advocate | 26, | Notification for insertion in "London Gazette" of the raising of the blockade of German ports in the Baltic | 74 |
| 130 | Law Officers | 27, | Case of the "Steady." Trial trip must not be allowed without sufficient guard to insure her return to Liverpool. A force of Marines should be kept there for security | 74 |
| 131 | Law Officers | 27, | As to the exercise of compulsion on belligerent ships of war refusing to comply with instructions of Neutrality Circular. Notice should be given of intention to enforce neutral rights | 75 |
| 132 | Law Officers | Oct. 8, | As to threat of Mr. Walker to take legal proceedings if his vessel, the "Steady," is any longer detained. To be told she may go on trial trip with armed Marines on board | 75 |
| 133 | Law Officers | 11, | As to reply to be given to Mr. Hilbery, solicitor to Mr. Walker, on the detention of the "Steady" | 75 |
| 134 | Queen's Advocate | 15, | Establishment of an Ambulance Corps exclusively for one of the belligerents in this country would not be a breach of neutrality, if confined to movements of troops of one belligerent exclusively | 76 |
| 135 | Law Officers | 25, | Case of the "Sharpshooter." Strict watch should be kept on her that she does not leave Liverpool without giving proper explanations | 76 |
| 136 | Queen's Advocate | 25, | The "Marie" being a French vessel regularly employed in the coal trade, and dispatched from a French port to Cardiff, does not come within the provisions of the Foreign Enlistment Act | 77 |
| 137 | Law Officers | 25, | On the request of Mr. Hilbery, solicitor to Mr. Walker, owner of the "Steady," for her release. Suggesting certain questions that should be asked him. If answered satisfactorily, vessel might be released | 77 |
| 138 | Queen's Advocate | 27, | As to protest of German Vice-Consul at Lowestoft on removal of the German vessel "Heinrich" from the limits of the port, when in possession of a French prize crew. Her Majesty's Government would not be justified in interfering | 78 |

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| 139 | Queen's Advocate | Oct. 28, 1870 | The German vessel ("Heinrich") taken into Lowestoft as a French prize, should not be allowed to remain longer than time to procure provisions, providing there is no stress of weather. In the absence of special notification, belligerents may enter British waters with prizes, for asylum | 78 |
| 140 | Law Officers | 29, | Case of the "Steady." Trial trip under detention. Not to be allowed another without special permission | 78 |
| 141 | Attorney-General | 29, | As to the German vessel ("Heinrich") taken into Lowestoft as a French prize. Belligerents must not bring into and anchor prizes in British waters. Circular of the 19th July should be put in force. Vessels not to be detained, but ordered to quit after provisions secured | 79 |
| 142 | Solicitor-General | 29, | As to German vessel ("Heinrich") taken into Lowestoft as a French prize. Belligerents must not bring into or anchor prizes in British waters, except under special circumstances. Circular of the 19th July to be put into force | 79 |
| 143 | Queen's Advocate | 31, | As to wish of the British owners of cargoes on board German vessels captured by French cruizers, that representation may be made to Provisional Government at Tours for their release, on account of the suspension of the French Prize Courts. Arrangement should be made by Her Majesty's Government for their release, under security | 80 |
| 144 | Law Officers | 31, | Case of the "Steady." Request of Mr. F. N. Hilbery, for copy of warrant of detention, and whether the vessel would be released on security. May be released on security for full value of the vessel | 81 |
| 145 | Solicitor-General | 31, | As to the German vessel "Heinrich," detained as a French prize at Lowestoft. Concurs in reports of the Attorney-General of 29th | 81 |
| 146 | Queen's Advocate | 31, | The German vessel "Heinrich" at Lowestoft should be released, and prize master be requested to proceed on his voyage, unless prevented by stress of weather | 81 |
| 147 | Queen's Advocate | Nov. 3, | As to the German vessel "Heinrich, brought into Lowestoft roads in charge of French prize crew. Circular letter of 19th July correct, and belligerent vessels with prizes ought not to enter British ports, except under stress of weather | 82 |
| 148 | Law Officers | 3, | Case of the "Sharpshooter." Owner may be told his vessel will be allowed free clearance when loaded with cargo for Penang and Singapore | 83 |
| 149 | Law Officers | 16, | Cases of the "Steady" and "Sharpshooter." M. Tissot's representations respecting proceedings of the latter. Owner's alleged connection with the "Alabama" should be ascertained, and warrants prepared | 83 |
| 150 | Law Officers | 17, | Case of the "Sharpshooter." No further advice to offer. If Mr. Bates acted in bad faith, proceedings should be taken against him under 8th Section of Foreign Enlistment Act | 84 |
| 151 | Law Officers | 17, | Case of the "Sharpshooter." Claims of owner for compensation for alleged loss on account of her detention. Inquiries to be made as to Mr. Bates' connection with the "Alabama" | 85 |
| 152 | Queen's Advocate | 19, | As to the propriety of a neutral State supplying belligerents with coals from Government stores, when they can be obtained from private sources | 85 |
| 153 | Attorney- and Solicitor-General | 21, | Case of the "Frei," captured by the French vessel "Dessaix" in British waters. Representation may be made by Lord Lyons to the French Government for restitution of vessel and cargo. Approves draft | 86 |
| 154 | Law Officers | 25, | Application of shipping agent at Plymouth for exceptional facilities to trans-ship arms from the steam-ship "Avon." Board of Customs quite right in refusing to accede to request | 86 |

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| 155 | Law Officers .. | Nov. 29, 1870 | Case of the "Frei." The Prussian Ambassador may be informed that the owners should make a claim of territory in French Prize Court, and he will receive such support from Her Majesty's Government as a neutral State may give .. .. .. .. .. .. | 87 |
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| 179 | Queen's Advocate | Sept. 1, | Claim of Mr. George Fletcher on Colombian Government for compensation for losses by robbery of his goods in the State of Canca by belligerents, during civil war in 1861 and 1862. As award was granted by Tribunals of Colombia, he is not entitled to the support of Her Majesty's Government | 104 |
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| 189 | Law Officers | 12, | Claim of Mrs. Stevenson to certain property at Callao left by her grand-daughter. As the claim was made for the whole estate, both real and personal, and given against her by the Peruvian Tribunals, she is debarred from making any further claim to personality apart from the reality, according to the Peruvian Law of Succession | 117 |

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| 191 | Queen's Advocate | Feb. 5, | Further Report on subject of the Draft Convention with Portugal for modification of Treaties for suppression of Slave Trade. Question as to vessels detained being handed over to cruizers of their own nationality. Necessity for the seizors to be sufficiently protected | 118 |
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| 194 | Queen's Advocate | Sept. 13, 1870 | Her Majesty's Consul at St. Michaels should be instructed to warn masters of British vessels, that in communicating with Prussian merchant vessels homeward bound during the war, they might incur the risk of capture by French cruizers. although it would be no breach of a British statute. The French Prize Court would have to consider whether such vessels were liable to condemnation as being in the enemy's service | 120 |
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| 198 | Law Officers | July 19, | Claim of the North German Government for the Governor of Heligoland to be instructed not to allow any but English ships of war to have pilots. Prohibition should apply to both belligerents | 123 |
| 199 | Law Officers | 25, | As to the employment of colliers from Newcastle in conveying coals to the French fleet, the German Minister should be informed that Her Majesty's Proclamation of Neutrality only warns Her Majesty's subjects against the risk of capture if they engage in contraband adventures, but Her Majesty's Government cannot undertake to prevent export of arms or munitions of war to either belligerent. Ships must not be chartered specially for French Government | 123 |
| 200 | Law Officers | Aug. 10, | As to measures proposed by German Minister in England to prevent the shipment of coals, avowedly for German or Baltic ports, but really exported for supply of the French fleet. Her Majesty's Government have no power to stop these vessels, unless evidence is shown they are intended for French naval service | 124 |
| 201 | Queen's Advocate | 22, | As to the transport of French and Prussian wounded through the neutral territory of Luxembourg to Aix-la-Chapelle, with the consent of the Grand Duke; although it would be in accordance with the spirit of the Treaty of Geneva, the Powers guaranteeing Luxembourg must first give their consent | 124 |
| 202 | Queen's Advocate | 24, | As to permission being given to British subjects (Messrs. Gardiner, Parker, and Scott) to enter the Prussian service as surgeons without Her Majesty's special licence | 125 |
| 203 | Law Officers | 25, | As to the transport of wounded Prussian subjects through Luxembourg. Agree in Report of Queen's Advocate on 22nd instant | 126 |
| 204 | Law Officers | 27, | As to complaint of German Ambassador in England against French fleet, and store ships, being allowed to frequent waters of Heligoland. Denial of Governor of Heligoland that the rules of Her Majesty's Government have not been infringed, should not be questioned | 126 |

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| 205 | Queen's Advocate | Sept. 3, 1870 | Prussian and French wounded being taken into Belgium and tended there in a Prussian military hospital, would not be consistent with Belgian neutrality | 127 |
| 206 | Law Officers | 5, | On Memorandum of Count Bernstorff, complaining that the permission given by Her Majesty's Government for the export of arms and war material to France, was inconsistent with an attitude of benevolent neutrality. Reports that Her Majesty's Government cannot alter the rules of international law to suit the interests of particular nations | 127 |
| 207 | Queen's Advocate | 14, | As to instructions to be sent to Her Majesty's Consul at Dantzig on the alleged insufficiency of the French blockade in the Baltic | 128 |
| 208 | Queen's Advocate | 14, | As to the instructions to be sent to Lord A. Loftus relative to the case of the French vessel "Nativité." Prussian Prize Courts must be left to construe their own declaration, and decide whether Mr. Kennedy was wrong in urging the Captain of the vessel to continue his voyage to a German port | 128 |
| 209 | Queen's Advocate | 29, | On refusal of the Mayor of Liverpool to give up the name of the vessel, that had shipped ammunition for Spain, to the North German Consul. If the powder magazines and contents were private property, the owner's servant could not be called on to make any declaration, but Her Majesty's Government should make inquiry as to fraudulent shipments of ammunition ostensibly for Spain | 129 |
| 210 | Queen's Advocate | Oct. 13, | As to the effect the new Naturalization Law may have on the right of children of natural-born British subjects, born and resident in foreign countries, to contribute to British funds where Consular Chaplains are maintained. The status of such persons still continues to be privileged as British subjects, unless they have made a declaration of alienage | 12 |
| 211 | Law Officers | 14, | Further report on complaint of Count Bernstoff that a violation of International law and of English law had been committed in the cases of the "Hypatia" and "Norseman," as well as in the export of arms and war material to France | 130 |
| 212 | Queen's Advocate | Nov. 9, | As to the capture of the German vessel "Frei" by the French vessel "Dessaix" in British waters. Her Majesty's Ambassador might properly direct a claim, to be given in before the Prize Court at Tours, for the restitution of the "Frei" and her cargo, as being captured in neutral waters | 131 |
| 213 | Queen's Advocate | 10, | Case of Mr. Worth, who was captured at Verdun, on attempting to escape from Paris in a balloon, and sent to Versailles to be tried by Court Martial. The German Military Authorities would not be justified in treating him as a neutral subject attempting to break through the German lines. When tried before a Council of War, Her Majesty's Government would be justified in expressing a hope for his release, or that he be only detained in France if he is unable to show he was a *bonâ fide* passenger, without any unneutral object in view. | 132 |
| 214 | Queen's Advocate | 14, | As to the proposed representation to the French Government relative to the alleged capture of the German vessel "Frei" by the French vessel "Dessaix" in British waters. Not proper to intervene officially, pending the proceedings of the Prize Court, unless justice in the case was doubtful | 133 |
| 215 | Queen's Advocate | 19, | As to the instructions that should be sent to Her Majesty's Consul at Hamburgh, relative to protests noted by masters of British vessels which have been, or may be detained in the River Elbe. They should be recorded as documents to be taken in evidence for civil purposes | 134 |
| 216 | Queen's Advocate | 19, | Messrs. Harris and Co., owners of the "Fulmar," not entitled to compensation for detention at Cuxhaven; the vessel when fired at was within the waters of the Elbe and subject to the jurisdiction of the North German Confederation when compelled to return | 134 |

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| 217 | Attorney- and Solicitor-General | Nov. 22, 1870 | Case of Mr. Worth attempting to leave Paris in a balloon already reported on by Queen's Advocate, but do not agree with him "that it would be an abuse of belligerent rights if the German authorities were to send Mr. Worth for trial before a belligerent Court-martial." Friendly representations might be made in his behalf | 136 |
| 218 | Law Officers | 29, | No sufficient case to prosecute the steam-vessel "Vigilant" under Foreign Enlistment Act for alleged conveyance of arms and munitions of war from Poplar to Cherbourg. Queen's Advocate suggests the word "directly" should be inserted after "munitions of war" | 136 |
| 219 | Queen's Advocate | Dec. 12, | As to the instructions to be given to Her Majesty's Consul at Altona on claim of Mr. Rainer, a British subject domiciled there, for his son's exemption from conscription. Children of British subjects born abroad, and residing there, cannot claim privileges of British subjects | 137 |
| 220 | Law Officers | 14, | Case of the "Vigilant." Further report on Count Bernstorff's wish for Her Majesty's Government to prosecute under the Foreign Enlistment Act for the traffic in arms and munitions of war. Consul at Cherbourg might inquire how and where the goods have been landed and disposed of | 137 |
| 221 | Law Officers | 20, | As to the course to be pursued against the British vessel "International" for breach of the Foreign Enlistment Act. Alleged intention of laying a telegraph cable for the French Government | 138 |
| 222 | Law Officers | 21, | If proof can be given of an agreement with French authorities, Mr. Mumford may be prosecuted under the Foreign Enlistment Act for employing the British steam-tug in towing the "Lord Brougham," a German vessel captured by a French man-of-war, from the Downs off Deal to Dunkirk | 139 |
| 223 | Law Officers | 24, | Nothing to alter opinion given as to the detention of the British vessel "International" for attempt to lay down a telegraph cable for the French Government. The Company must apply to the Court of Admiralty for her release. Form of warrant should be prepared | 139 |
| 224 | Law Officers | 27, | As to the offer of Mr. Gray, General Manager of the India-rubber and Telegraph Company, to reland from the "International" the telegraph cable, and not to lay it for the French Government during the war. The vessel may be released if security is given. Warrant should be issued for that purpose | 140 |
| 225 | Law Officers | 28, | Case of the "International." Nothing in Memorial of the parties to alter opinion already given. Vessel should not be allowed to depart with the telegraph cable on board or to deliver the cable to the French Government. The ship to be detained until a bond in due form is given | 140 |
| 226 | Law Officers | 28, | As to steps to be taken relative to the seizure by Prussian troops of six British vessels in the River Seine, and sinking them there | 141 |
| 227 | Law Officers | 30, | Case of Mr. Worth. As to the reported statement of Count Bismarck that all persons picked up out of French balloons falling within German lines should be shot as spies. Modern warfare would not justify such extreme measures, if persons entered lines of a belligerent army, without any treacherous intention | 141 |

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| 229 | Law Officers | Aug. 27, 1870 | As to instructions to be sent to Her Majesty's Consul at Riga relative to the transfer of the North German vessel "Evelina Schroeder" to a British subject. If neither of the parties to the transfer were in the port at the time, the Consul cannot interfere | 143 |
| 230 | Law Officers | Sept. 21, | Case of the "Evelina Schroeder." As to satement of Messrs. Damison and Sons, insufficient to alter opinion already given | 143 |
| 231 | Law Officers | 21, | Further on case of the "Evelina Schroeder" and on provincial Certificates of Registry. Agree with Board of Trade, the transfer must take place when the vessel is in some foreign port | 143 |
| 232 | Queen's Advocate | Oct. 12, | As to an embargo on a cargo of mahogany belonging to Messrs. Borstelmann and Leib. No British Statute authorizing a British Consul to sequester the property of a British subject in a foreign country, for a debt due from him to the estate of a creditor whose affairs are under liquidation, under the Bankruptcy Act | 144 |
| 233 | Queen's Advocate | Dec. 9, | On explanation of the British Vice-Consul at Nicolaieff respecting a sequester placed by him on a cargo of mahogany belonging to Messrs. Borstelmann and Leib, bankrupts. Must not act officially | 144 |

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| 235 | Law Officers | May 30, | As to the jurisdiction of the Supreme Court in certain cases in Siam. If certain powers vested in the Supreme Court at Singapore are to be transferred, must be by Act of Parliament | 145 |
| 236 | Law Officers | Oct. 24, | On further letter from Messrs. Shaen and Roscoe on case of Mr. Scott. They should be informed that his property was distributed to the creditors of the estate, not as bankrupt property, but as property forfeited to the Crown | 146 |

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| 239 | Law Officers .. | 24, | Case of the "Tornado." As to reply to be sent to Mr. Campbell with respect to the offer made by Spanish Government to place 1,500*l.* in the hands of Her Majesty's Government for distribution amongst the crew but not to the officers | 148 |
| 240 | Law Officers .. | Mar. 11, | As to claim of Mr. Saccone, agent to Messrs. Bibby and Company, of Liverpool, the owners of the steam-ship "Tiber," which towed the Italian ship "Elvezia" into the port of Almeria in a sinking condition. Her Majesty's Government should not support his claim against Spanish Government for releasing the "Elvezia" | 148 |
| 241 | Queen's Advocate | 17, | Case of Mr. Jencken | 149 |
| 242 | Queen's Advocate | Apr. 4, | Case of Mr. Jencken | 150 |
| 243 | Law Officers .. | 10, | As to the power of Her Majesty's Government to prevent or delay the sale of vessels seized and condemned at Nassau for breaches of the revenue laws, so as not to fall into the hands of the Cuban insurgents. Condition of the auction should be that the buyer must give security against employment of the vessels contrary to the provisions of Foreign Enlistment Act | 150 |
| 244 | Queen's Advocate | 19, | Claim of Mr. J. C. Hill against Spanish Government on refusal of authorities in Cuba to allow him to land. Her Majesty's Government should not interfere | 151 |
| 245 | Law Officers .. | 29, | Case of the "Tornado." As to reply to be sent to Mr. Forbes Campbell, with reference to the place where the vessel was seized. Suggests alteration | 151 |
| 246 | Law Officers .. | May 13, | As to the proposed sale of arms and other warlike stores seized on board the "Lilian," one of the vessels condemned at Nassau for breach of the revenue laws. Must be sold by public auction, and if to an agent of the Cuban insurgents, goods to be again put up to auction | 152 |
| 247 | Law Officers .. | 19, | Case of the "Chieftain," formerly Her Majesty's ship "Mutine," about to leave the Thames, said to have been sold to the Japanese Government, but suspected to be destined for the Cuban insurgents,—not to detain her without good grounds for suspicion | 152 |
| 248 | Law Officers .. | 30, | Terms on which Mr. Forbes Campbell will accept from Spanish Government 1,500*l.* on behalf of the officers and crew of the "Tornado," is an indirect refusal of the terms of Spanish note. Her Majesty's Government cannot do more than request the Spanish Government to allow the officers to participate in the award | 153 |
| 249 | Queen's Advocate | June 2, | As to claim of Messrs. Irving, Elsworth, and Holmes for intervention of Her Majesty's Government to prevent the sequestration of the bankrupt estate of Messrs. Morales and Company, of Cardenas in Cuba | 153 |
| 250 | Law Officers .. | July 14, | On the proposed course to be pursued by Governor Sir J. Walker, on the sale of the "Lilian" at Nassau. If the parties claiming as seizors give their consent, no practical objection to it, as the local Act would require it to be sold by auction | 154 |
| 251 | Queen's Advocate | Aug. 2, | Cannot advise the re-opening of the case of the "Eliza." The affidavit produced by Mr. J. Ellis tends to strengthen the case of the Spanish authorities | 155 |
| 252 | Law Officers .. | 8, | The Governor of the Bahamas may properly act under the Colonial Act, 17 Vic., c. 3, in the cases of the vessels "Violin" and "Tweed" condemned by the Vice-Admiralty Court of the Colony, under the Foreign Enlistment Act | 155 |
| 253 | Queen's Advocate | Oct. 27, | Case of Mr. Jencken | 156 |

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| 254 | Queen's Advocate | Nov. 11, 1870 | No sufficient case made out by Messrs. Williams, the alleged owners of the British vessel "John Gray," for compensation on account of her detention by a Spanish gun-boat, off the coast of Cuba. Had not registered her before sending her on fishing excursion. The crew have just complaint, on account of bad treatment from port authorities at Basacoa | 156 |
| 255 | Queen's Advocate | 26, | Cases of the "Margaret Jessie" and "Guanahani." As to the capture and execution of three British subjects from the Bahamas near Cape Romano, off coast of Cuba, by Spanish Authorities, for running the blockade with arms for Cuban insurgents. If the parties were found guilty, full penalty of the law cannot be disputed | 157 |
| 256 | Queen's Advocate | 28, | As to powers of the Spanish Consuls in England with respect to wrecks of Spanish vessels. Liverpool Wreck Association to be informed there is no Treaty with Spain giving him the right to interfere officially | 158 |
| 257 | Queen's Advocate | Dec. 20, | As to the detention by Spanish Authorities of the master and crew of the vessel "Britannia" of Nassau, captured by Spanish gunboat "Vigia" during stress of weather off the coast of Cuba | 158 |
| 258 | Queen's Advocate | 23, | No sufficient case to warrant interference with Spanish Authorities for settlement of claims of Messrs. Irving, Elsworth, and Holmes against the bankrupt estate of Messrs. Morales and Company at Cardenas in Cuba | 159 |
| 259 | Queen's Advocate | 28, | Cannot call upon Spanish Government for the payment of expenses, amounting to 69*l.* 7*s.* 7*d.*, for support of the crew of the vessel "John Gray," seized off Cuba by a Spanish gunboat, until the principal question of the seizure is settled at the Havana | 159 |

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ARTHUR WALMISLEY.

*Foreign Office,*
*July* 1878.

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CONFIDENTIAL.

# LAW OFFICERS' REPORTS: 1870.

## Africa.

### No. 1.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 13.)

*Temple, July* 12, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 2nd instant, stating that he was directed to request that we would furnish your Lordship with our opinion upon an important question that has been raised as to the constitution of certain Courts of Equity established at various trading places on the West Coast of Africa, beyond Her Majesty's jurisdiction.

That these Courts have been formed either by Treaty or agreement with the native Chiefs to settle disputes between the natives and traders, and that they have exercised the power of inflicting punishments and levying fines. That they have provided a simple and efficient means of administering justice and settling disputes, and that their decisions have always been acknowledged and obeyed both by the natives and traders on the West Coast.

A statement was inclosed showing by what authority and in what manner these Courts were constituted.

That in a case which was recently brought before Mr. Chalmers, the Chief Magistrate of the British Colonial Court at Cape Coast, the particulars of which we should learn from the inclosed correspondence, the defendant pleaded in his favour a decision previously given by one of the Courts of Equity, but that the Judge set aside the plea on the ground that there was no evidence of the legal competency of the Court in question.

That this decision has given rise to a serious question as to the competence of all these Courts of Equity, and Mr. Otway was therefore to request that we would furnish your Lordship with our advice upon the following points:—

1st. Whether the Court of Equity at Brass (the one in question) and those at other places on the West Coast established under similar circumstances in the territories of independent chiefs and acknowledged by them, are legally constituted, and whether their decisions can be considered as having legal force; if not, what measures, if any, can be taken to place them upon a proper footing?

2nd. Whether the decision of Mr. Chalmers was right and proper in the case in point under the circumstances as they were laid before him.

In obedience to your Lordship's commands we have the honour to report:—

That the Courts in question appear to us to be useful institutions, to the working of which it is undesirable to oppose obstacles. It may perhaps be worth the consideration of Her Majesty's Government whether means might not be taken to encourage and improve such tribunals, and possibly even to place them by legislation on some more recognized footing. At present, however, we are unable to advise your Lordship that the judgments of these Courts are entitled to the same respect in law as the judgments of the regularly constituted tribunals of recognized and civilized communities.

It does not appear further that the protection of the judgment of the so-called

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Court was set up and claimed by the defendant in a proper manner, and on both these grounds we are of opinion that the judgment of the Chief Justice was correct.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 2.

*The Queen's Advocate to Earl Granville.*—(*Received August* 18.)

*Temple, August* 16, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 13th instant, stating that, with reference to the report of the Law Officers of the 4th ultimo, respecting the question of the legal powers of the Courts of Equity on the West Coast of Africa, as raised by a decision of the Chief Magistrate of the British Court at Cape Coast Castle in a case which had previously been settled by the Court of Equity at Brass, he was directed by your Lordship to transmit to me a further correspondence with Messrs. Irvine and Woodward and with the African Association upon this subject; and Mr. Otway was pleased to request that I would have the goodness to favour your Lordship, at my early convenience, with my opinion whether the reply, of which a draft was inclosed, which your Lordship proposes to return to the applicants is right and proper, and, if not, that I would suggest any alterations in it that I may think proper.

The former papers, previously referred to the Law Officers, were therewith returned.

In obedience to your Lordship's commands I have the honour to report—

That I have ventured to suggest a few alterations in the draft reply to Messrs. Irvine and Woodward. It would seem from the question raised in their letter of the 6th ultimo, that they have a confused notion of some conflict of territorial jurisdiction between Her Majesty's Consul at Fernando Po and the Judge of the Court at Cape Coast Castle, and that they have overlooked the fact that a British subject may sue another British subject personally for a breach of contract in any British Court if the parties come within its jurisdiction, no matter where the contract may have been entered into. I am not informed under what Order in Council or other authority the Court at Cape Coast Castle is constituted, but it would have been equally competent for it on general principles to have entertained a personal action between the parties in question even if Her Majesty's Consul at Fernando Po had been authorized, under the Foreign Jurisdiction Act, to exercise jurisdiction within the district between the Bights of Benin and Biafra.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 3.

*The Queen's Proctor to Mr. Otway.*—(*Received August* 20.)

*Doctors' Commons, August* 19, 1870.

Sir,

WITH reference to your letter of the 19th ultimo, stating that you were directed by Earl Granville to transmit to me a copy of a Convention between Her Majesty and the President of the United States of America, signed at Washington on the 3rd June, and the ratifications of which would be exchanged here within a very short time; that the object of this Convention, which was additional to the Treaty signed at Washington on the 7th of April, 1862, for the suppression of the Slave Trade, and carried into effect by the Act 25 and 26 Vict., cap. 40, was to rescind so much of that Treaty as provides for the establishment of Mixed Courts of Justice for the adjudication of captures of Slave-trading vessels, and to provide that such vessels shall be handed over to the jurisdiction of their own country, and that you were to request that I would prepare and submit to the Law Officers, as soon as possible, the draft of a Bill to be brought into Parliament for giving effect to the new Convention.

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# LAW OFFICERS' REPORTS: 1870.

## Africa.

### No. 1*.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 23.)

*Temple, April* 22, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th April instant, stating that he was directed by your Lordship to acquaint us that he had received from the Archbishop of Canterbury the inclosed Memorial,* addressed to the Queen, praying for Her Majesty's licence under the Act 5 Vict., cap 6, in order to enable his Grace to consecrate the Reverend Thomas Edward Wilkinson, M.A., to be Bishop of the United Church of England and Ireland to the inhabitants of Zululand and the tribes towards the River Zambesi in Africa. Mr. Hammond was also pleased to transmit to us the draft of a licence to the effect prayed for by the Archbishop, and to request that we would take the same into our consideration, and report to your Lordship our opinion whether there is any objection to the licence being issued.

Mr. Hammond further stated that, as bearing upon this subject, he was to refer us to two Reports addressed by Her Majesty's Law Officers to Her Majesty's Secretary of State for the Colonial Department, under date of the 5th October and 20th December, 1858, relative to the consecration of the late Bishop Mackenzie, and especially to the Report of Her Majesty's Law Officers to the Foreign Office, dated the 13th and 29th January, 1863, relative to the consecration of Bishop Tozer and Bishop Twells.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That we are of opinion that there is no legal objection to the licence being issued, subject to a slight variation in the designation of the Bishop, so as to bring it into more strict conformity with the language of the Statute, and with the language of the first licence granted under the Statute for the consecration of Dr. Alexander.

We have inserted the proposed variation in the margin of the licence.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Mr. Lee, April 12; Memorial of the Archbishop of Canterbury, April 12, 1870.

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I have now the honour to transmit the draft of a Bill, approved of by the Law Officers of the Crown, in pursuance of the directions of the Earl Granville.

I have, &c.
(Signed) F. H. DYKE.

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### No. 4.

*The Queen's Advocate to Earl Granville.*—(*Received September* 20.)

*Temple, September* 19, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 16th instant, stating that he was directed to request that I would furnish your Lordship, at my earliest convenience, with my opinion as to the proper reply to return to the questions put in the accompanying letter from the Company of African Merchants, the facts of the case being stated in the annexed memorandum.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Tobin should be requested to furnish further information as to the English house, which is fitting out a steamer of war for the purpose of blockading the River Opobo and attacking Ja Ja.

Meanwhile inquiries should be made at Liverpool whether Mr. Palmer, who purchased the late brig of war "Steady," with the intention of her being employed by a company of merchants on the African coast, is connected with either of the rival African Companies.

Upon the general question raised in Mr. Tobin's letter, before any answer is given by your Lordship which would commit Her Majesty's Government to any declaration of opinion as to there being a state of war on the Bonny River which would invest the rival Chiefs with the rights of belligerent nations, I should wish for more precise information as to the language and measures adopted by Her Majesty's Consul in "warning British subjects not to assist either party, and to discontinue trading with the River Opobo during the continuance of hostilities."

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 5.

*The Queen's Advocate to Earl Granville.*—(*Received September* 29.)

*Temple, September* 29, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 21st instant, stating that with reference to my report of the 19th instant upon the subject of the questions raised by the Company of African Merchants with respect to the hostile measures alleged to be contemplated by the African Chiefs at Bonny and by their rival Ja Ja, he was directed to transmit to me, in compliance with my request, the correspondence that has taken place upon the subject of this quarrel, in order to enable me to form an opinion as to whether a state of war can be said to exist in the Bonny River which would invest the rival Chiefs with the rights of belligerents, and to advise your Lordship as to the proper answer to return to Mr. Tobin's letter.

Mr. Otway was also pleased to add that inquiries will be made at Liverpool and of the African Company, in accordance with my suggestions, as to the alleged purchase of a vessel of war in this country for the use of one of the contending parties.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that a state of hostilities exists, and has been recognized in the correspondence of Her Majesty's Government to exist, in the Bonny River, which would invest the rival Chiefs with the rights of belligerents, and which would expose any persons within Her Majesty's dominions to proceedings under the Foreign Enlistment Act of 1870, if they should dispatch any vessel of war to be employed in the naval service of Ja Ja and his confederates against the King of Bonny, and that Mr. Tobin should be informed that he cannot safely engage in any such enterprise.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 6.

*The Queen's Advocate to Earl Granville.*—(*Received October* 8.)

My Lord, *Temple, October* 7, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 30th ultimo (received this day) stating that with reference to my report of the 29th ultimo upon the subject of the war in Bonny, he was directed to transmit to me three further despatches from Consul Livingstone reporting the steps he has taken to bring the quarrel between the rival Chiefs to arbitration, and to request that I would furnish your Lordship, at my earliest convenience, with my opinion whether the proceeding of Her Majesty's Consul in temporarily stopping the trade of the River Opobo under the circumstances stated in his despatches, is inconsistent with the promised neutrality of Her Majesty's Government, or with the recognition which, I advised, was implied in their correspondence of a state of hostilities between the rival Chiefs.

Mr. Otway was pleased to add that it must be borne in mind that the trade is reported to be entirely in the hands of British subjects, who have doubtless assisted one of the belligerent parties, and continued to trade, notwithstanding the advice and remonstrances of the Consul and Her Majesty's Government.

The previous papers were also inclosed for convenience of reference.

Mr. Otway was also further pleased to inclose a letter received from the Admiralty containing a report of the proceedings of Commander Jones, of Her Majesty's ship "Pert," in this matter.

In obedience to your Lordship's commands I have the honour to report—

That it would be difficult to say that the course adopted by Her Majesty's Consul has been in accordance with strict neutrality on the part of Her Majesty's Government as between the contending parties on the Opobo River. The intervention of Her Majesty's ship "Pert" has been rather an act of armed mediation, the propriety of which can hardly be measured by the ordinary European standards.

If it was the intention of Her Majesty's Government to remain strictly neutral between Ja Ja and the Bonny Chiefs, and to allow them to fight their quarrel out, no matter with what injury to British subjects trading in those parts, Her Majesty's Consul has not carried out that intention, but it appears to me that the circumstances under which this quarrel was fomented by rival traders on the Opobo for selfish purposes, coupled with the fact that Ja Ja voluntarily accepted the mediation of Her Majesty's Consul, and then repudiated it, warranted Her Majesty's Consul in putting some pressure on Ja Ja, sufficient to counteract the influence of those traders who were thriving upon the quarrel and interested in preventing the restoration of peace.

There is an incidental circumstance in this case, to which I would beg to call your Lordship's attention, arising out of the letter of Her Majesty's Consul of August 25, 1870, in which he states that Mr. Chetham, of Bonny, told him on the 22nd instant that he had actually bought the "Steady" in England, but ordered her to be sold on hearing that in protecting Opobo traders Her Majesty's Consul could only regard her English crew as pirates should they fire at their own countrymen.

As the "Steady" is at present under observation at Liverpool, and Mr. Walker, of that town, claims her as his property, and asserts that she was thrown back upon his hands in consequence of a company in Western Africa not completing the purchase of her, it would appear that Mr. Walker, when he contracted to sell her, contemplated dispatching her from this country to be used for war purposes in the Bonny River, and it may be open to doubt whether he is in fact at present the owner of that vessel.

I have, &c.  
(Signed) TRAVERS TWISS.

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## No. 7.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 15.)

My Lord, *Temple, December* 14, 1870.

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office inclosing the draft of a Bill, as amended by us, extending British jurisdiction to crimes and offences committed in the neighbourhood of the several British settlements on the West Coast of Africa (not being British territory) against British subjects or against persons domiciled with any of those Settlements; that it seems to have been the intention of the Secretary of State for the Colonies to limit the operation of this Bill to crimes and offences committed by persons not subjects of any civilized Power; and Mr. Otway was pleased to request that we would be good enough to inform your Lordship of our reasons for omitting this restriction, as it would appear that the alteration would involve the trial and punishment by a British Court of a subject or citizen of any foreign State domiciled in a place where there is no civilized Government.

In obedience to your Lordship's commands we have the honour to report—

That the ground on which the proposed extension of British jurisdiction rests is that of necessity—the necessity of protecting life and property in districts where there is no law, and where offenders could not be tried and punished at all, unless tried and punished by British Courts. This necessity appeared to us to extend to the punishment of civilized as well as uncivilized criminals, and we thought that the object of extending our jurisdiction would be in a great degree defeated if it became known that a civilized man was permitted to do with impunity that which was punished as a crime in a savage. We further considered the inconvenience which would arise if it were an available plea on the part of a criminal that he was a citizen of a civilized State, a plea which would lead the Courts into inquiries as to what countries are civilized and what are not, and into questions, often very embarrassing, of citizenship and domicile. In the whole it seemed to us hardly worth while to extend our jurisdiction over certain territories, unless that jurisdiction comprised all persons within them. We feel, however, that this is mainly a question of policy to be determined by Her Majesty's Government.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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# Argentine Confederation.

## No. 8.

*The Queen's Advocate to Earl Granville.*—(*Received October* 20.)

My Lord, *Temple, October* 20, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to transmit to me, in case I might have any observations to offer thereupon, a despatch from Her Majesty's Chargé d'Affaires at Santiago, transmitting the decision of the President of that Republic on the questions submitted to his arbitration by Her Majesty's Government and the Argentine Government, which decision, as I should perceive, has been given against the claims of the British ship-owners. The previous papers, together with a private letter which has been received from Mr. Thomson, was also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship would not be justified, in my opinion, in objecting to the decision of the arbitrator in this case, unless that decision was contrary to reason and justice. There might have been originally grounds of equity for the Argentine Government excepting all the vessels in question from the operation of the Decree of 11th

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February, 1845, or at least distinguishing the cases of the "Cestus" and "Sultana" favourably from the rest; but I am unable to advise your Lordship that the adverse Decree of the President of Chile against all the vessels is unreasonable or unjust.

I observe that my predecessor reported to your Lordship's predecessor, on 11th May, 1865, with reference to a Decree issued by the President of the Republic of Chile, dated March 16, 1865, prohibiting neutral vessels from communicating with the Spanish ships of war, under the penalty of not being allowed to touch at, or load in any ports of the Republic; that it was competent to the Government of Chile to make such a Decree in time of war, as a measure of self-defence.

Upon the principles involved in my predecessor's report, from which I see no good ground for departing, and to which I beg leave to refer your Lordship, I am of opinion that the Argentine Republic had a right to put its Decree in force within its own dominions against all neutral vessels, and on that ground the decision of the President of Chile, upholding the application of the Decree to all the vessels in question, does not involve a violation of justice, or conflict with reason.

I have, &c.
(Signed) TRAVERS TWISS.

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## Austria.

### No. 9.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 5.)

My Lord, *Temple, May* 4, 1870.

WE are honoured with your Lordship's commands signified in Mr. Charles Spring Rice's letter of the 25th April ultimo, stating that he had the honour, by direction of your Lordship, to forward to us a note from the Austrian Ambassador at this Court asking for information as to the proceedings of the Irish Admiralty Court in the case of a collision between an Austrian and a French vessel.

Mr. Rice was also pleased to inclose a letter from the Home Office giving the opinion of the Secretary of State for that Department on the subject; and to request that we would take the papers into our consideration and report to your Lordship our opinion as to what answer should be returned to Count Apponyi.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That his Excellency Count Apponyi may be properly informed that there has existed in Ireland from time immemorial an Instance Court of Admiralty for the determination of causes civil and maritime, and that from the sentences of that Court an appeal lies to Her Majesty in her Chancery of Ireland.

That questions of collisions happening between vessels on the high seas have been held from the earliest times to be questions *communis juris maritimi*, which law, as between nations, every Admiralty Court is competent to administer, and which questions, as between foreigners coming with their vessel after the collision within the jurisdictional waters of a State, its Admiralty Courts are bound to entertain *ob reciprocam gentium utilitatem*, in view of the hardships and inconveniences which might be sustained by seafaring men if they had to follow the vessel which had done them injury to its own country.

That his Excellency may be referred to the judgment of the Right Honourable Dr. Lushington in the case of the "Johanna Frederick" (1 May, 1830), reported in 1 William Robinson's Admiralty Reports, p. 40, in which he will find a fuller and more complete exposition of the principles which govern the action of Her Majesty's Admiralty Courts in causes of collision on the high seas, when both the vessels belong to foreign owners, and one of the vessels has been totally lost in consequence of the collision.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 10.

*The Queen's Advocate to Earl Granville.*—(*Received November* 3.)

My Lord, *Temple, October* 31, 1870.

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 29th instant, stating that he was directed to transmit to me the accompanying despatch and its inclosure from Her Majesty's Consul at Trieste, respecting the disposal of a legacy made by Mr. Thomas Smart to the English church at Trieste; and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the instructions which should be issued to Her Majesty's Consul in this case.

In obedience to your Lordship's commands I have the honour to report—

That the proper destination of the legacy in question appears to be that indicated in the decision of the Bishop of Gibraltar, namely, the sustentation of the Church Fund, and Her Majesty's Consul may be properly instructed to set it forth in the statement of the Church Accounts for the present year, as being the year in which the legacy has become available by the Bishop's decision for Church purposes.

I have, &c.
(Signed) TRAVERS TWISS.

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## Belgium.

### No. 11.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 25.)

My Lord, *Temple, March* 24, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed to transmit to me a letter which your Lordship has received from the Belgian Minister at this Court, requesting authority from Her Majesty's Government to compel two children of a Belgian father and English mother to come and live with their father in Belgium; and to request that I would take Baron Beaulieu's request into my early consideration, and report to your Lordship what answer should be returned to it.

In obedience to your Lordship's commands I have the honour to report—

That the Belgian Minister may be informed that the claim of a father to the custody of his children can only be enforced in this country through the Courts of Law, and that the Courts are open to a Belgian subject who desires to assert his parental rights equally as to a British subject.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 12.

*The Queen's Advocate to Mr. Hammond.*—(*Received August* 4.)

Dear Mr. Hammond, *Foreign Office, August* 4, 1870.

I THINK it would be an advantage if the Law Officers could be referred to the Protocols to which Lord Derby refers in his speech upon the Luxembourg Treaty as showing that the guaranty then contemplated was joint and several; also if there was any correspondence between the five Powers to show that France and England, in assisting Belgium with an army and navy against Holland, held that the guaranty was joint and several, and that they were severally bound to maintain the neutrality of Belgium if called upon by her to do so.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 13.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 15.)

My Lord, *Temple, August* 6, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit therewith the Treaty concluded on the 19th April, 1839, between Great Britain, Austria, France, Prussia, and Russia, by the Ist Article of which the independence and neutrality of Belgium, as stipulated in the VIIth Article of the Treaty signed on the same day between the Netherlands and Belgium, was guaranteed by the five Powers; and he was to request that we would report our opinion at our earliest convenience whether such guarantee is joint or several, and whether the refusal or incapacity of one or more of the guaranteeing Powers to act on their guarantee liberates the remaining Powers from their obligation to do so.

In obedience to your Lordship's commands we have taken the said Treaty into consideration, and have the honour to report—

That we are of opinion that, if the Treaty is to be construed by the rules which govern the construction of contracts by the law of this country, the guarantee is a joint one.

We must point out, however, that the only effect of this construction of a guarantee given by several persons is, that the party entitled to enforce it has to sue all the guarantors jointly. He may, however, enforce the whole of the debt or damages against any one guarantor, who in his turn is able to enforce contribution from his co-guarantors. The term joint-guarantee by no means imports that the guarantee of each is conditional on all the others performing their contract, and that upon one or more refusing to do so the others are released. No such construction would be placed on any guarantee, unless such an intention were clearly expressed in it.

Applying these rules of our municipal law (which we believe to be substantially in accordance in this respect with that of most civilized countries), we reply to Mr. Hammond's second question that the refusal or incapacity of one or more of the guaranteeing Powers to act does not, in our opinion, liberate the remaining Powers from the obligation to do so.

We are quite sensible that other considerations than the strict rules of the municipal law of any country may be applicable to the construction of Treaties. We cannot help thinking, however, that to hold the obligation of each of the five Powers conditional on all the others fulfiling their obligations (a proposition which would lead to the consequence that, if France invaded Belgium, all the other Powers would be thereby released from their obligations to Belgium), would be opposed to the real meaning of the Treaty on any sound principles of construction.

Whether, in the event of none of the co-guaranteeing Powers chosing to co-operate with us, Belgium could reasonably expect Great Britain to undertake single-handed a war against great Continental Powers, is a question into which other elements enter than the strict construction of the Treaty, and on which we do not presume to give an opinion.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 14.

*The Queen's Advocate to Earl Granville.*—(*Received August* 15.)

My Lord, *Temple, August* 13, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 9th instant, stating that he was directed by your Lordship to transmit to me the accompanying papers respecting a claim preferred by the Belgian Minister on behalf of certain Belgian subjects to the right of exporting gunpowder direct from Belgian ports in non-British ships to British colonies, in which, by local regulations, the importation of that article in other than British ships is prohibited or put under

exceptional restrictions. The Belgian Minister maintains that such prohibitive and restrictive regulations are inconsistent with the Treaty of Commerce and Navigation between this country and Belgium of July 23, 1862, and argues that Article XI of that Treaty, which deals specially with the case of gunpowder, is not applicable to the circumstances. And Mr. Otway was pleased to say that your Lordship would be glad to be favoured with my opinion on the matter before replying to the last communication from the Belgian Minister.

In obedience to your Lordship's commands I have the honour to report—

That the Belgian Minister would appear to be claiming for Belgian subjects under the Treaty of 1862, a greater liberty of trade with the West African Possessions of Her Majesty than is enjoyed by British subjects. He claims, for instance, under Article XV of the Treaty, that Belgian subjects should be allowed to import gunpowder, which is the manufacture of Belgium, direct from Antwerp to the Gambia Settlements, whilst such trade is by a local Ordinance forbidden to British subjects. It does not appear that the local law withholds from gunpowder, as being manfactured in Belgium, any liberty of importation which is permitted to gunpowder of British origin, or that it denies to Belgian subjects or to Belgian vessels any privilege of importing gunpowder which is allowed to British subjects or to British vessels. In the case of both equally a definite *locus a quo* is the cardinal condition of importation being permitted, and as long as Belgian subjects are allowed, through the special channel of trade prescribed by the local law for this article, the same liberties which are enjoyed by British subjects, I am of opinion that the spirit of the Treaty of 1862 is observed, whilst the letter is in no way violated.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 15.

*The Queen's Advocate to Earl Granville.*—(*Received September* 3.)

My Lord, *Temple, September* 2, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that with reference to the report of Her Majesty's Law Officers of the 25th ultimo and to my report of the 22nd ultimo, respecting the transport of wounded through neutral territory, he was directed to transmit to me two telegrams from Her Majesty's Minister at Brussells, forwarding communications addressed to the Belgian Government by Count Bismarck, contending that it would be no violation of Belgian neutrality to allow Prussian and French wounded to be brought into and tended in Belgium; that I should observe that Count Bismarck supports his request by reference to the fact that even armed soldiers might cross into Belgium without a breach of neutrality if they were disarmed on passing the frontier, and that in their case resistance to disarmament would be at variance with neutrality; and Mr. Hammond was pleased to request that I would take this matter into my immediate consideration, and report to your Lordship my opinion thereupon at my earliest convenience.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that it would not be a violation of the neutrality of Belgium if, with the consent of the Belgian Government, Prussian and French wounded soldiers should be brought into and tended within Belgian territory under the following conditions:—

(1.) That they should be brought in by parties who are neutralized under the provisions of Article II of the Treaty of Geneva, to which both France and Prussia are contracting parties, unaccompanied by any armed force.

(2.) That on being allowed to leave Belgium they shall conform to the provisions of Article VI of that Treaty, as regards not again bearing arms during the continuance of the war.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 16.

*The Solicitor-General to Earl Granville.*—(*Received September* 3.)

*Temple, September* 3, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that in reference to the report of Her Majesty's Advocate-General of the 22nd ultimo and to my report of the 25th ultimo, respecting the transport of wounded through neutral territory, he was directed by your Lordship to transmit to us two telegrams from Her Majesty's Minister at Brussels, forwarding communications addressed to the Belgian Government by Count Bismarck, contending that it would be no violation of Belgian neutrality to allow Prussian and French wounded to be brought into and tended in Belgium, and I would observe that Count Bismarck supported his request by reference to the fact that even armed soldiers might cross into Belgium without a breach of neutrality if they were disarmed on passing the frontier, and that in their case resistance to disarmament would be at variance with neutrality, and to request that I would take this matter into my immediate consideration, and report my opinion to your Lordship at my earliest convenience.

In obedience to your Lordship's commands I have taken this matter into my consideration, and have the honour to report—

That I entirely concur with the report of the Queen's Advocate forwarded to your Lordship on the 2nd instant.

I have, &c.
(Signed) J. D. COLERIDGE.

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### No. 17.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received September* 5.)

*Temple, September* 5, 1870.

My Lord,

WE are honoured with your commands signified to us in Mr. Hammond's letter of the 2nd instant, addressed to Her Majesty's Law Officers, stating that with reference to the report of Her Majesty's Advocate-General of the 22nd ultimo, and to the report of the Law Officers of the 25th ultimo, both sent therewith, respecting the transport of wounded through neutral territory, he was directed by your Lordship to transmit to the Law Officers two telegrams from Her Majesty's Minister at Brussels, forwarding communications addressed to the Belgian Government by Count Bismarck, contending that it would be no violation of Belgian neutrality to allow Prussian and French wounded to be brought into and tended in Belgium. Mr. Hammond was pleased also to say that we would observe that Count Bismarck supported his request by reference to the fact that even armed soldiers might cross into Belgium without a breach of neutrality, if they were disarmed on passing the frontier, and that in their case resistance to disarmament would be at variance with neutrality, Mr. Hammond was pleased to request that the Law Officers would take that matter into their immediate consideration and report their opinion to your Lordship at their earliest convenience.

In obedience to your Lordship's commands we have the honour to report—

That we entirely concur in what the Queen's Advocate has written in its terms. But care should be taken to point out the difference between carrying sick and wounded through a neutral country into the country of one of the belligerents as part of the necessary military operations of war, which would be a breach of the neutral character of the country so used; and taking such portion of the sick and wounded as the neutral country may be willing to receive and keep, and dismiss if cured on condition of not serving again, which we think would not be a breach of neutral character.

We do not understand the Queen's Advocate to be of opinion that the Prussians would be entitled to establish hospitals of their own in Belgium.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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### No. 18.

*The Queen's Advocate to Earl Granville.*—(*Received September* 7.)

*Temple, September* 7, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 5th instant, stating that he was directed to transmit to me a letter which the Belgian Minister at this Court has addressed to your Lordship, giving an explanation of the course which his Government has pursued in dealing with the wounded French soldiers who had found their way to Namur; and Mr. Otway was pleased to request that I would take this communication into my consideration and report to your Lordship whether Her Majesty's Government should not approve of the course which the Belgian authorities have pursued on this occasion.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may, in my opinion, properly approve the course which the Belgian authorities have pursued.

I have, &c.
(Sgned) TRAVERS

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## Brazil.

### No. 19.

*The Queen's Advocate to Mr. Otway.*—(*Received July* 2.)

*Temple, June* 30, 1870.

Sir,

I AM honoured with your letter of the 25th instant, stating that you were directed to transmit to me the accompanying correspondence relative to the case of the crew of the British vessel "Mary Hamilton," who have been imprisoned and tried for murder of the master of that vessel at Rio de Janeiro in March 1869; and you were pleased to request that I would take this case into my consideration and report my opinion thereupon.

In obedience to your commands I have the honour to report—

That as the brawl between the master and crew of the "Mary Hamilton," which led to the death of the master on shore, took place within a Brazilian port, I am of opinion that the Brazilian Courts had *ratione loci* jurisdiction over the case, and that the local authorities were entitled to try the crew upon a charge of murder or homicide before a Brazilian Court. After the new trial is concluded, if the Court should not have taken a more lenient view of the case as regards some of the prisoners, it may be advisable for them, as suggested by Mr. Mathew, to petition the Emperor, as the state of intoxication in which the master was when the brawl took place appears to me to be a mitigating circumstance to which the Court has not hitherto given sufficient weight.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 20.

*The Queen's Advocate to Earl Granville.*—(*Received November* 8.)

*Temple, November* 7, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 5th instant, stating that he was directed to transmit to me a letter from the Brazilian Road-Steamer Company (Limited), requesting the assistance of Her Majesty's Government in regard to an alleged interference on the part of the Brazilian Government with their commercial operations in that country; and Mr. Odo Russell was pleased to request that I would take this letter into my consideration, and furnish your Lord-

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ship with my opinion as to whether any and what steps should be taken in this matter by Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Ellissen should be requested to give some further explanation of the grounds upon which he claims the intervention of your Lordship in favour of the Company of which he is managing director, and to state more explicitly what are the rights of that Company, and upon what Brazilian grant or law they are founded, for the violation of which he claims compensation.

I have, &c.
(Signed) TRAVERS TWISS.

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# Central America.

## HONDURAS.

### No. 21.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received February* 11.)

My Lord, *Temple, February* 10, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires in Central America relative to the claim to British protection of a Mr. Benjamin Belisle, a British subject, resident at Omoa in Honduras, who, though not a naturalized citizen of that State, has filled various offices under the Government, and has sworn to abide by the Constitution and the laws of the Republic; and Mr. Hammond was pleased to request that I would take Mr. Corbett's despatch into my consideration and furnish your Lordship with my opinion as to the justice of Mr. Belisle's claim. Mr. Hammond was also pleased to call my attention to the annexed report, dated July 15, 1869, upon a question of a similar nature raised by Her Majesty's Consul at Tahiti.

In obedience to your Lordship's commands I have the honour to report—

That although it does not appear that Mr. Belisle has obtained any express letters of naturalization in Honduras, he has taken the oath of allegiance to that State, and has thereby acquired the rights of a citizen of the country, and, according to the law of Honduras, ceased to be a foreigner. Under these circumstances I am of opinion that Mr. Belisle is not entitled to claim British protection in Honduras against the Government of that State.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 22.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 9.)

My Lord, *Temple, March* 9, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, with reference to his letter of the 7th ultimo respecting the claim of Mr. B. Belisle, a resident in Honduras, to British protection, he was directed to transmit to me a further despatch from Her Majesty's Chargé d'Affaires at Guatemala, inclosing a copy of a letter from Mr. Belisle, detailing the circumstances under which he held certain offices under the Government of Honduras, and stating emphatically he has never renounced his nationality, rather than do which he would be willing to leave that country; and Mr. Hammond was pleased to request that I would take this despatch into my consideration, and inform your Lordship whether there is anything in it which would induce me to alter the opinion expressed in my report of the 10th ultimo.

In obedience to your Lordship's commands I have the honour to report—

That the proper course for Mr. Belisle to pursue in this case is to appeal to the Tribunals of the country, which are open to him, as pointed out in the despatch of Don F. Alvarado, of 2nd September, 1869, and to demand through them the reparation which the law of the country awards to such cases. If any unfair obstacles should be placed in the way of his appeal, your Lordship might, I think, authorize Mr. Corbett to use his good offices in his behalf, so far as may be necessary to secure for him access to the proper Tribunal.

I have, &c.
(Signed) TRAVERS TWISS.

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## NICARAGUA.

### No. 23.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received May* 6.)

My Lord, *Temple, May* 5, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th ultimo, stating that he was directed to transmit to me the accompanying despatches from Her Majesty's Chargé d'Affaires in Central America, relative to the claims of two persons named Hilario Goussen and Mathew Glenton to be considered British subjects and protected as such, from being obliged to contribute to a forced loan levied by the Government of Nicaragua. That I should observe that the two claims rest on totally different grounds. Goussen is stated to be the natural son of an English mother, and born in British territory, whereas Glenton asserts that he is the legitimate son of a British father, but admits that he was born in Nicaragua. That the Nicaraguan Government deny the validity of either claim, and Mr. Hammond was therefore to request that I would take the inclosed papers into my consideration, and furnish your Lordship with my opinion as to the course that should be pursued in each case.

The correspondence that took place in 1847 relative to Mr. Goussen was also transmitted.

In obedience to your Lordship's commands I have the honour to report—

*Case of Mr. H. Goussen.*

That I am of opinion that Mr. Hilario Goussen, if he is the same person who was born at Kingston in Jamaica on 9th May, 1815, and was baptized under that name, is by reason of his place of birth a natural-born subject of the Queen, irrespective of his parentage; and, if he has not contracted any obligations of allegiance to the State of Nicaragua, is entitled to such exemptions as are secured to British subjects by Treaty. But the Nicaraguan Government disputes, it seems, the place of birth of Mr. Hilario Goussen, and asserts that he is a native of Hayti; and it appears, from the despatch of Don Tomas Ayon, of November 29, 1869, that the evidence which Mr. Hilario Goussen has tendered of his nationality has been pronounced by the local authorities defective in point of form. I have no means of judging whether the law of Nicaragua entitles the local authorities to require proof of foreign nationality in any particular form. If it does so, I am of opinion that Mr. Hilario Goussen ought to comply with the law, having done which he may properly receive the protection of Her Majesty's Chargé d'Affaires.

*Case of Mr. M. Glenton.*

Mr. Mathew Glenton, on the other hand, appears to have been born at Leon in Nicaragua. He is therefore a natural-born citizen of the State of Nicaragua; and, although he may be entitled by British Statute law to the privileges of a natural-born British subject wherever that Statute law is operative, in virtue of his British parentage, I am of opinion that he cannot properly claim, under the Treaty of 1860, to be exempted

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on the ground of his parentage from any loans to which native citizens are compellable by Nicaraguan law to contribute.

I have, &c.
(Signed) TRAVERS TWISS.

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## China.

### No. 24.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 10.)

*Temple, January* 8, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th ultimo, stating that, with reference to our report of the 9th October, he was directed to transmit to us, together with the previous papers, a letter from the Colonial Office containing observations on a Memorandum furnished to that Department by the Home Office respecting the proposed Hong Kong Ordinance for the extradition of fugitives from justice from Macao; and Mr. Hammond was pleased to request that we would take the same into consideration and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we have read with attention the Memorandum of Mr. Hugesson and the remarks of Lord Granville thereupon. So far as relates to any matter reported upon by us in the report we had the honour to submit to Lord Granville on the 9th October, 1869, we see no reason to alter or qualify any opinion therein expressed. The changes of phraseology suggested by Mr. Hugesson appear to us to be unnecessary, but (if it be thought desirable to alter the mere wording of the Ordinance) to be unobjectionable. Some inaccuracies of reference which he has pointed out should be amended. With regard to the important question as to the tribunal, a power which is to decide upon the political or non-political character of the offence as to which extradition is demanded, we agree with the remarks which Lord Granville has made upon it, but we beg leave to repeat what we suggested in our last report, that this, and some other questions which arise upon the Ordinance, are rather for your Lordship's discretion than for our opinion.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 25.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 18.)

*Temple, January* 17, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of December 30, 1869, stating that with reference to our Report of the 29th instant, upon the Land Regulations for the British, French, and other Concessions at Shanghae, which had been provisionally sanctioned by the Representatives of the Treaty Powers at Pekin, he was directed by your Lordship to transmit to us a further despatch which had been received from Her Majesty's Minister in China upon that subject, and he was to request that we would take this despatch into our consideration, and inform your Lordship whether it alters the opinion conveyed in our before-mentioned Report.

Sir Rutherford Alcock's previous despatch was therewith returned to us.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That the further despatch of Her Majesty's Minister at Pekin does not in any way

alter our opinion as to the propriety of your Lordship's approving the proposed Land Regulations.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 26.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 18.)

*Temple, January* 17, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th December ultimo stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in China in regard to the registration of British subjects resident in Peking, and also to transmit to us a Memorandum which had been drawn up at the Foreign Office upon the subject, together with a copy of Her Majesty's Commission, which Sir Rutherford Alcock holds as Chief Superintendent of Trade in China, and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the reply which should be returned to Sir Rutherford Alcock.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That as it appears from the Memorandum that the limits of the Consulate at Tien-tsin under the Consular Commission do not extend to Peking, Sir Rutherford Alcock may be properly informed that Peking, for the purposes of the registration of resident British subjects, under Section 114 of the Order in Council of 1865, is not to be understood to lie in the Consular district of Tien-tsin. We are of opinion, however, that with a view of providing against any mischief which might arise from the fact that Peking appears not to be within any Consular jurisdiction, it would be desirable either to confer Consular authority on some member of Her Majesty's Legation resident at Peking, and to make Peking a Consular district, or else to incorporate Peking within some other Consular district, and to give the Consul for such district Consular jurisdiction at Peking.

We have no materials before us for advising your Lordship as to which of these courses be preferable, and we should suggest that Sir R. Alcock should be requested to report on their relative merits, and that inquiry should be made as to which Consular district might best be extended so as to include Peking.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 27.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 28.)

*Temple, February* , 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 15th instant, stating—

1. That with reference to the Law Officers' report of the 23rd October, 1868, he was directed by your Lordship to transmit to us the accompanying correspondence* in regard to the formation and registration of Joint Stock Companies in China.

2. That he was also to transmit to us the previous papers† connected with that matter, and he was to request that we would take them into our consideration, and, should we concur in the opinion of the Lords of Trade, that steps should be taken to legalize such Companies; that we would cause to be prepared a draft of an Order in Council to that effect, to be submitted for the approval of the Queen.

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* Sir R. Alcock, Consular, No. 108; to Board of Trade, January 27; Board of Trade, February 8, 1868.

† Sir R. Alcock, No. 123, May 19; Sir E. Hornby, No. 18, June 1: Consul Winchester, No. 15, June 5. to Law Officers, July 29; Law Officers, October 23; to Sir E. Hornby, No. 15, October 26, 1868.

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In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we agree in the views expressed by the Law Officers in their report of 23rd October, 1868, and are unable to concur in the opinion of the Lords of Trade that any steps can usefully or effectually be taken to legalize, by Order in Council, the formation and registration of Joint Stock Companies in China and Japan.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 28.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received March 5.)*

My Lord, *Temple, March* 4, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th ultimo, stating that, with reference to his letter of the 15th ultimo, he was directed by your Lordship to transmit to us a further letter from the Board of Trade, on the subject of the formation and registration of Joint Stock Companies in China, and to request that we would take the same into our consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the letter of the Board of Trade tends to confirm us in the opinion which we before expressed on this subject to your Lordship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 29.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received March 9.)*

My Lord, *Temple, March* 8, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 24th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Sir Edmund Hornby, Chief Judge of the Supreme Court for China and Japan, respecting a question raised by Her Majesty's Consul at Foochow-foo with regard to the exclusive Admiralty jurisdiction conferred on the Supreme Court by the Order in Council of 1865, together with a letter from the Board of Trade, to whom Sir Edmund Hornby's despatch was referred; and he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That we concur in the view of the Board of Trade that the Admiralty jurisdiction conferred by Her Majesty's Order in Council in pursuance of Treaties with China extends only over British ships, and we think the objections pointed out by the Board to the extension of jurisdiction which Mr. Consul Sinclair advocates so strong that we are unable to advise it.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 30.

*The Queen's Advocate to the Earl of Clarendon.—(Received March 9.)*

My Lord, *Temple, March* 8, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 24th January, stating that he was directed to transmit to me a despatch, with its inclosures, from Her Majesty's Minister in China in regard to certain outstanding claims of British subjects against the Chinese Government, and to request that I would take these papers into my consideration, and furnish your Lordship with any observations I may have to offer thereupon.

I am also honoured with Mr. Hammond's letter of the 18th ultimo, transmitting a further despatch from Sir R. Alcock respecting the British claims on the Chinese Government.

In obedience to your Lordship's commands I have the honour to report—

*The Nanzing Claims.*

That, as I understand the state of these claims at present from the despatch of the Prince of Kung of January 16, 1869, the only outstanding claims are those on the third list, nine in number, which, according to the Prince's statement, had either no vouchers, or the vouchers produced were not satisfactory, or transit papers were produced in lieu of tax receipts, or the vouchers bore the endorsement of a native firm. The suggestion in the memorandum that the recorded copies of the tax receipts should be taken as evidence of the payment of the *le-kin* would not assist these claims, and, in fact, it would appear from the Prince of Kung's despatch that such secondary evidence of the payment of the *le-kin* in the case of the first and second list of claims has been admitted by the Chinese Government.

The third list of claims would therefore appear to be the only claims for your Lordship's consideration.

They resolve themselves under four heads:—

1. Those for which there are no vouchers that *le-kin* has been paid. I consider that these claims cannot properly be pressed further.

2. Those for which the vouchers are irregular. If such irregularity regards certain matters of form only, I consider that it ought not to bar the claims being paid, as a voucher, though irregular in point of form, would be *primâ facie* evidence of the *le-kin* having been paid, and should prevail, if evidence to the contrary is not forthcoming.

3. Those for which transit papers are produced instead of tax receipts. A claim for repayment of the *le-kin* could clearly not be maintained upon such evidence.

4. Those for which the vouchers bore the endorsement of a native firm. Two very different explanations are offered in regard to these vouchers. On the side of the claimants, it is said that the barrier officials compelled the persons in whose charge the goods were to let them put in Chinese names. On the side of the Chinese authorities it is said that the silk, when taxed, belonged to Chinese firms, who sold it at Shanghae to foreign merchants, with the tax vouchers, and the foreign merchant, ignorant of the fact that the tax vouchers would bar repayment of the tax to him, brought them forward as proof that he had paid the *le-kin*. It appears from Sir R. Alcock's despatch to the Prince of Kung of June 19, 1868, that after this lapse of time the evidence of the Chinese who had charge of the goods is not forthcoming. Without some such evidence, however, I consider your Lordship would not be justified in maintaining that the explanation given by the Chinese authorities is inadmissible, for the fact of the vouchers being made out in the name of Chinese firms throws, I think, the burden of proof upon the British claimants.

They may have been wronged, as they assert, but justice is not so clearly on their side as to warrant your Lordship in insisting on the payment of these claims in the absence of any evidence to rebut the case set up by the Chinese authorities.

*Ising Yang Claims.*

I consider it to be open to grave question whether these claims can be properly pressed against the Chinese Government, on the ground of any infringement of rights secured to British subjects by Treaty. I think your Lordship may reasonably acquiesce in the proposal of the Chinese authorities to pay, as a matter of grace, to

Messrs. Jardine, Matheson, and Co., one-third of the estimate of their losses, as originally reported by the Compradore to the Ising Yang Magistracy. The proportion would be in accordance with the Russian precedent, and I think the Chinese Government is entitled to adhere to the original report of the Compradore.

### *Claim of Hogg Brothers.*

The question in this case is whether the Chinese authorities are bound to compel the sureties for the Compradore of Messrs. Hogg to make good to that firm certain defalcations in his accounts. The Chinese authorities say that the sureties were not bound to guarantee the particular trade in which the Compradore was engaged for the firm of Messrs. Hogg when he became a defaulter, that trade not being, by Chinese law, open to foreigners, and, therefore, not within the intention of the bond into which the sureties entered.

It is admitted by Messrs. Hogg that, if the trade was not legal, the sureties would not be liable; but they say that the Tariff Rule No. 3, while it prohibits the import and export of salt to British merchants, is silent as regards the internal traffic in salt, and that the foreign merchant is on the same footing as regards that trade as the native merchant.

I do not find any warrant for this argument in the Treaty of Tien-tsin, or the preceding Treaties. It assumes that British merchants are entitled to perfect liberty of trade within the Chinese dominions, unless they are restrained by the Tariff Rules, but no such privilege is, in my opinion, conceded by the Treaties; and, if not so conceded, Messrs. Hogg must show that they are entitled to such privilege under the law of China, which the Prince of Kung denies in his letter of June 16, 1869, as regards internal traffic in salt. I agree with Sir E. Hornby that the fact of the Compradore purchasing the salt in a false name would not prove that the trade was illegal for foreigners to engage in, but, if the fact were so, and the evidence points that way, it would be fatal to the argument of Messrs. Hogg, that the Chinese Government authorized their traffic in salt by issuing transit-passes in the name of their firm. I think your Lordship is bound in comity to acquiesce in the declaration of the Prince of Kung, that the internal trade in salt is confined to a constituted body or Government guild of native merchants, and that it is illegal for foreigners to engage in it.

### *Claims against the Shang Yu Tai Bank.*

I concur in the view taken by Sir E. Hornby of these claims, and consider that the Chinese Government is not directly responsible for the dealings of this Bank with foreign merchants, as regards transactions of commerce not connected with the receipt of Customs duties in accordance with the provisions of Article XXXIII of the Treaty of Tien-tsin. On the other hand, I am of opinion that the Chinese authorities have shown a backwardness, of which your Lordship has just grounds to complain, in fulfilling their engagements under Article XXII of that Treaty to do their utmost to effect the arrest of the proprietors of the Bank, who must be known to the Chinese authorities, and to enforce the recovery of the debts due from the Bank to the British creditors.

With regard to the suggestion of Consul Caine, it would no doubt be a very convenient mode of securing the British creditors from ultimate loss if your Lordship thinks it would be expedient to insist upon the Chinese Government adopting that course, as an alternative, if it is not prepared to fulfil its engagements under Article XXII of the Treaty of Tien-tsin.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 31.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received April 9.)*

*Temple, April* 9, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 28th ultimo, stating—

1. That he was directed by your Lordship to call our attention to the XXVIIIth Article of the Treaty of Tien-tsin,* between Great Britain and China, and to the Rule 7 annexed to it;† to the Ist Article of the Treaty of Nankin,‡ which, though superseded by the later Treaty, has still a bearing on the points that he was to submit to us; to the IIIrd and IVth Articles of a supplementary Convention recently concluded with China,§ but awaiting ratification; to the 1st and 2nd Rules annexed to the same, and to the passage marked in Sir R. Alcock's despatch of October 28, 1869,§ explanatory thereof; to the passages in the inclosed Memorial from merchants interested in the China trade,‖ under the 11th, 12th, 13th, and 14th heads; to the observations made by a deputation of merchants, which waited on your Lordship on the 28th February, and to your Lordship's reply, and specifically to the passages marked therein, and to a letter¶ in which Mr. Hammond recorded the substance of his own observations in a conversation with two members of the deputation a few days subsequent to the discussion with that body; to a letter from Her Majesty's Consul at Shanghae,** explaining the practice now observed under the XXVIIIth Article and 7th Rule of the Treaty of Tien-tsin;†† and to the passages of the Earl of Elgin's correspondence having reference to the negotiation of the Treaty of Tien-tsin, and the Rules annexed to it, as marked in pages 173, 402, and 426 of the accompanying collection of papers laid before Parliament in 1859.

2. That the points to which he was to call our attention, we would perceive, were 1st, the right of transit secured to British goods into the interior of China, under the Treaty and Rule of 1858; and 2ndly, the right which would be secured to them under the Treaty and Rule of 1869. Mr. Hammond was pleased to say that the Treaty of Nankin reserved to subjects of China alone the right to convey British goods into the interior, on payment of a transit duty, which, however, was not fixed. The Treaty of Tien-tsin, in the 1st clause of the XXVIIIth Article, laid down the principles on which such duty should be estimated, and provided for notification of its amount being published in the English and Chinese languages; but in the 2nd clause of the same Article permission was secured for British merchants themselves to convey their own goods into the interior on payment of a transit duty of 2½ per cent., and in consequence of the transit duty being so fixed, the 7th Rule, by its last clause, dispensed with the publication of any such notification as was provided for in the 1st clause of the XXVIIIth Article.

3. That in that state of Treaty and Rule the following questions had arisen:—

(1.) What was the extent of the immunity from inland taxation, secured to British goods on payment of the transit duty, under the existing provisions of the Treaty of Tien-tsin, and the rules annexed thereto, read in connection with the Ist Article of the Treaty of Nankin? And does such immunity, to whatever extent it is conceded, apply to such goods equally, whether British or Chinese owned?

(2.) Do the provisions of the supplementary Convention awaiting ratification, to which reference has been made, extend or diminish, and, if so, in what manner and to what extent the privileges secured by the existing Treaty in that respect?

(*a.*) As regards the Treaty port provinces of China, whether the payment of transit duty will exempt all British goods, however owned, from all inland taxation, Imperial or local, not only during their transit to particular markets, but after they have passed into general circulation in the interior of such provinces.

(*b.*) As regards the non-Treaty provinces, whether, under the Treaty and Rule of 1869, and specifically under the concluding paragraph of the 1st Rule, namely, "on the arrival of such certificated commodities at the place set forth in the certificate, the

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* See Hertslet's State Papers, vol. xlviii, p. 47.
† Ibid., p. 61.
‡ Ibid., vol. xxx, p. 389.
§ China, No. 1 of 1870.
‖ Extract from the "Times" of March 1, 1870.
¶ To Mr. Lefevre, March 3, 1870.
** Mr. Winchester, March 6, 1870.
†† Parliamentary Papers, 1859: China and Japan.

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certificate will become invalid, and the commodities having arrived at the place of destination will be liable to whatever inland charges, dues, or duties the locality they are found in collects, and will thenceforth be treated like native commodities in the localities concerned," British goods transmitted beyond the frontier of the so-called Treaty provinces under a transit pass would, on their arrival at the place of destination, become liable at once to the payment of the inland duties, dues, and charges referred to, even though they should not have passed out of the hands of the British transporter into the general circulation of the country, but be stored in his warehouse pending an opportunity for selling them to native purchasers.

4. That the matter being rather complicated, Mr. Hammond had been directed to draw our particular attention to the points named, but he was to add that your Lordship would be glad to receive any observations bearing on the points of transit and interior duties which, on considering the subject, might suggest themselves to us.

5. That your Lordship would be obliged by our early attention to that reference.

In obedience to your Lordship's command we have the honour to report—

That (1) we are of opinion that the immunity from inland duties, which is secured to goods imported by British subjects in virtue of the transit-duty certificate under the provisions of Article XXVIII of the Treaty of Tien-tsin and the Rules annexed to it, extends to all duties leviable on such goods whilst they are on their way from the port where they have been landed to the inland market named in the certificate, and exempts them also from municipal taxation, either general or local, and whether applicable to goods in store or in general circulation, but that such immunity applies only to goods British owned. Goods so imported and Chinese owned, if the Supplementary Convention should not be ratified, would appear to us to be within the provisions of Article X of the Treaty of Nanking (Hertslet, vol. vi., p. 224) and the Declaration of June 26, 1843 (*ibid*, 231), that Treaty and Declaration having been renewed and confirmed by Article I of the Treaty of Tien-tsin (Hertslet, vol. xi., p. 86).

We consider that the Supplementary Treaty now awaiting ratification extends the privileges secured to goods imported by British merchants which are subject to import duty.

1. It authorizes such goods, if they are of the classes specified in Article III of that Convention, upon payment of import duty and transit due simultaneously at the port of importation, to be circulated generally, whether British owned or Chinese owned, within the Treaty port provinces without any transit-duty certificate, and to be sold freely along the road without being liable to any other tax or charge, local or Imperial; and in regard to all other foreign merchandize, whether British owned or Chinese owned, if full import duty on it has been paid on importation, and the tariff transit due upon leaving the port where it was landed, it will be exempt from all dues or charges *en route* until it reaches its place of destination, as set out in the certificate, if that place is within the Treaty port provinces.

2. With regard to the non-Treaty port provinces a like exemption from all duties and charges *en route* is secured to foreign imports, whether British owned or Chinese owned, whilst on their way from the port where they were landed to any place in such provinces set out in a transit certificate, which must be procured at the port, provided the goods are of the classes specified in Article III, and import duty and transit due have been simultaneously paid on them. We are of opinion, however, that the exemption secured to such goods terminates on their arrival at their place of destination, set out in the transit certificate, and on their immediate arrival there they will be liable to such inland charges as the locality in which they are found collects, although they may remain stored in the warehouse of the Bitish transporter pending an opportunity for selling them to native purchasers.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

## No. 32.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received June 25.*)

*Temple, June* 23, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 11th instant stating:—

1. That he was directed by your Lordship to transmit to us a despatch from Sir E. Hornby, Chief Judge of Her Majesty's Supreme Court for China and Japan, in regard to the difficulty which he had recently experienced in enforcing the sections of the Order in Council of 1855 relative to registration, a copy of which is also inclosed.

2. That he was also to transmit to us a private letter from Sir E. Hornby to himself on the same subject, and he was to request that we would take those papers into our consideration and favour your Lordship with our opinion whether the registration fee is objectionable either in principle or in law.

In obedience to your Lordship's commands we have the honour to report—

That there is no objection in principle or law in our opinion to the practice of British subjects who may be resident in Japan being required to register themselves at the British Consulate in order to entitle themselves to be recognized or protected by the British authorities in Japan as British subjects; and, as such registration is for the benefit of the respective parties, we think it reasonable that each person when registered should be required to contribute by the payment of a moderate fee towards defraying the expense of the registration of which he receives a certificate. We see no objection to your Lordship writing as suggested, if you yourself think fit to do so.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 33.

*The Law Officers of the Crown to Earl Granville*—(*Received December 31.*)

*Temple, December* 30, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating with reference to our report of the 23rd June, that he was directed by your Lordship to transmit to us, together with the previous papers, further despatches from Mr. Wade respecting the registration of British subjects in China, and that he was to request that we would take the same into our consideration and favour your Lordship with our opinion as to the manner of levying the registration fee under the China Order in Council, and its amount, and also on the question raised by Mr. Wade as to whether it is incumbent on Her Majesty's Consuls to prosecute British subjects who neglect to register themselves.

An explanatory memorandum was also inclosed with a copy of the Order in Council.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That it would be advisable in our opinion that the fee for registration payable by all classes of Her Majesty's subjects residing in China should be uniform in amount, and that the certficate of registration should not be required to be renewed except upon change of residence from one Consular district to another. We are of opinion that it is not obligatory on the Consul under Article 114 of the China Order in Council to prosecute British subjects neglecting to register themselves, if any such subject can excuse his or her neglect to the satisfaction of the Consul.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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# Denmark.

## No. 34.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 19.)

My Lord, *Temple, January* 19, 1870.

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 17th instant, stating that he was directed to transmit to me the accompanying despatch and its inclosures from Her Majetsy's Consul at St. Thomas, representing the circumstances under which he has been called upon by the Haytian Consul in that island to interfere, with the view to prevent a British steamer the "Clara Helena" of Jamaica from embarking arms and ammunitions of war which are suspected of being destined for the insurrectionary party in Hayti, and Mr. Lamb requests to be furnished with instructions for his guidance in this or similar cases for the future; and Mr. Spring Rice was pleased to request that I would take these papers into my consideration and furnish your Lordship with my opinion as to the instructions which should be given to Mr. Lamb in this matter.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Consul at St. Thomas would not be justified in detaining the British merchant-vessel "Clara Helena" under the circumstances stated in his despatch, nor any other British vessel under similar circumstances.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 35.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received May* 4.)

My Lord, *Temple, April* 30, 1870.

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 12th instant, stating that he was directed to transmit to me the accompanying letter from Mr. Samuel Tilley, setting forth the grounds on which he considers that Captain Cameron, formerly the owner of a vessel called the "Red Gauntlet," has a grievance against Mr. Lamb, Her Majesty's Consul at St. Thomas, for alleged improper and hostile proceedings on the part of the Consul, whereby Captain Cameron lost his vessel, and that Mr. Tilley requests that the circumstances of this case, which were not properly laid before Her Majesty's Government when it was considered on a former occasion, may again be taken into consideration with a view to redress being afforded to Captain Cameron. Mr. Spring Rice was accordingly to transmit to me the former papers relating to this case, and to request that I would take them into my consideration, together with Mr. Tilley's present letter, and furnish your Lordship with my opinion upon the case.

In obedience to your Lordship's commands I have the honour to report—

That the charges of improper proceedings on the part of Mr. Lamb in his official capacity, whereby the interests of the owner of the "Red Gauntlet" are alleged to have been seriously prejudiced, appear to me to resolve themselves under two principal heads, namely, the detention of the certificate of registry of the "Red Gauntlet" at the British Consulate, and the description of the tonnage of the vessel in the advertisement for bottomry. It is alleged by Mr. Tilley: (1) that Mr. Lamb not only improperly, but illegally detained the ship's papers of the "Red Gauntlet" at the British Consulate, whereby her owner was prevented from employing an agent to raise money on further bottomry of the vessel, and thus discharging the existing claims upon her; (2) that "the ship was advertised for bottomry by Mr. Lamb as a vessel of 173 tons register, whereas her registered tonnage was $249\frac{60}{100}$ tons, of which Mr. Lamb must have been aware, as the 'Red Gauntlet' was entered on the register in Mr. Lamb's possession as a vessel of $249\frac{60}{100}$ tons."

With regard to the first charge, it would appear from a despatch of Lord Stanley's of May 16, 1868, addressed to Mr. Lamb, that his Lordship had been at that time informed that, by the law of the island, when foreign vessels enter the port of St. Thomas, their ship-papers are required to be deposited at the Custom-house, and are detained there until the vessels are cleared; and that, by some arrangement with the Danish authorities made by Mr. Ball, the Acting British Consul in 1863, the ship-papers of British vessels are in practice deposited at the British Consulate instead of the Custom-house.

Whatever may have been the origin of this latter practice, it is clear, from the certificate issued by the Intendant of Customs at St. Thomas on April 22, 1868, that Her Majesty's Consul was bound, as a matter of official duty, to detain the ship-papers of the "Red Gauntlet" at the British Consulate after he had entered her at the Custom-house. This certificate is endorsed on the entry of the "Red Gauntlet" made by Mr. Lamb as British Consul on the day of her arrival at St. Thomas, and the Intendant of the Customs certifies that, "in conformity with the 5th paragraph of the Law of April 16, 1862, relating to the trade and navigation in St. Thomas, the British Consul, in his capacity as such, is officially and personally responsible for the presence of the ship-papers in his Consulate, until the vessel has cleared at the Custom-house."[*] The formal reference made to this law by the Intendant of the Customs at St. Thomas seems to me to be conclusive against the charge made by Mr. Tilley, that the ship-papers of the "Red Gauntlet" were illegally detained by Mr. Lamb. Their detention, on the contrary, would appear to have been not merely sanctioned, but required by the law of the island, and Mr. Lamb would have acted most improperly, in my opinion, if he had given them up to the master of the "Red Gauntlet" to be handed over to an agent of his own selection.

On the other hand, I do not find any proof in the papers before your Lordship that the owner of the "Red Gauntlet" was prevented by the detention of his ship-papers at the British Consulate from employing an agent to raise money for him on further bottomry. It appears, upon the face of the pleas which Captain Cameron gave in before the Court at St. Thomas, which decreed the sale of his vessel,[†] that he had borrowed the money both on the first bond at the Havana, and on the second bond at Cape Haitien, having reason to expect, as he was carrying emigrants to the Brazils, "that he would find the necessary funds by the Brazilian Consul at St. Thomas, but in this he had been disappointed." It deserves remark also that, in the schedule of charges against Mr. Lamb annexed to the first communication made by the owner of the "Red Gauntlet" to Lord Stanley,[‡] there is no averment that he was prevented raising money on further bottomry by the improper detention of his ship-papers at the British Consulate. This charge, in fact, would seem to be an afterthought.

With regard to the second charge, it appears from the printed advertisements which are amongst the papers before your Lordship, that the "Red Gauntlet" was advertised for bottomry as a British paddle steam-ship of 173 tons register, built at Greenwich in 1864.[§]

The Certificate of Registry to which Mr. Tilley refers, as stating the tonnage to $249\frac{60}{100}$ tons, is not before your Lordship, having been properly transmitted by Mr. Lamb to the British Consul at Mobile upon the sale of the vessel at St. Thomas, but there is secondary evidence of the contents of the certificate, which is of a very high character, although it is under the handwriting of Mr. Lamb himself, being the official entry made by him at the Custom-house of St. Thomas on the day of the arrival of the "Red Gauntlet," in which her tonnage is described as 173 per register British measurement, and $249\frac{41}{100}$ American measurement.[‖] Assuming this to be a correct entry, and no reason of personal interest can well be suggested, why Mr. Lamb on this occasion should have made a false entry of the tonnage of the vessel, I am of opinion that Mr. Lamb was justified, as the "Red Gauntlet" was advertised as a British vessel, in stating the tonnage according to British measurement, and not according to American measurement. It deserves remark that the signature of Charles Cameron as master of the "Red Gauntlet" is appended to the advertisements for bottomry which bear date August 19, 1867, being the day on which the "Red Gauntlet" was entered at the Custom-house of St. Thomas. There is further evidence on this point to be found among the papers which may deserve your Lordship's notice,

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[*] Inclosure 8 in Mr. Lamb's No. 20.

[†] Inclosures 6 and 7 in Mr. Lamb's No. 31.

[‡] In Mr. Cameron's letter of November 1, 1867.

[§] Inclosure 6 in Mr. Lamb's No. 20.

[‖] Inclosure 8 in Mr. Lamb's No. 20.

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although it is also under the hand of Mr. Lamb, namely, the letter addressed by him to Her Majesty's Consul at Mobile,[*] inclosing the Provisional Certificate of the "Red Gauntlet," in which Mr. Lamb describes the vessel as of 173 tons British measurement. If the tonnage of the "Red Gauntlet" was so described in the advertisements by the authority of Mr. Lamb, I am of opinion that she was properly described, and that he is free from all blame on this head.

There are some minor topics of complaint to be found in Mr. Tilley's letter, which, as they are directed against Mr. Lamb's official conduct, may be properly noticed.

Mr. Tilley says that the bonds upon which the vessel was arrested were not properly countersigned at Havana and Cape Hayti by the Danish Consul, and that it was the duty of Her Majesty's Consul to see that the bonds were in all respects proper legal documents. I would observe, on this part of the case, that Captain Cameron, who gave the bonds, was owner as well as master of the vessel, and appeared to the actions of the bondholders; that it was competent for him to have taken any objection in point of form to the bonds, if any such objection could be taken, and that it was for the Court to decide whether such an objection was tenable. No such duty as alleged could attach to Her Majesty's Consul, as far as I am aware, when the owner of the vessel was present to watch over his own interests.

Again, it is said by Mr. Tilley, that the ten days allowed under the bond for its redemption was not given to Captain Cameron; but it appears from the letter written by Lamb and Company on 17th August, 1867, to Captain Cameron,[†] that the "Red Gauntlet" had arrived in the Port of St. Thomas on that day, whilst the transcript of the proceedings before the Court at St. Thomas[‡] shows that the citation by request of Hurtzig and Company upon the bond given at Cape Haitien did not issue before 28th August, 1867, on which day the arrest of the vessel was also made. The same observation applies to the proceedings upon the bond given at the Havana,[§] upon which Messrs. Lamb and Company arrested the vessel, so that it is clear that the ten days allowed under the bonds had expired before the vessel was arrested. Mr. Tilley is also in error when he suggests that the crew could not legally claim anything for wages "until the arrival of the vessel at Para in Brazil, to which port she was chartered as per ship's articles." But when a vessel is sold under a bottomry bond, as happened in the case of the "Red Gauntlet," the sale operates as a legal termination of the voyage, and the wages *pro ratâ itineris* become presently due, and are entitled to priority over the bond; the bondholder, however, if he should not be paid in full, may recover the balance so deducted from the proceeds of the sale for wages, by a personal action against the owner of the vessel. I see no reason for your Lordship arriving at any other conclusion than that upon which Lord Stanley acted in holding that no blame attached to Mr. Lamb in his official character for the proceedings which resulted in the sale of the "Red Gauntlet" by the decree of the Sheriff's Court at St. Thomas.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 36.

*The Queen's Advocate to Mr. Hammond.—(Received July 7.)*

Right Honourable Sir,
*Temple, July* 6, 1870.

I AM honoured with your letter of the 1st instant, stating that, with reference to my report of the 30th April, you were directed to transmit to me, together with a volume containing the previous correspondence, two further letters from Mr. Cameron relative to the case of the "Red Gauntlet," and you were pleased to request that I would take the same into my consideration, and report whether the statements therein made induce me to alter in any respects the opinion expressed in my above-mentioned report.

In obedience to your commands I have the honour to report—

That the statements made by Mr. Cameron in his two further letters do not induce me to alter the opinion expressed by me in my previous report. It may be, however, deserving of consideration, with a view to the contingency of Mr. Cameron asserting that the Foreign Office has improperly protected Mr. Lamb, whether Her Majesty's Consul at Mobile should not be instructed to forward a copy of the provisional certificate of the "Red Gauntlet," which upon the sale of that vessel at St. Thomas was remitted to Mobile by Mr. Acting Consul Lamb.

I have, &c.
(Signed) TRAVERS TWISS.

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[*] Inclosure 1 in Mr. Lamb's No. 20.
[†] Inclosure 1 in Mr. Lamb's No. 31.
[‡] Inclosure 7 in Mr. Lamb's No. 31.
[§] Inclosure 8 in Mr. Lamb's No. 31.

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## No. 37.

*The Queen's Advocate to Earl Granville.—(Received August 23.)*

*Temple, August* 23, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 17th instant, stating that he was directed to transmit to me a note from the Danish Minister at this Court, inquiring what course Her Majesty's Government propose to take respecting the transmission of telegraphic messages from either of the belligerents through this country to their respective forces, and whether Her Majesty's Government consider that the International Telegraphic Conventions of 1865 and 1868 in exempting Government despatches from control, infringe on the law of nations. That as the Danish Minister is anxious for an early answer, Mr. Otway was to request that I would furnish your Lordship as soon as possible with my opinion as to the answer that should be returned to his inquiries.

Mr. Otway was pleased to inclose the two Conventions referred to, as regards which he observed that Great Britain took no part in the Convention of 1865, and was a party to that of 1868 only as far as the Indian telegraphs were concerned.

In obedience to your Lordship's commands I have the honour to report—

That the question upon which your Lordship has requested my opinion is novel and somewhat intricate, but after the best consideration which time will permit me to give to the subject, I have arrived at the conclusion that the Treaties in question properly belong to that class of Treaties the obligation of which is suspended on the occurrence of war between any of the parties, but will revive at the return of peace. For instance, it is obvious that it could not have been the intention of Prussia to bind itself, in the case of its being at war with France, to convey the public despatches of its enemy to that enemy's fleet when carrying on hostilities against Prussia. In fact, it would be a crime *læsæ majestatis* for a Prussian subject to be engaged in forwarding such despatches. On the other hand, as a war between France and Prussia would impose upon the other contracting parties supervening duties, incidental under the general law of nations to a state of neutrality, they must, I think, in the absence of express words to the contrary, be taken to have become parties to the Treaty, subject to their obligation of fulfilling those duties. In other words, the Treaty must be presumed to have been made for the general advantage of all parties, and it should not be so construed as to work injury to any, in the absence of positive words requiring such an interpretation.

With regard therefore to the general questions raised by the Danish Minister, I am of opinion that the Treaties of 1865 and 1868 do not control the operation of the general rules of the law of nations as regards the transmission of despatches of State in time of war.

I have, &c.
(Signed) TRAVERS TWISS.

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## Dominica.

### No. 38.

*The Law Officers of the Crown to Mr. Hammond.*—(*Received July* 1.)

*Temple, June* 30, 1870.

Sir,

WE are honoured with your letter of the 11th instant, stating that with reference to our report of the 1st October last, respecting the case of the Telegraphs, you were directed to transmit to us therewith a further letter from the Colonial Office, inclosing a copy of a despatch from the Governor of the Leeward Islands, reporting that this vessel has been restored by the Vice-Admiralty Court at Tortola, without costs or damages, on the ground that the acts charged were committed within the exclusive jurisdiction of the Republic of St. Domingo. That the Consul at St. Domingo has, as we should observe, requested an appeal from this decision, undertaking to pay all costs and damages; and you were pleased to request that we would take these papers into our consideration, and furnish you with our opinion as to the proper course to be pursued under the circumstances stated by the local Attorney-General. The previous correspondence was also inclosed for convenience of reference.

In obedience to your commands we have the honour to report—

That we think the decision of the Vice-Admiralty Court of Tortola sufficiently open to question to justify an appeal, on the Dominican Government undertaking to pay all costs and damages.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Egypt.

### No. 39.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received February* 5.)

*Temple, February* 4, 1870.

My Lord,

I AM honoured with your Lordship's commands, signified in Mr. Spring Rice's letter of the 28th ultimo, stating that he was directed to transmit to me the accompanying letter and its inclosures from Mr. Tinney, of Alexandria, making complaints against the proceedings of Sir Philip Francis in his judicial capacity, and to request that I would take the matter into my consideration, and report to your Lordship my opinion thereupon. Mr. Spring Rice was also to state that your Lordship would be indisposed to take any steps which could be considered as an interference with the judgment of a Court legally constituted, and that your Lordship would wish to learn whether I am of opinion that Mr. Tinney's letter should in the first instance be referred to Sir P. Francis. Mr. Spring Rice was also pleased to state that the case of Polidano referred to at the end of Mr. Tinney's letter will form the subject of a separate reference to the Law Officers.

In obedience to your Lordship's commands I have the honour to report—

That it would be proper, I think, that Mr. Tinney's letter should be referred in the first instance to Sir P. Francis, and that he should be informed that it is so referred to him for the purpose of enabling him to make any observation upon it which he may think fit.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 40.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 9.)

*Temple, February* 9, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 1st instant, stating that with reference to the report of the Law Officers of the 12th March, 1868, relative to the case of two Maltese named Polidano, sentenced to twenty years' imprisonment for murder committed at Alexandria, he was directed to transmit to us a letter from the Colonial Office inclosing a petition from them for a remission of their sentence, together with two despatches relative to this case, and containing observations on this petition from Mr. Vice-Consul Lane. The previous papers were also inclosed, and Mr. Spring Rice was pleased to request that we would take this matter into our consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we concur in the opinion of the Law Officers on this case as expressed in their report of 12th March, 1868, and we find no sufficient grounds stated in the later petition of the prisoners, which has been transmitted from the Colonial Office to Mr. Hammond, to justify a departure from the course then adopted by Her Majesty's Government.

We are not sure, from the tenor of Mr. Spring Rice's letter, whether our opinion is desired upon any other, or what specific questions. We observe that Vice-Consul Lane refers to a threat made against himself by Lorenzo Polidano, and requests that some restraint should be put upon him. Assuming the fact to be as stated (which, however, does not very distinctly appear), the proper course would be to lay the matter before the Italian and Egyptian Governments, and request them to prevent, as far as they can, the return of Lorenzo Polidano to Alexandria.

With respect to other allegations in V. Nicolo Abate Bernardini's letter, without knowing the character of that gentleman, it is impossible to say what weight is to be attributed to them; but inquiry might properly be made into his allegations as to the prison discipline at Malta, and the attention of the Maltese authorities called to the necessity of strictly inflicting the sentences imposed.

As to Vice-Consul Lane's suggestion that safeguards are needed to prevent the return to the Levant of deported Maltese, before your Lordship can be called upon to act in this matter, Vice-Consul Lane should be requested to explain what alterations in the existing law he would propose.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 41.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 23.)

*Temple, February* 22, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed to transmit to us the accompanying report on the subject of the proceedings of the International Commission on Judicial Reforms in Egypt. Copies of the instructions given to the British Commissioners previous to their taking part in that Commission were also inclosed, and Mr. Hammond was pleased to request that we would report to your Lordship our opinion on the proceedings of the Commission, as well as on the points referred to by Colonel Stanton and Sir Philip Francis.

In obedience to your Lordship's commands we have the honour to report—

That the proceedings of the Commission, so far as they have gone, may, in our opinion, be generally approved by your Lordship; but we think that any absolute or unqualified approval of the report might lead to future difficulties, and that Her Majesty's Government should be hardly asked to pledge themselves to any particular part or parts of a scheme of reform till they have seen the whole—till they know what code of laws is to be administered, or what procedure is to be adopted—and until they

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have been able to communicate thereupon with the other Governments interested in the subject.

With respect to the specific questions raised by Her Majesty's Commissioners, namely, whether the new tribunals should entertain suits between foreigners of different nationalities; the attendance of interpreters: the execution of judgments; the jurisdiction as to real property; and the revision of the criminal law; the observations of the Commissioners appears to us, in the main, just, but we suggest the prudence of your Lordship's assent to them being made conditional, not only on the assent of the other Powers, but in the adoption of a satisfactory code of law and system of procedure.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 42.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 25.)

My Lord, *Temple, February* 24, 1870.

WE are honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 11th instant, stating that, with reference to our report of the 3rd June, on the subject of Messrs. Carver and Gill's claim against the Egyptian Government, he was directed to transmit to us the further correspondence which has since taken place respecting this matter, with especial regard to the statement inclosed in Mr. Gill's letter of the 29th ultimo and which has been drawn up by that gentleman for our greater convenience of reference, and was therewith transmitted to us, together with two pamphlets, which have been also received from Mr. Gill; and Mr. Spring Rice was pleased to request that we would take these papers into our consideration, and furnish your Lordship with our opinion thereupon at our early convenience. The previous papers were also inclosed.

In obedience to the directions of your Lordship, we have the honour to report—

That in our opinion Her Majesty's Government, while unable to object to the re-hearing of the case before the Alexandrian Tribunal, and not being prepared to force upon the Egyptian Government Mr. Gill's interpretation of the articles regulating the deposit and the appeal, may, nevertheless, if they deem it expedient, properly inform the Egyptian Government that they intend to watch closely the proceedings of a Tribunal like that of Alexandria, the judgment of which, in Mr. Gill's case, was given originally under circumstances so remarkable, and which has lately been annulled by the Grand Conseil of the Viceroy. Your Lordship might also, if you should think fit, express a hope on the part of Her Majesty's Government that the Court at Alexandria, in adjudicating upon the claims of Her Majesty's subjects and of Mr. Gill in particular, will not hereafter so administer the law as to call for the intervention and intrusion of a friendly foreign Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 43.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 28.)

My Lord, *Temple, April* 27, 1870.

WE are honoured with your Lordship's commands signified in Mr. Charles Spring Rice's letter of the 14th April instant, stating that, with reference to our reports of the 5th, 9th, and 28th February, relative to the case of the prisoners Polidano at Malta, he was directed by your Lordship to transmit to us a letter from the Colonial Office, inclosing copies of correspondence with the Government of Malta as to the course to be pursued in case the validity of their detention is called in question, and suggesting that our attention should be called to the second section of the Order in Council of November 10, 1866, inasmuch as it appeared from Mr. Lane's despatch No. 1 of the 15th of January that those prisoners were tried under a deputation granted in pursuance of the provisions of that Order.

Mr. Rice was pleased also to transmit a copy of the Order in Council and the previous correspondence on the subject of the Polidano case, and to request that we would again take the matter into consideration, and favour your Lordship with our opinion on the point.

In obedience to your Lordship's commands we have again taken the matter into our consideration, and have the honour to report—

That we have not before us the form of deputation issued to the Consular Court of Egypt under the 2nd section of the Order in Council of 1866, but presuming it to have specified the power of deporting condemned criminals to Malta for the purpose of there undergoing their respective sentences, we are of opinion that the warrant of that Court in the case of the brothers Polidano was a valid warrant, and that they have been lawfully sent to Malta to undergo their punishment. With regard to Earl Granville's observation, to which the attention of Mr. Hammond is invited in the letter from the Colonial Office of the 7th April, 1870, "that no special reference was made to the Order in Council of 1866 in Bugeja's case, and that the Law Officers, in their report, as embodied in Lord Clarendon's despatch to Her Majesty's Consul-General at Tunis of 11th February last, made no allusion to the Order in Council of 1866, but only to the Order in Council of 1864," we would remark that as Bugeja was deported to Malta from Tunis under a warrant from the provincial Consular Court of Tunis, the Order in Council of 1866 could have no application to his case, being concerned exclusively with the powers of the Provincial Consular Court of Egypt.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 44.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June* 3.)

*Temple, June* 3, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 31st ultimo, stating that, with reference to my report of the 4th February last, respecting a complaint preferred by Mr. Tinney, of Alexandria, against Sir Philip Francis, Her Majesty's Consul-General and Supreme Judge at Constantinople, he was directed to transmit to me a further letter from Mr. Tinney in reply to a communication conveying the decision of Her Majesty's Government not to interfere in this case. Sir P. Francis' report on the subject was also inclosed, together with the previous correspondence, and Mr. Otway was pleased to request that I would take the same into my consideration and furnish your Lordship with my opinion as to the answer which should be returned to Mr. Tinney's letter.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Tinney may be properly informed that your Lordship, having weighed very carefully the complaint made by Mr. Tinney of personal malevolence towards himself on the part of Her Majesty's late Legal Vice-Consul for Egypt, sees no good ground for any official interference on your Lordship's part in the matter of his complaint.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 45.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 7.)

*Temple, July* 7, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th ultimo, stating that, with reference to our letter of the 21st May, in which we stated that we would defer our report on the subject of Judicial Reforms

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in Egypt until we received certain new Egyptian Codes, he was then to transmit to us the accompanying despatch which had been received from Her Majesty's Ambassador at Paris inclosing the Codes in question, and to request that we would be so good as to favour your Lordship with our opinion as to the course which Her Majesty's Government should take on the question of Egyptian Judicial Reform.

He was pleased to inclose for consideration a previous despatch from Lord Lyons containing report of the French Commission on the subject, and the former papers which we have had before us.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That without pledging ourselves to all the details of the proposed Codes, a complete examination of which would defer our report for a considerable time, we are of opinion that they have been framed with great care, and on principles sufficiently in harmony with European jurisprudence to justify Her Majesty's Government in assenting to their adoption as the basis of the new judicial system in Egypt.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 46.

*The Queen's Advocate to Mr. Hammond.*—(*Received July* 8.)

*Temple, July* 7, 1870.

Right Hon. Sir,

I AM honoured with your letter of the 4th instant, stating that you were directed to transmit to me a letter from Sir W. Tite complaining of certain proceedings in the Courts at Alexandria and Constantinople in a suit brought against the Bank of Egypt. Explanations on the subject furnished by Mr. Lane and Sir P. Francis were also inclosed, and you were pleased to request that I would take the matter into my consideration, and report my opinion thereupon.

In obedience to your commands I have the honour to report—

That under Her Majesty's Order in Council of 30th November, 1864, the Judge of Her Majesty's Consular Court in Egypt had a discretion to report the suit of "Paterson *v.* The Bank of Egypt" to the Supreme Consular Court at Constantinople, as fit to be heard and determined by that Court, and the Judge of the Court at Constantinople had authority to direct in what mode and where the suit should be heard and determined. Under these circumstances I am of opinion that it would not be proper for Her Majesty's Secretary of State to interfere with the discretion exercised by Mr. Lane in this matter, and that however anxious the Bank may be to have the suit heard in Alexandria, it will be properly left to the Consular Tribunals to decide in what way the ends of justice will be best served.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 47.

*The Queen's Advocate to Earl Granville.*—(*Received October* 26.)

My Lord, *Temple, October* 26, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 21st instant, stating that he was directed to transmit to me a Memorial from Mr. John P. Schilizzi, requesting, for the reasons therein stated, that he may receive from the British Consulate at Alexandria the protection due to a British subject. A correspondence which took place last year with Her Majesty's Legal Vice-Consul at Alexandria, relative to the protection to be accorded to Mr. Schilizzi's child, and which formed the subject of the Law Officers' report of the 2nd March, 1869, was also inclosed, together with a volume, in the latter part of which there is correspondence bearing on the same subject, and Mr. Otway was pleased to request that I would take this matter into my consideration, and furnish your Lordship with my opinion as to the answer which should be made to Mr. Schilizzi's Memorial.

In obedience to your Lordship's commands I have the honour to report—

That there are not, in my opinion, any circumstances in this case of so peculiar a character as to withdraw it from the operation of the general rule laid down and acted upon by your Lordship's predecessor than an alien born, who has obtained British naturalization, is not on that account entitled to claim British protection within the country of his birth. At the same time it may deserve your Lordship's consideration whether a person alien born, who has obtained British naturalization, and has also acquired a British *domicile jure gentium*, as appears to be the case of Mr. Schilizzi, should not be entitled to the good offices, as distinguished from the protection of Her Majesty's Consul, even in the country of his birth. In the present case those good offices would be fitly discharged, in my opinion, by a few words spoken in his favour to the Egyptian Prime Minister, intimating that Her Majesty's Government would see with pleasure the order which he has given for the payment of Mr. Schilizzi's claim carried into effect without further delay.

I have, &c.
(Signed) TRAVERS TWISS.

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## Ecuador.

### No. 48.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 19.)

*Temple, January* 18, 1870.

My Lord,

I AM honoured with your Lordship's commands, signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed by your Lordship to inform me that your Lordship caused the accompanying despatch from Her Majesty's Chargé d'Affaires at Quito, which incloses a Minute of the Ecuadorian Government giving their reasons for suspending the payment of the interest due on the foreign debt, to be communicated to the Ecuadorian Commission of Agency, and Mr. Hammond was now to transmit to me therewith a letter, which has been received from that body in reply, and to request that I would take the matter into my consideration and furnish your Lordship with my opinion thereupon. The previous papers bearing on the bondholders' claims were also inclosed for my more complete information.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may, I think, properly instruct Mr. Hamilton to call the attention of the Ecuadorian Minister of Foreign Affairs to the note of the Ecuadorian Government addressed to the Acting British Consul-General at Guyaquil on December 23, 1863, in which that Government states that "as soon as the imminent danger with which the nation is threatened disappears, it will take the necessary steps for the continuance of the payments to the bondholders in compliance with the terms stipulated." It appears from the correspondence, that up to a certain period the Ecuadorian Government has made good this undertaking on its part, but that now it proposes to stop the payment altogether of interest on the bonds under the authority of a Decree of the National Convention of Ecuador of 17th August, 1869. I am of opinion, if your Lordship thinks it otherwise politic to put pressure upon the Ecuadorian Government, seeing that it appears to be labouring under great financial difficulties, that Mr. Hamilton would be justified in stating that your Lordship considers the Decree of the National Convention to involve a violation of the undertaking of the Ecuadorian Government in 1863 towards Her Majesty's Government, and that your Lordship trusts that the President of the Republic will take the necessary steps to have that Decree reconsidered, and to prevent the friendly relations between the two Governments being in any way impaired by effect being given to that Decree.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 49.

*The Queen's Advocate to the Earl of Clarendon.—(Received June 17.)*

My Lord, *Temple, June* 16, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that, on the receipt of my report of the 18th January, relative to the suspension by the Ecuadorian Government of payment of interest on the foreign debt of that Republic, your Lordship addressed to Her Majesty's Chargé d'Affaires at Quito the instruction, draft of which was inclosed therewith, and that he was directed to transmit to me the reply, which has been received from Mr. Hamilton, reporting what has passed between him and the Ecuadorian Government on the matter.

The previous correspondence was also inclosed, and Mr. Hammond was to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the proper course to be pursued by Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That the answer of his Excellency the Minister of Foreign Affairs of Ecuador to the note of Her Majesty's Chargé d'Affaires of 16th March last, puts in question a fact which I had assumed in my last report to your Lordship of 18th January last to be incontrovertible, namely, that the note of the Ecuadorian Government addressed to the Acting British Consul at Guyaquil on December 23, 1863, contained an undertaking on the part of that Government, of which Her Majesty's Government was entitled to take cognizance. I have not before me at present the despatch of Mr. Mocatta, No. 3 of 30th January, 1864, which is referred to in your Lordship's despatch to Mr. Hamilton, No. 2 of 26th January, 1870, and in which was inclosed a copy of the note of the Ecuadorian Government. I am therefore unable to advise your Lordship whether there is any solid ground for the distinction which his Excellency seeks to establish between certain passages of that note, which may properly be regarded as addressed to the British Consul, and other passages which are to be regarded as addressed to Mr. Mocatta in his separate character as agent of the bondholders. I am also unable to form an opinion, from the papers before me, whether there is any weight, in his Excellency's view, that the Ecuadorian Government may have engaged its good faith towards the British Government in respect of the Mackintosh debt, but is free from any corresponding engagement as regards the other foreign debt, and that the latter is not entitled to be considered as British property.

Upon these points I shall be glad to have fuller information before I can venture to advise your Lordship as to the further instructions which may properly be given to Mr. Hamilton.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 50.

*The Queen's Advocate to Mr. Hammond.—(Received June* 30.)

Sir, *Temple, June* 29, 1870.

I AM honoured with your letter of the 20th instant, stating that, with reference to my report of the 10th instant upon the subject of the Ecuadorian debt, you were directed to transmit to me two volumes, one of which contains the further correspondence with which I desired to be furnished relative to the engagements undertaken by the Ecuadorian Government towards that of Her Majesty in December 1863 (Mr. Mocatta, No. 3, January 30th, 1864), and the other the correspondence relative to the Mackintosh debt.

The previous papers were also transmitted for convenience of reference.

In obedience to your commands I have the honour to report—

That Her Majesty's Chargé d'Affaires may, in my opinion, be properly instructed to express with becoming courtesy the regret of Her Majesty's Government at the tone of the note of the Ecuadorian Minister of Foreign Affairs, and to intimate to his Excellency that Her Majesty's Government cannot admit the claim of the Ecuadorian Government to recognize only as British property the Mackintosh debt, and to put an interpretation upon the engagement entered into by the Ecuadorian Government with Mr. Mocatta in 1864, which is not borne out by the letter of the notes, which passed between Mr. Mocatta and the Ecuadorian Minister of Foreign Affairs, and would in the opinion of Her Majesty's Government be inconsistent with the spirit of them. That with regard to the assertion of the Ecuadorian Government that Her Majesty's Government has no right to interfere in favour of the British bondholders, Her Majesty's Government is at a loss to understand the grounds on which the Ecuadorian Government declines to recognize the bonds held by British subjects as British property, upon which grounds alone Her Majesty's Government presumes that its right to interfere is called in question. That the attention of the Ecuadorian Minister of Foreign Affairs should be invited to the despatch of his Excellency Pablo Herrera of 22nd October, 1864, addressed directly to Her Majesty's Secretary of State for Foreign Affairs, respecting which there can be no suggestion of irregularity, and in which the promises of the Ecuadorian Government are admitted to apply to the payments due to the British bondholders equally as to Mr. Mackintosh.

It will be advisable in my opinion for Her Majesty's Chargé d'Affaires to direct his immediate reply to the issue raised for the first time by the Ecuadorian Government in the three first paragraphs of the last Ecuadorian note, with a view to the possibility of the Ecuadorian Government contemplating a future distinct course of action as regards the bonds from that which it contemplates as regards the Mackintosh debt. It will be of importance in my opinion to bind it down to the adoption of the same principles of action in either case, in accordance with the understanding hitherto existing between the two Governments.

I have, &c.
(Signed) TRAVERS TWISS.

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## France.

### No. 51.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received January* 15.)

My Lord, *Temple, January* 14, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Rice's letter of the 31st December last, stating, that with reference to our Report of the 19th August and the 1st December last, he was directed by your Lordship to transmit to us a further despatch from Lord Lyons, inclosing the draft of an instruction which he suggested should be addressed to Her Majesty's Consul at Paris, in regard to "Certificates de Coutume" required by the French Railway Companies; and he was pleased to state to us, that if we concurred in the terms of that draft, and were of opinion that it would be sufficient if it was addressed to Her Majesty's Consul at Paris, your Lordship was prepared to instruct Mr. Atlee accordingly.

And he was at the same time to call our attention to the remarks of Mr. Treitt on the general question as to Rentes and Successions in France, raised by the Society of Notaries, in their letter of the 7th August, which was likewise transmitted to us; and he was to request that we would report to your Lordship our opinion as to the nature of the reply which should be returned to the Society.

Mr. Rice was pleased further to say that, in addition to those questions, a special case of difficulty in regard to the administration of the estate of a deceased British subject had been brought to your Lordship's notice in the inclosed letter from Messrs. Cookson and Wainwright; and your Lordship would propose, with our concurrence, to inform the parties that Her Majesty's Consul at Paris was about to receive instructions which would enable him to furnish certificates which would meet the requirements of the French Railway Companies.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the terms of the proposed instructions, subject to the omission of all mention of "notaries public" may be properly approved by your Lordship, and that it will be sufficient if they are addressed to Her Majesty's Consul at Paris.

We also concur in the suggestion of Lord Lyons, that (subject, of course, to your

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Lordship's judgment) it would be better if the letter were addressed to the Consul by your Lordship as Secretary of State.

With regard to the letter of the Secretary of the Society of Public Notaries of London, we are not aware of any authority for such notaries to give certificates of the law of England, by virtue of their office, which should entitle them to object to the proposed certificates as "an uncalled-for evasion of their duties and privileges."

We think your Lordship may properly direct a reply to be returned to the Society to such effect.

We think your Lordship may direct Messrs. Cookson and Wainwright to be informed that general instructions will be sent to Her Majesty's Consul at Paris, which, your Lordship hopes, will enable him to furnish such certificates as will meet the requirements of the French Railway Companies.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 52.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received February* 24.)

My Lord, *Temple, February* 23, 1870.

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 16th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Consul at Réunion, relative to the compulsory service of British subjects in the militia of that island, together with a letter from the Colonial Office, stating the practice in regard to the service of foreigners in the militia of British Colonies; and to request that I would take this matter into my consideration and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That it appears to me that this is not a case where your Lordship can claim in favour of Mr. Collard an immunity from service in the militia of Réunion, except he is willing to continue the payment which is required under the local law to procure his exemption, and which he appears to have paid for a period of eight months. Such an immunity could only be claimed of right under Treaty stipulations, or under comity only where there is reciprocity. It appears, however, that in many of the British Colonies aliens are liable to service in the local militia. The argument, therefore, for reciprocity fails, as pointed out by Governor de Lormel, and there is no Treaty which bears upon the present case. The observation of Vattel that "foreigners are not liable to serve in the militia of a State," to which Mr. Consul Segrave refers, may be well-founded as regards foreigners who are not domiciled in the country where they are called upon to serve, but the practice of the present day, as regards domiciled aliens, is the other way (see "Law Officers' Reports," July 31, 1860; September 30, 1861; July 14, 1862; June 20, 1865); and as Mr. Collard appears to have his principal trading establishment at St. Denis, he must, I think, be regarded as domiciled in Réunion.

With regard to the harsh manner in which his refusal to mount guard was punished, much must depend upon the provisions of the local law, and whether due notice of its requirements had been given to him. Upon these points I do not find sufficient information in the papers to enable me to advise your Lordship as to the instructions which should be properly forwarded to Mr. Consul Segrave.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 53.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 24.)

My Lord, *Temple, March* 23, 1870.

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 19th instant, stating that he was directed to transmit to me three despatches from Her Majesty's Consul at Réunion, regarding a discussion which has arisen between himself and the Governor of the Colony regarding some proceedings which Mr. Segrave alleges are a violation of the 20th Article of the Convention of 1860, of which a copy was also inclosed.

That I should perceive that the Governor alleges that the course pursued by him is in strict conformity with the Treaty, and with the Labour Regulations of Martinique therein referred to; and Mr. Spring Rice was pleased to state that if this be so, your Lordship apprehends that Mr. Segrave's objections cannot be sustained, but that your Lordship would wish to learn my opinion on the point.

In obedience to your Lordship's commands, I have the honour to report—

That, assuming the good faith of the Governor of the Colony to be beyond all doubt, when he undertakes that a pass shall never be withheld from any British subject who may seek to avail himself of the right of resort to the British Consul, secured to all British immigrants under Article XX of the Convention, I am of opinion that Mr. Segrave cannot properly object to the Governor enforcing in the interests of public order in regard to all such persons, who may be in the interior of the island, the regulations of the Colony as to providing themselves with passes, before they quit the place of their engagement for the purpose of communicating with the Consul.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 54.

*The Law Officers of the Crown to Mr. Hammond.*—(*Received July* 7.)

*Temple, July* 6, 1870.

Sir,

WE are honoured with your letter of the 24th ultimo, stating that with reference to our report of the 18th ultimo, on the subject of a Convention for the protection of submarine cables, you were directed to transmit to us the accompanying letter from the French Ambassador at this Court, inclosing a letter from the Duc de Grammont, the French Minister for Foreign Affairs, stating the views of the French Government upon the question which has just been reported upon by a Special Commission appointed for that purpose, and you were pleased to request that we would take these papers into consideration, and if the views propounded by the Imperial Government should be in any way different from those with which we furnished you, and upon which the instructions which have been addressed to Her Majesty's Minister at Washington, you were further pleased to request that we would state in what particulars we dissent from them. The report and instructions to Mr. Thornton were also inclosed for convenience of reference.

In obedience to your commands we have the honour to report—

That the views of the French Government appear in a great degree to accord with those which we have had the honour to express, and to materially differ from them only on the question to what jurisdiction persons wilfully injuring submarine cables shall be amenable.

The substance of our suggestions contained in our report of February 4 and May 18, 1870, was to the effect that, if it were agreed among the Contracting Parties that wilful injury to cables, both within and without the marine league from shore, should be treated as piracy, it would seem to follow that all persons committing such piracy, who were subjects of any of the Contracting Powers, should be triable in the Courts of any of the Contracting Powers; but we suggested that the term piracy was not properly applicable to offences committed within the territorial limits of any State, and that such offences should be defined and dealt with by the municipal law of the State.

In this latter view the French Government concur, and we are not prepared to differ from their suggestion, that considering the probabilities of the criminal escaping from the jurisdiction of the country within which his crime is committed, he should be triable either in the country in which the crime is committed, or in the country (if it be a different one) to which he belongs. But with respect to offences committed on the high seas without the marine league, we still think that if by agreement among the Contracting Powers such offences are to be deemed piracy, it would properly follow that they should be triable in Courts of any of those Powers. This appears the only question on which our views conflict with that of the French

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Government, and this question appears on the whole to be one of policy rather than of law.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 55.

*The Law Officers of the Crown to Earl Granville.—(Received July* 20.)

My Lord, *Temple, July* 19, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed by your Lordship to acknowledge the receipt of our letter of the 7th instant, in which we expressed our opinion that the new Egyptian Codes, which had been transmitted in Lord Lyons' despatch No. 621 of the 22nd ultimo, had been framed with great care and on principles sufficiently in harmony with European jurisprudence to justify Her Majesty's Government in assenting to their adoption as the basis of the new judicial system in Egypt.

That he was to transmit to us a draft of a letter which your Lordship proposed to address to the French Ambassador at this Court, communicating to his Excellency the concurrence of Her Majesty's Government in the principle of the Codes themselves, as well as in the view taken by the Imperial Government and by the French Commission on the subject, and further stating the opinion of Her Majesty's Government on certain matters of principle and of detail in carrying the new reforms into execution.

And that he was to state that your Lordship would be glad to be favoured with our opinion, at our earliest convenience, upon the proposed answer to the French Ambassador, especially as your Lordship proposed to communicate it to the Porte, the Egyptian Government, and the various Governments concerned in the question.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we are of opinion that the proposed letter (in which we have ventured to suggest one or two trifling verbal alterations) may be properly addressed to the French Ambassador at this Court.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 56.

*The Law Officers of the Crown to Earl Granville.—(Received July* 28.)

My Lord, *Temple, July* 28, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that the French Government had published a notice granting certain facilities for enemy's vessels entering French ports with French-owned cargoes, and departing from thence.

That Her Majesty's Ambassador at Paris had been instructed to apply for similar facilities in favour of the same vessels destined for British ports with British-owned cargoes.

That we would see by the inclosed despatch and letter from Lord Lyons the grounds on which the French Government declined to accede to that request.

That we would also see from the inclosed Memorandum received from the Board of Admiralty that the legality of the French refusal was called in question.

And that he was directed by your Lordship to request that we would take those papers into our consideration and report to your Lordship, at our earliest convenience, whether any, and in that case, what, notice should be taken of the reply of the French Government.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

### No. 54*.

*The Law Officers of the Crown to the Colonial Office.—(Received July* .)

My Lord, *Temple, July* 13, 1870.

WE are honoured with your Lordship's commands signified to us in Sir Frederic Rogers' letter of the 27th ultimo, stating—

1st. That he was directed by your Lordship to transmit to us for our consideration copies of part of a correspondence which had passed between the Colonial Office and the Foreign Office relative to the contemplated cession of Gambia to the French Government.

2nd. That it would be seen from that correspondence that both your Lordship and Lord Clarendon concurred in the opinion that the consent of Parliament should be obtained to that transfer, and in the first proposal contained in the instructions sent to Her Majesty's Ambassador at Paris (a copy of which was therewith inclosed for reference) we would observe that the "consent of Parliament and of the natives" was made a condition precedent to the cession.

3rd. That, in accordance with that view, it was stated a few nights ago in the House of Commons that the cession would not be completed before the whole subject had been brought before Parliament.

4th. That a question had arisen on former occasions, as for example in 1854, upon the question of the abandonment of the Orange River Territory (*vide* Hansard, Third Series. vol. cxxxiii, pp. 52-66), whether the Crown has power to alienate British territory by its prerogative except under a Treaty of Peace; and your Lordship desired to be favoured with our opinion as to the manner in which the present question should be brought before Parliament, and in which such consent should be obtained, and especially (1) whether, the matter having been fully laid before both Houses and expressly or tacitly approved, it would be competent to Her Majesty to effect the cession by prerogative; or (2) whether it would be necessary to have recourse to an Act of Parliament empowering Her Majesty to enter into a Convention with the French Government; or (3) whether the Convention should first be made, subject to the assent of Parliament, and then brought before Parliament for ratification by Resolution or otherwise.

5th. With reference to the question numbered (1), Sir Frederic further stated that he was to add that the Gambia had fallen under Parliamentary legislation; that it was surrendered in 1749 by the African Company to the British Government; that in 1843, after the passing of the Imperial Act 6 Vict., cap. 13, and by virtue of the provisions of that Act, a Government of the River Gambia Settlement was constituted by Charter of the 24th June.

6th. That this Charter and the Government constituted by it remained in force until 1866, when the Charter was revoked by Letters Patent of the 19th February (copy of which was inclosed), and Gambia was placed under the General Government of the West Africa Settlements, the Governor of Sierra Leone being the Governor-in-chief.

In obedience to your Lordship's commands we have considered this matter, and have the honour to report—

That we are of opinion that the cession of this Settlement cannot be effected by the prerogative alone. The Crown, on the principle that *salus Reipublicæ suprema lex*, has the sovereign power of alienating State domain in Treaties of Peace, or as an act of supreme necessity in war to save the rest of the dominions.

Even in such a case a Minister would probably have recourse to an Act of Indemnity for the advice which he had given leading to such a result. Beyond the power above stated, we think that the Sovereign has no power to cede territory without the consent of the Legislature.

(2) and (3). It seems to us immaterial whether the consent of Parliament is obtained first or afterwards. It should be given, we think, by Statute, and not by Resolution; but it is a question of policy for the Government whether the Convention should be negotiated first, or powers should be first taken to negotiate.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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That the refusal of the French Government to grant a temporary exemption from capture to enemies' ships bound with neutral cargoes to neutral ports does not involve any violation of neutral right by reason of their having granted such an exemption to enemies' vessels bound with French cargoes to French ports.

The case does not, in our opinion, fall within the principle laid down by Lord Stowell in the "Success," and more recently by the Judicial Committee in the "Franceska," viz., that the blockade of an enemy's port to be valid must operate to the entire exclusion of enemies' ships as well as of neutral ships.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDOE.
TRAVERS TWISS.

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## No. 57.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 30.)

*Temple, July* 30, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th instant, stating that he was directed by your Lordship to transmit to us therewith a letter from Captain Sherard Osborne, respecting a proposal made by the French Government to a company with which he is connected, to lay down a telegraphic cable from Dunkirk to some point on the coast of the North Sea; and he was to request that we would take the matter into our immediate consideration, and report to your Lordship, at our earliest convenience, our opinion as to the course which Her Majesty's Government should take with reference to Captain Osborne's application, and also as to the general question of British companies undertaking similar operations from one or other of the belligerents.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That in our opinion Captain Sherard Osborne should be informed that it is, to say the least, very questionable whether persons concerned in laying down such a telegraphic cable as he describes will not be liable to a criminal prosecution under the new Foreign Enlistment Bill, now printed and published, when it becomes law; that at all events the undertaking is altogether inconsistent with that neutrality which Her Majesty observes and enjoins upon her subjects.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 58.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 5.)

*Temple, August* 5, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, with reference to our report of the 30th ultimo, he was directed by your Lordship to transmit to us therewith a letter from the Treasury, inclosing an application which had been made to the Board of Customs for permission to ship a telegraph cable for Cherbourg; and he was to request that we would take the same into consideration and report our opinion at our earliest convenience whether that permission should be granted.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we assume that the permission asked is no more than would be granted in the ordinary course to a vessel which is described as "beyond the bounds," and that the granting it involves no special leave or license for this particular transaction; on this assumption, and on this only, we think that the permission may be given, but that Mr. Scrutton should be warned, that if the cable is destined for a warlike purpose it may be captured as contraband.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 59.

*The Queen's Advocate to Earl Granville.*—*(Received August* 8.)

My Lord, *Temple, August* 6, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 2nd instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Consul at Havre, inclosing a letter from Lieutenant-General Frome, representing the circumstances under which his aunt, Mrs. Kozminska, the widow of an English clergyman, who afterwards married a Polish exile, has died intestate in France, where she was possessed of some property, which has been taken possession of by the French authorities; that General Frome states that he has reason to believe that, if Mrs. Kozminska is claimed by Her Majesty's Consul as a British subject, the French Tribunals would award the division of her property according to English law, and he requests that Her Majesty's Consul may be furnished with instructions in the matter; and Mr. Otway was accordingly to request that I would take this case into my consideration, and furnish your Lordship with my opinion whether Mrs. Kozminska can be considered a British subject, and as to any instructions which it may be proper to give to Her Majesty's Consul in this case.

In obedience to your Lordship's commands I have the honour to report—

That the distribution of the effects of the late Mrs. Kozminska, in the absence of any Treaty, will be governed by the French law, as her domicile was French at the time of her death. Her legal representative, according to French law, will, therefore, be the person entitled to take out letters of administration to her effects in England; and it will be proper for General Frome, if he is her nearest relative, to obtain first of all in France from the proper authorities his recognition as her legal representative, and afterwards to administer in that character to the effects in England.

I have, &c.
(Signed) TRAVERS TWISS.

P.S.—I may add that, under these circumstances, I am of opinion that Her Majesty's Consul should not interfere in this case further than by assisting General Frome, if it should be necessary, to obtain his recognition from the French authorities as the legal representative of the deceased.

T. T.

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### No. 60.

*The Law Officers of the Crown to Earl Granville.*—*(Received August* 13.)

My Lord, *Temple, August* 13, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit to us therewith a copy of a despatch from Lord Lyons, requesting instructions for his guidance, in the event of a law being proposed by the French Chambers making the subjects of foreigners born in France liable to military service during the war; and Mr. Hammond was pleased to request that we would take the matter into consideration, and at our earliest convenience report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That there is nothing contrary to the law of nations, as generally understood, in the law proposed by the French Government to be enacted. It is, indeed, only making the law of France what our own law still is, though we have lately facilitated the escape of English-born foreigners from its operation. We think that, while it is impossible to treat as a cause of dispute, still less as a cause of war, the passing of such a law, the French Government ought, nevertheless, to allow all persons now first affected by it a ready exit from their territory. It would be extremely unfair to change the condition of British subjects resident in France so seriously without giving them some reasonable notice, and allowing them the opportunity of returning to their own country should they think fit. It is further to be observed that, by the proposed change of the law of France, British subjects may in many cases be compelled, contrary to their own wishes, to abandon the neutral character of the country to which

### No. 60*.

*The Queen's Advocate to Earl Granville.*—*(Received August* 15.)

My Lord, *Temple, August* 15, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed by your Lordship to transmit to me therewith copies of two telegrams from Her Majesty's Ambassador at Berlin and Her Majesty's Consul at Hamburgh, and also a letter from the Admiralty, announcing that notice had been given by the French Admiral of the blockade of the Elbe, Eider, Weser, and Jahde; and Mr. Hammond was pleased to request that I would take the same into my immediate consideration, and if I should be of opinion that the notice is sufficient, prepare a form of notification to be inserted at once in a Supplement to the "London Gazette."

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That I have prepared a notification for insertion in the "London Gazette," that no time may be lost in giving merchants notice that up to the 25th instant neutral vessels will be allowed to enter or depart from the four rivers.

With regard to the sufficiency of the notice of the French Admiral, I am not aware that it is the practice of the French Government to notify formally to neutral Governments the blockade of an enemy's port, and any communication which brings a blockade to the knowledge of merchants in a way which can leave no doubt in their minds as to the authenticity of the information has been held by our Prize Courts to be sufficient.

There is, however, some ambiguity in the telegram, which will probably be cleared up when the formal declaration of the blockade arrives which Her Majesty's Ambassador at Berlin has sent by Her Majesty's ship "Rainbow." It will be of importance to ascertain whether the days of grace are exclusive of the 25th instant or will include it.

I have, &c.
(Signed) TRAVERS TWISS.

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Inclosure in No. 60*.

*Draft Notification.*

IT is hereby notified that the Right Honourable Earl Granville, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, has received a communication from Her Majesty's Ambassador at Berlin that the Admiral of the French fleet off Heligoland has requested the Governor of Heligoland to notify, through Her Majesty's Consular Agents in Hamburgh, Cuxhaven, and Bremerhaven, the blockade of the Rivers Eider, Elbe, Weser, and Jahde, to take effect in ten days from the 15th instant, and that up to such time neutral vessels may enter or depart.

*Foreign Office, August* , 1870.

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### No. 61*.

*The Queen's Advocate to Earl Granville.—(Received August 18.)*

*Temple, August* 18, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed to transmit to me therewith a despatch from Lord Lyons, containing the official notice of blockade, as published by the Ministry for Foreign Affairs, which varies in an important particular from the telegraphic notices I have had before me; and Mr. Hammond was pleased to request that I would take the same into immediate consideration, and report to your Lordship my opinion as to the course which, under the circumstances, should be pursued.

In obedience to your Lordship's commands I have the honour to report—

That I have prepared a form of notification for immediate publication in the "London Gazette." It will be advisable, in case that any British vessels may have been misled by the previous notice, issued in conformity with the telegraphic communication from Her Majesty's Ambassador at Berlin, that the Governor of Heligoland should be instructed to forward immediately a copy of the letter which he received from the Admiral of the French fleet, requesting him to communicate the blockade to the British Consular Agents in Hamburgh, Cuxhaven, and Bremerhaven.

I have, &c.

(Signed) TRAVERS TWISS.

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### Inclosure in No. 61*.

*Draft Notification.*

*Foreign Office, August* , 1870.

IT is hereby notified that the Right Honourable Earl Granville, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, has received from Her Majesty's Ambassador in Paris a copy of the official notification of the blockade of the coast of Prussia and the German States on the North Sea, issued by Vice-Admiral Fourichon, commanding-in-chief the French fleet stationed off that coast, which declares as follows:—

"That from the 15th August, 1870, the coast of Prussia and the North German Confederation, extending from the Island of Baltrum to the north of the Eider, with its ports, rivers, havens, roads, and creeks, is kept in a state of effective blockade by the naval forces under our command, and that friendly or neutral vessels will be allowed a delay of ten days to complete their lading and quit the blockaded ports.

"The geographical limits of the blockade are:—The meridian of 5° (five degrees) of east longitude of Paris, as far as the parallel of 54° 5′ (fifty-four degrees five minutes) of north latitude; the parallel as far as the longitude of 5° 45′ (five degrees forty-five minutes) of Paris; thence the meridian of 5° 45′ (five degrees forty-five minutes), as far as the parallel of 54° 20′ (fifty-four degrees twenty minutes) of latitude; and, finally, this last parallel to the coast. Every vessel that shall attempt to violate the said blockade shall be proceeded against in conformity with the law of nations and the Treaties in force with neutral Powers.

"On board the 'Magnanime,' iron-plated frigate of the Emperor of the French, stationed between the British Island of Heligoland and the Prussian coast.

"*August* 12, 1870.

(Signed) "FOURICHON, *Vice-Admiral and Commander-in-chief*."

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they owe allegiance. Such unfairness is not at present clearly imputable to the French Government, but, if there is reason to apprehend that they are about so to act, we think it would be matter for strong remonstrance on the part of Her Majesty's Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 61.

*The Queen's Advocate to Earl Granville.*—(*Received August* 23.)

*Temple, August* 22, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 20th instant, stating that he was directed by your Lordship to transmit to me a despatch from Lord Lyons inquiring what instructions he should give to Her Majesty's Consuls in France with respect to cases similar to that of the cargo on board the ship "Meta," as described by Mr. Vereker in the despatch of which a copy was sent home by Lord Lyons.

A letter was also inclosed from the Board of Trade on the same subject, and Mr. Odo Russell was pleased to request that I would take the accompanying papers into consideration, and report to your Lordship my opinion as to the instructions which should be furnished to Lord Lyons in this matter.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the ordinary course in cases of capture is for the master of the ship, in the absence of any agent of the owner of the cargo, to make a claim on his behalf, but it appears to have been the practice during the late civil war in the United States of America for British Consuls to intervene, and file claims in their official character for the owners of the cargo when British subjects. Under what special instructions this practice obtained I am not aware. There may have been exceptional reasons to justify it, such as the distance of the ports of adjudication from England, and the difficulty of communication with the owners of cargo. Under the circumstances of the present war, I do not think it would be advisable to give such instructions to Her Majesty's Consuls in France, as the means of communication with England are easy. If, however, it should be the practice of the French Prize Tribunals not to allow the master of the captured ship to communicate with the owners of the cargo, but, as in the present case, to communicate the capture officially to the Consul of the neutral State of which the owner of the cargo is a subject, then I think that Her Majesty's Consuls might be properly instructed to communicate all captures, when so announced to them, to the owners of the cargo, and to inform them that it will be their duty to appear before the Prize Tribunal, specifying in what place, by their agent for their interest in the cargo. It will be for the Prize Tribunals to decide what proofs of neutral ownership they will require to satisfy them that the cargo in each case is exempted from condemnation by the Declaration of Paris of 1856.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 62.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 23.)

*Temple, August* 23, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th August instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Treasury (dated August 18) and its inclosures, respecting an application from Mr. Moss for information whether he, as a broker, and Mr. Thompson, as owner of a steam collier, would be guilty of an infringement of neutrality in effecting a sale of that vessel to the French Government, and to request that we would take the case into our consideration and favour your Lordship with our opinion upon it.

1870

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That it does not appear to us to be the duty of Her Majesty's Government, nor of ourselves as Law Officers, to advise private traders as to the legality or otherwise of future or contemplated commercial transactions. It is obvious that the correctness of the answer to questions of this description must depend upon a knowledge of all the circumstances of each transaction, which are known to the inquirer, but which are not known, and in many cases will be concealed from those who are asked to reply; and we think Her Majesty's Government cannot be too cautious in answering questions of this sort, nor too firmly resolved not to take upon themselves the responsibility of advising private traders as to their conduct, a responsibility which we cannot think properly attaches to the Government, and which private traders, honest and dishonest alike, will seek to fasten on the Government.

We think that Messrs. Moss and Thompson may properly be informed that it is no part of the duty of the Executive Government to interpret the laws, and that the Secretary of State must decline to do so. That Messrs. Moss and Thompson must conduct their commercial transactions on their own responsibility, and guided by that legal advice which in any other important matter it would be open to them, and prudent for them, to obtain.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 63.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 23.)

*Temple, August* 23, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that the French Ambassador had called your Lordship's attention, as we would see by the inclosed correspondence, to a notification of the Prussian Government for engaging ships privately armed in the war-service of the North German Confederation.

That Her Majesty's Ambassador at Berlin had not up to that time sent home a copy of the notice, but that he (Mr. Hammond) inclosed a translation of it as received from the Swedish Minister at the English Court.

And that he was to request that we would take the matter into our immediate consideration, and, at our earliest convenience, report our opinion as to the character of the notice, with reference to the renunciation by Prussia, under the Declaration of Paris, of the employment of privateers, and as to the course which Her Majesty's Government should take in the matter.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we think that there are substantial distinctions between the proposed naval volunteer force sanctioned by the Prussian Government and the system of privateers ("la course") which the Declaration of Paris (1856) was intended to suppress. The vessels, as far as we can judge, will be, for all intents and purposes, in the service of the Prussian Government, and the crews will be under the same discipline as the crews on board vessels which belong permanently to the Federal navy. This being so, and while it so continues, Her Majesty's Government cannot object to the Decree of the Prussian Government as infringing the Declaration of Paris.

It may be proper, however, to call the attention of the Prussian Government to the Declaration of Paris, and to express the hope and belief of the English Government that Prussia will take care to prevent, by stringent instructions, any breach of that Declaration, and to inform M. de Lavalette that this has been done.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 64.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 26.)

*Temple, August* 26, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that as British subjects having establishments in France frequently apply to your Lordship for information as to the course they should pursue for the protection of their property and for obtaining exemption from military requisitions, which might be made upon their property by the belligerents, he was to request that we would inform your Lordship whether the answer to be returned to such applications should be "that British subjects in France are not entitled to any special protection for their property or to exemption from military contributions, to which they will be liable in common with the inhabitants of the place in which they reside, or in which their property may be situate," or whether we would suggest any other general answer.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we would suggest the insertion in the answer of the words "having property" before the words "in France," so that it may be understood that the property of British subjects situated in France will be liable to contribute to belligerent requisitions, whether the owners are resident or not in that country. In other respects we think the answer proper for the purpose.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 65.

*The Queen's Advocate to Earl Granville.*—(*Received August* 30.)

*Temple, August* 30, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th instant, stating that he was directed by your Lordship to transmit to me therewith a despatch from Lord Lyons, explaining an arrangement which the British owners of the cargo of a captured German vessel are desirous of making for obtaining the services of that vessel when condemned for the conveyance of the cargo to its place of destination, and Mr. Hammond was pleased to request that I would take the same into my immediate consideration, and report my opinion as to the instructions to be given to Lord Lyons, to whom several similar applications have been made.

In obedience to your Lordship's commands I have taken this matter into my consideration, and have the honour to report—

That this is not a matter in which Her Majesty's Ambassador can properly interfere. The question raised by the Secretary of Lloyds' Association is within the competency of the Prize Court alone to determine, which has to adjudicate upon the capture, and the owners of the cargo must make an application to that Court if they believe it to be for their interest that the cargo should remain on board the vessel until the latter is condemned or sold. The view taken by the Association is novel, and argues some inexperience as regards the delays incidental to prize proceedings, and the expenses to which owners of property may be subject to whilst it remains in the custody of the Prize Court. The Secretary of Lloyd's may, if your Lordship pleases, be informed that if the application should be made and the Prize Court should accede to it, Her Majesty's Government will not be able to interfere if there should be great delay in the proceedings to condemn the vessel, or if the immediate sale of the vessel after condemnation should not be decreed, or should be made under conditions which would frustrate the scheme of the Association as regards the transport of the cargo.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 66.

*The Queen's Advocate to Earl Granville.*—(*Received September* 2.)

My Lord, *Temple, September* 2, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit to me a despatch from Lord Lyons containing documents connected with the composition and regulation of French Prize Courts, and to state that your Lordship concludes it would be desirable to publish these papers in the "London Gazette" for general information.

In obedience to your Lordship's commands I have the honour to report—

That I see no objection to the publication in the "London Gazette" of the Imperial Decrees of 9th May, 1859, and of 28th November, 1861, constituting the French Council of Prize. It is of importance that the British owners of cargo captured on board German vessels and the British Consular Agents should have information as to the nature of the Prize Tribunals, and the parties who are alone entitled to practice before them. But as regards the Règlement of 4th June, 1859, it is rather for the information of the members of the Council of Prize and the practitioners in the Courts than for general information.

Having made these observations, I leave it to your Lordship's judgment whether you will direct it to be printed as appendant to the Decrees.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 67.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 7.)

My Lord, *Temple, September* 5, 1870.

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Board of Trade, inclosing copy of a report from Her Majesty's Consul at Bordeaux, relative to the steps he had taken to facilitate the departure from that place of subjects of the German States; and he was to request that we would favour your Lordship with our opinion respecting the course Mr. Consul Hunt had pursued.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That this being a case of the saving of human life, we think the Consul was justified in giving every facility for the escape of those whose personal safety was in danger; and we certainly see no objection in the present case to Her Majesty's Consul sanctioning the engagement of the parties in question as extra hands on board the "Finchale." There was no fraud intended, or in fact worked against the local law, so as to render the protection thereby afforded to the parties in any way improper on his part.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 68.

*The Queen's Advocate to Earl Granville.*—(*Received September* 15.)

My Lord, *Temple, September* 14, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 13th instant, stating that he was directed to transmit to me the accompanying despatches from Her Majesty's Consul at Havre, relative to an intention alleged to be entertained of burning the warehouses at that port on the approach of the German forces; and to request that I would take these papers into my consideration, and report to your Lordship my opinion as to any instructions which should be addressed to Mr. Bernal in the matter, more especially with reference to the steps taken by him, as reported in his despatch of the 9th instant.

In obedience to your Lordship's commands I have the honour to report—

That I see no objection to the proposed action of the foreign Consuls in cataloguing the neutral property which is warehoused in Havre. The intention, if it is seriously entertained by the authorities of the place, of setting fire to the docks and warehouses on the approach of the German forces, would be utterly unjustifiable in my opinion, as such a step can be in no respect necessary for the effective defence of the town against hostile attack.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 69.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 16.)

My Lord, *Temple, September* 15, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Otway's letter of the 9th instant, stating that, with reference to our report of the 20th of April last, and to former correspondence relative to the compensation made by Her Majesty's Government to the French firm of Raband, Fraissinet and Co., for the loss of a cargo shipped by them on board the ship "Salama," which was captured and destroyed by Her Majesty's ship "Nymphe" as a slaver, he was directed by your Lordship to transmit to us therewith a report addressed to the Treasury by their solicitor on the subject, and to request that we would favour your Lordship with our opinion as to the correctness of Mr. Rothery's exposition of the law regarding the forfeiture of cargoes on board slave ships.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Rothery's exposition of the law regarding the forfeiture of cargoes on board vessels which have contravened the British Slave Trade Acts is, in our opinion, correct.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 70.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 20.)

My Lord, *Temple, September* 19, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating:—

1. That with reference to our letter of the 6th July and previous reports on the proposal, which originated with the United States' Government for the conclusion of a Convention for the protection of submarine telegraph cable, he was directed by your Lordship to transmit to us a memorial, which had been addressed to the Postmaster-General by the Chairmen of the principal Submarine Telegraph Companies, in favour of the neutralization of submarine telegraphs in time of war, together with a letter from Lord Monck on the same subject, and the correspondence which had passed between the Post Office and the Foreign Office with regard to it. That proposal appeared to go somewhat further than the Piracy Clause in the United States' draft Convention to which Her Majesty's Government had expressed their readiness to assent in the terms suggested in our reports of the 4th February and 18th May last, and, before taking any steps in the matter, your Lordship would wish to be furnished with our opinion as to the terms in which such a proposal could be made so as to guard against abandoning any right which it might be the interest of this country to reserve.

2. That our reports on the United States' proposal, together with the proposal itself, and our reports thereon, were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

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That we see no objection on principle to the neutralization of submarine telegraphs with a view to prevent their destruction in time of war, if their neutralization is to be complete, but the memorialists propose that submarine telegraphs should have the advantages of the neutral character, as regards their inviolability in time of war, without being subject to any corresponding obligation, such, for instance, as attaches to neutral territory, viz.: that it shall not subserve the purposes of either belligerent to the prejudice of his adversary.

Such an object can only be attained through means of an Œcumenical Convention; but Œcumenical Conventions on matters of maritime law, which are intended to continue in force notwithstanding war, must, in our opinion, be for the common interest of belligerents as well as neutrals, or at least the maintenance of them in time of war must not be attended with prejudice to any belligerent party, or they will cease to be respected by it.

We think that the memorialists should be prepared, if they wish their property to be invested with the inviolable character which attaches to neutral territory in time of war, to subordinate the use of it to the corresponding obligations of neutral territory as regards belligerent Powers.

The memorialists in the first place assume as a principle of international law, that submarine telegraphs connecting neutral territory would be at present respected by belligerents in time of war, but they entirely overlook the fact that the cables may be made an intermediate vehicle for conveying enemy's despatches, the right to intercept which, if they are discovered by a belligerent cruizer on board a neutral vessel on the high seas in its transit from one neutral country to another, is an incontrovertible principle of the law of nations.

We do not think that submarine telegraphs can properly be withdrawn from the operation of this principle without a general change in the present system of public law as applicable to enemy's despatches. For instance, the conveyance of instructions to the French fleet in the Baltic through the intermediate agency of the submarine cable from England to Denmark might have been attended with most prejudicial effects to the German arms, and it would have been in accordance with the principles of public law, as at present acknowledged, for the Germans to have disabled the cable, if it had been allowed to be used as a vehicle for conveying such instructions.

The memorialists have further entirely misapprehended the mischief which it would be to the interest of a belligerent to prevent as regards telegraphic cables connecting a neutral country with a belligerent country. "The belligerent Power, upon whose territory the cable terminates," is not the Power whose interests alone might be prejudiced by the abuse of the telegraph, his adversary might with reason object to secret communications passing from the neutral to the belligerent country, which at present, if they have any bearing upon the operations of the war, would be contraband, and he would have a right to intercept them.

The intercourse of maritime commerce is at present restricted by the right of visit on the part of the belligerent for the purpose of verifying its innocuous character, and for the purpose of preventing the growth of an unusual and abnormal intercourse which the existence of war quickens, if it does not altogether call it into action.

The argument also, upon which the memorialists justly lay stress, that all civilized nations have a common interest in the preservation of the various links in the chain of telegraphic communication, obviously will fail in time of war, unless the use of each link shall be so regulated that it should not conflict with the just rights of belligerents.

With regard to submarine telegraphs, which are the property of a belligerent Power, we fear that the circumstance, that their destruction would seriously injure the interests of neutral nations, does not make their case an exception to many other kinds of property, such, for instance, as railroads and telegraphs conducted overland. We need hardly point out that the proposal of the memorialists will go far to lessen the value of the right of blockade.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 71.

*The Queen's Advocate to Earl Granville.*—(*Received September* 26.)

*Temple, September* 24, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 23rd instant, stating that he was directed to transmit to me a letter from the British Vice-Consul at Dieppe inquiring whether, in the event of the German troops occupying Dieppe, the British residents would be liable to forced contributions, and whether any exemption would be made in favour of the British Vice-Consul, and to request that I would take this letter into my consideration, and furnish your Lordship, at my earliest convenience, with my opinion as to the answer which should be returned to Mr. Vice-Consul Jorhn on this subject.

In obedience to your Lordship's commands I have the honour to report—

That neither the British residents nor the British Vice-Consul at Dieppe can claim exemption from requisitions of war if they should be levied on that town by the Prussian armies.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 72.

*The Queen's Advocate to Earl Granville.*—(*Received October* 15.)

*Temple, October* 15, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed to transmit to me letters from the South Western Railway Company, the Admiralty, and Lloyds, respecting the interruption offered at Granville, Honfleur, and other ports to the ordinary traffic between those places and this country, and to request that I would take the matter into my consideration and report to your Lordship my opinion as to the course which should be pursued under the circumstances stated.

In obedience to your Lordship's commands I have the honour to report—

That the circumstances under which France is at present placed are so exceptional, that it will be difficult for your Lordship to deal with the grievances of the South Western Railway Company on ordinary principles, seeing that the action of the Provisional Government at Tours, on the assumption that it is, for the time being, to be regarded as the responsible Government of France, is paralyzed by the operations of the invading armies. There does not appear to have been, on any of the occasions specified, any indisposition on the part of the local authorities to protect the legitimate trade of the ports; on the contrary, they appear to have used their best efforts to maintain order, so that as regards the past the question would seem to resolve itself into one of damages, to be discussed hereafter with the French Government.

As regards the future, I fear that unless the Government at Tours is prepared to take the necessary steps to secure the safety of British merchant vessels which may resort to the ports in question, there is no alternative for the South Western Railway Company but to abandon their trade for a time with those ports. I cannot advise your Lordship, that under present circumstances, Her Majesty's Government would be justified in ordering a British vessel of war to proceed to Granville to embark British subjects, who may be coming there for embarkation, unless in common concert with the Provisional Government at Tours, and your Lordship would probably require further information as to the necessity of the case.

I have, &c.
(Signed) TRAVERS TWISS.

1870

## No. 73.

*The Queen's Advocate to Earl Granville.—(Received October* 19.)

My Lord,

*Temple, October* 12, 1870.

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 11th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Consul at Havre, requesting information upon certain points which do not seem to him clear in the instructions already furnished him in regard to the liability of British subjects in France to military requisitions by either of the contending parties; and to request that I would take Mr. Bernal's despatch into my consideration, and furnish your Lordship with my opinion as to the instructions which should be given to Her Majesty's Consul in reply to his inquiries.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Consul at Havre should be informed that, as regards belligerent requisitions, Her Majesty's subjects resident in France can claim no exemption from them in respect of their personal property any more than their real estate.

With regard to the resistance on behalf of Her Majesty's subjects to forced loans and requisitions, which Mr. Bernal reports himself to have successfully maintained when he filled the post of Her Majesty's Consul at Carthagena, in the Republic of New Granada, your Lordship may probably think it right to inform him that such exemption was matter of Treaty engagement between Great Britain and the State of New Granada, and on that ground was rightfully insisted upon by Her Majesty's Consul.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 74.

*The Queen's Advocate to Earl Granville.—(Received October* 17.)

My Lord,

*Temple, October* 17, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that, with reference to his letter of the same day's date, he was directed to transmit to me, for my consideration, a despatch and its inclosures from Her Majesty's Consul at Havre, on the subject of the riotous proceedings at Honfleur with the view to prevent the exportation of provisions to this country.

In obedience to your Lordship's commands I have the honour to report—

That there appears to be no indisposition on the part of the local authorities at Honfleur to protect the lawful trade of the port, but they are powerless in consequence of a panic amongst the lower classes, which excites them to oppose by violence the exportation of food in any form to England. If this opposition is directed against British vessels only, it would be a breach of the Treaty of Commerce (January 23, 1860) between the two countries, but I apprehend that the violence of the lower classes is indiscriminate, and that the authority of law is for the moment trampled under foot. Under these circumstances, the normal course would be for your Lordship to direct Her Majesty's Ambassador at Tours to call the attention of the Provisional Central Government at Tours to the proceedings of the rioters, and to request its effective interference to protect the trade of British subjects. If the Central Government, however, should declare itself to be unable to control the rioters effectively, I am of opinion that no other course can well be adopted for the present by your Lordship than to advise the South Western Railway Company to discontinue their trade with Honfleur until your Lordship is informed that effective protection will be afforded to their vessels by the Central Government. There does not appear at present to be any danger of life to British subjects at Honfleur apart from their endeavouring to procure the export of food from that port to England.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 75.

*The Queen's Advocate to Earl Granville.—(Received October* 20.)

My Lord,

*Temple, October* 20, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed to transmit to me a despatch from Lord Lyons, forwarding correspondence with Her Majesty's Consul at Cherbourg relative to the formation of an Irish Legion at that port, and to request that I would take the papers into my consideration, and inform your Lordship whether the instructions given to the Consul by Lord Lyons are, in my opinion, right and proper.

In obedience to your Lordship's commands I have the honour to report—

That the instructions given to Her Majesty's Consul at Cherbourg by Lord Lyons are, in my opinion, perfectly right and proper.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 76.

*The Queen's Advocate to Earl Granville.—(Received October* 26.)

My Lord,

*Temple, October* 25, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed to transmit to me the inclosed correspondence, which has been received from the Lord Advocate of Edinburgh and the Admiralty, with reference to the arrival in the Frith of Forth of French war vessels with German prisoners on board, and to request that I would take this matter into my consideration, and furnish your Lordship, at my earliest convenience, with my opinion on the question therein raised, and to which attention is drawn by the Consul of the North German Confederation as to the position of such prisoners with reference to the neutral attitude of this country in the present war.

In obedience to your Lordship's commands I have the honour to report—

That the French war ship had a right to enter the Frith of Forth, and remain there during such time and for such purposes as are allowed to belligerents in the present war under Her Majesty's Proclamation.

With regard to the assertion of the North German Consul at Leith that the German prisoners on board the French vessel were *ipso jure* free, as she was in neutral waters, there is no warrant in the law of nations for such a position. So long as the prisoners remained on board the French war-ship, they were under French jurisdiction, and the neutral authorities had no right to interfere with them. If they had been landed from the war-ship, the question raised would have been different, as they would have passed out of French jurisdiction and have become practically free. For an exposition of the general principles which govern such cases, I may refer your Lordship to the opinion of the Attorney-General of the United States in the case of Her Majesty's ship "President," which entered the Bay of San Francisco on November 25, 1854, accompanied by a Russian prize, the "Sitka," on which occasion the Attorney-General held that the United States had no jurisdiction over the prisoners on board the "Sitka." ("Opinion of Attorney-General of United States," vol. vii, p. 123.)

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 77.

*Thr Queen's Advocate to Earl Granville.—(Received November* 5.)

My Lord,

*Temple, November* 5, 1870.

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 2nd instant, stating that, with reference to my letter of the 23rd February last, he was directed to transmit to me a further despatch which your Lordship has received from Her Majesty's Consul at Réunion upon the question of compulsory service of British subjects in the local militia, together with the former correspondence on this subject, and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the instructions which should be given to Consul Segrave upon this matter.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Consul at Réunion should be instructed that, so long as the employment of the militia of Réunion is limited to the defence of the island from foreign invasion, natural-born British subjects who are domiciled in Réunion cannot claim of right exemption from serving in the militia, if the duty of so serving is imposed upon them by the municipal law.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 78.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 10.)

My Lord, *Temple, November* 9, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating:—

1. That with reference to our Report of the 26th August last, on the question of protection to be afforded to British subjects having establishments in France, and their exemption from military requisitions which might be made upon them by the belligerents, he was directed by your Lordship to transmit to us the accompanying despatch and its inclosures, received from Lord Lyons, respecting a representation which had been addressed by the manager of Messrs. Betts and Co.'s capsule manufactory at Bordeaux to Her Majesty's Consul at that place (and by whom they had been referred to Her Majesty's Ambassador), in consequence of a threatened requisition by the French authorities, in the event of their refusing to accede to their demand that Messrs. Betts should manufacture capsules for warlike purposes for the French Government at their Bordeaux establishment.

2. That although your Lordship entertains little doubt that this is not a case for the interference of Her Majesty's Government, your Lordship would be glad to be favoured with our opinion as to the answer which it may be proper to return to the applicants.

In obedience to your Lordship's commands we have the honour to report—

That the applicants should be informed that they cannot claim to be in a more favourable position in respect of their manufactory at Bordeaux than French citizens would be entitled to in respect of similar manufactories in France; and that as they participate freely with French citizens in the advantages of French territory in time of peace, they must share equally with them the burdens which the defence of that territory imposes upon them in time of war.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 79.

*The Queen's Advocate to Earl Granville.*—(*Received December* 2.)

My Lord, *Temple, December* 1, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed to transmit to me the accompanying despatch and its inclosures from Her Majesty's Consul at Havre, representing that certain British subjects at Dieppe have been called upon to serve in the French National Guard, and that they are very anxious to have the question as to their liability to serve settled authoritatively; and he was to request that I would take their case into consideration, and furnish your Lordship, at my early convenience, with my opinion upon this matter; and further whether the fact that the National Guard is liable to be called upon by the French authorities to serve in the field, thus bringing the British subjects enrolled in that force in collision with the forces of a friendly

Power, notwithstanding Her Majesty's declaration of neutrality, has any bearing upon the merits of this question.

In obedience to your Lordship's commands I have the honour to report—

That, before reporting to your Lordship on the general principles of international law applicable to this question, I should wish to be informed what are the precise provisions of the law of France to which reference is made in Mr. Jorten's letter, as requiring persons of any nation to defend the town of Dieppe or to leave it, and whether such law was in force when the three British subjects in question took up their residence in France or has been passed subsequently; also under what circumstances the three British subjects are residing at Dieppe, whether they must be taken to have acquired by the law of nations a French domicile or not.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 80.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 14.)

My Lord, *Temple, December* 14, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating—

1. That he was directed by your Lordship to transmit to us the inclosed letter from the French Chargé d'Affaires at this Court, referring to certain communications which had passed between the Government at Tours and that of Prussia on the subject of the hostages which had been detained by the Prussian authorities for the officers and crews of German merchant-vessels captured during the present war, and requesting the intervention of Her Majesty's Government in conveying to that of Prussia the remonstrance of the French Government on that subject.

2. That he was to state to us that, before communicating with Her Majesty's Ambassador at Berlin on that subject, your Lordship would be glad to be favoured with our opinion upon the question raised between the two Governments.

3. That further papers upon that subject were annexed for our more complete information.

In obedience to your Lordship's commands we have the honour to report—

That the French Government is of right entitled to treat the crews of the captured vessels belonging to the enemy's mercantile marine as prisoners of war. Such was the practice in the last century, as your Lordship will find on referring to the Cartel for the exchange of prisoners concluded between France and England on 12th March, 1780 (Martens' "Recueil," III, p. 302). Your Lordship will also find on referring to the joint instructions issued to the commanders of the ships of war of Her Majesty and the Emperor of the French on 10th May, 1854 (Martens' N. R., XV, p. 594), that they are directed "to treat as prisoners of war all persons whatever who may be found on board the enemy's vessels, with the exception of women, children, and persons not belonging to the military or naval profession." The practice of France in the present war, which Count Bismarck so strongly denounces, would thus appear to be in perfect accordance with precedent, and so far does not warrant, in our opinion, reprisals of the kind adopted by the Prussian Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 81.

*The Queen's Advocate to Earl Granville.*—(*Received December* 15.)

*Temple, December* 14, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed to transmit to me the accompanying despatch and its inclosures from Her Majesty's Consul at Havre, reporting that a blockade of the River Seine has been established by the French authorities at that port, and to request that I would furnish your Lordship with

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my opinion whether the notification made to Mr. Consul Bernal is of sufficient authority to warrant its publication in the "Gazette," and, if so, that I would draw up a notice for publication.

In obedience to your Lordship's commands I have the honour to report—

That it would not be advisable, in my opinion, for your Lordship to treat the notice of the closing of the navigation of the Lower Seine, issued by order of the Commandant of the Military and Naval Division of that Department, as a formal notification under the authority of the Provisional Government of France of a belligerent blockade, such as would justify the condemnation of neutral vessels attempting to enter or leave that river. That the French authorities would be entitled to establish a belligerent blockade of the Lower Seine under the circumstance that Rouen is in possession of the enemy, with a view to prevent the entrance or exit of all vessels, cannot be questioned, but as matters stand at present, I think your Lordship may properly require that British vessels seeking to enter or leave the river should be individually warned, and should only be captured in case they should attempt, after warning, to enter or leave the river.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 82.

*The Queen's Advocate to Earl Granville.*—(*Received December* 15.)

My Lord,
*Temple, December* 14, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 10th instant, stating that, with reference to my report of the 6th August last, he was directed to transmit to me a letter and its inclosure from Messrs. Benbow and Saltwell soliciting a reconsideration of the decision arrived at by your Lordship in accordance with that report, with regard to the estate of the late Mrs. Kozminska, deceased at Havre, and to request that I would take these papers into my consideration and report to your Lordship whether there is anything in their contents to change the opinion already expressed by me with respect to this case. The previous papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That under the circumstance now stated, that General Frome has obtained letters of administration to the effects of Mrs. Kozminska from an English Court of Probate, if such be the meaning of the last paragraph in the letter of Messrs. Benbow and Saltwell, of November 29, Her Majesty's Consul at Havre may be properly instructed to assist General Frome in obtaining his recognition by the French authorities as the legal representative of the deceased according to English law. But if any question should be raised by the French authorities respecting the domicile of the deceased, Her Majesty's Consul should refer to your Lordship for further instructions. I may add that the question of British or French domicile in this case is of importance rather as regards the form of proceeding than the substance of the succession, as it appears at present that the same parties would be entitled, under either system of law, to share in the distribution of the effects of the deceased.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 83.

*The Queen's Advocate to Earl Granville.*—(*Received December* 19.)

My Lord,
*Temple, December* 19, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed to acquaint me that the following telegram has been received from Her Majesty's Ambassador in France, dated Bordeaux, December 15, 4 P.M., and received yesterday:—

"I have received to-day (Thursday) the following, dated yesterday, from Count Chaudordy:—'Par suite de l'occupation des ports de Rouen, Dieppe, et Fécamp par les troupes Allemandes, commandants de nos forces navales ont reçu l'ordre d'établir le blocus des ports à dater du 13 de ce mois. Ce blocus sera successivement étendu à tous les ports de nos côtes qui pourraient tomber au pouvoir de l'ennemi.'"

Mr. Hammond was pleased to request, if this notice of blockade should appear to me sufficient, that I would prepare a draft notification thereof for publication in the "London Gazette."

In obedience to your Lordship's commands I have the honour to report—

That the communication made to Her Majesty's Ambassador in France by the Comte de Chaudordy is of sufficient authority to justify your Lordship in making it publicly known, as far as the three specified ports are concerned.

Whether those ports are in fact blockaded in the manner required under the Declaration of Paris to render the blockade of them binding upon neutrals, is a question upon which Her Majesty's Consuls at those ports may be properly instructed to report to your Lordship, as far as they have the means of ascertaining such a fact.

I would observe that the communication made to Her Majesty's Consul at Havre by the Commandant of the Military and Naval Division of the Lower Seine, if it is to be interpreted with due regard to the subsequent communication made to Her Majesty's Ambassador in France, must be construed under limitations, which still leave the ports of Havre and Honfleur open to neutral commerce.

I have, &c.
(Signed) TRAVERS TWISS.

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### Inclosure in No. 83.

*Notification.*

*Foreign Office, December* , 1870.

IT is hereby notified that the Right Honourable Earl Granville, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, has received from Her Majesty's Ambassador in France the copy of an official communication from the Comte de Chaudordy, announcing that in consequence of the occupation of the ports of Rouen, Dieppe, and Fécamp by the German forces, the Commander of the French Naval Forces had received an order to establish a blockade of the said ports from the 13th day of the present month.

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## No. 84.

*The Queen's Advocate to Earl Granville.*—(*Received December* 20.)

My Lord,
*Temple, December* 20, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 19th instant, stating that, with reference to my report of the 14th instant relative to the blockade of the Seine by the French authorities at Havre, he was directed to transmit to me a despatch from Her Majesty's Consul at that port, inclosing a further notice issued by the French authorities, and to request that I would furnish your Lordship with my opinion whether the notice in question calls for any action on the part of Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That the notice in question does not, in my opinion, call for any action on the part of Her Majesty's Government.

Mr. Bernal, however, should be instructed to report in what manner the blockade of Rouen is maintained, so as to be effective consistently with this notice.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 85.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 26.)

My Lord,

*Temple, December* 26, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that with reference to the intended departure from Greenhithe on the 21st instant of the British vessel "International" for the purpose, as was alleged by Count Bernstorff, of laying a telegraph cable on French account, and which vessel, in consequence of our report of the 20th instant, had been ordered to be detained, he was directed by your Lordship to transmit to us an accompanying letter from the Chairman of the Submarine Telegraph Company, stating the circumstances under which that Company were in expectation of receiving an immediate request from the French Director of Telegraphs to lay down a new cable between the English and French coasts, the English Company having the monopoly of telegraphic communication between the two countries; and, further, stating that Mr. Hammond was to request that we would favour your Lordship at our earliest convenience with our opinion whether by carrying out the project in question, or any similar undertaking between England and France, the Company would be acting in violation of the Foreign Enlistment Act of 1870.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That Her Majesty's Government have on previous occasions declined to give opinions as to what acts might, or might not, under hypothetical circumstances constitute a breach of the law. We advise that Sir J. Carmichael be informed of this, and that Her Majesty's Government are unable to say more than that they regard any assistance given by Her Majesty's subjects to the French Government in the establishing of telegraphic communication for military purposes as un-neutral conduct, to which they can give no sanction; that they do not feel able to judge from the facts stated what the precise object or effect would be of the operation contemplated. It occurs to them, however, to observe that under present circumstances much suspicion must arise (to say the least) that telegraphs laid down at the instance of the French Government have some connection with military purposes.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 86.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 30.)

My Lord,

*Temple, December* 30, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th instant, stating that, with reference to our report of the 26th instant, respecting an anticipated application from the French Director of Telegraphs to the Submarine Telegraph Company to lay down a new cable between the English and French coasts, he was directed by your Lordship to transmit to us the accompanying letter from the General Post Office, to which department your Lordship had caused that matter to be referred, and in which were stated the reasons for which, in order to carry out practically the proposed undertaking, such an extension of the telegraphic wire would be required as would of necessity connect Her Majesty's Government with the transaction, which, in the opinion of the Postmaster-General, was only necessitated by the military requirements of the French Government. And that he was accordingly to request we would favour your Lordship with our further opinion on this case from the point of view thus taken by the Postmaster-General.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That two separate questions appear to us to arise upon these papers as to which somewhat different considerations may apply. The first question is, whether Her Majesty's Government should give any encouragement to the laying of the proposed cable by a promise or by holding out expectations of themselves connecting the cable with the system of English telegraphs now under Government control. To this we

## No. 87.

*The Law Officers of the Crown to the Earl of Clarendon.*

My Lord,

*Temple, June* 11, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed to transmit to us the accompanying correspondence with the Home Office and Memorandum respecting the terms on which certificates should be granted and passports issued to aliens naturalized within the United Kingdom under the recently passed Naturalization Act, 33 Vict., cap. 14. That we should observe that the following points are raised in these papers:—

1. Whether the present system should be continued under which certificates of naturalization lapse, if the naturalized alien is voluntarily absent from the United Kingdom for a period of six months without the written licence of the Secretary of State.

2. Whether, if this system is abandoned, any and what qualifications should be inserted in the certificates to be granted under the new Act.

3. Whether passports granted to persons naturalized since 1858, and previously to the passing of the Act, should continue to be limited to six months, and if not, whether any and what limitations should be inserted in them.

4. Whether any and what limitations should be inserted in passports issued to persons naturalized under the new Act.

Mr. Hammond was pleased to state that your Lordship would be glad to be favoured with our opinion upon these points, as well as with any other observations we might have to offer upon the subject. A copy of the Report of the Naturalization Commission was annexed for reference, together with a copy of the Naturalization Treaty with the United States signed on the 13th ultimo. Mr. Hammond further stated that your Lordship would wish to know whether, as, should that Treaty be ratified, citizens of the United States naturalized within the British dominions would become British subjects absolutely, they would be entitled to the same privileges in regard to passports as natural-born British subjects.

In obedience to your Lordship's commands we have the honour to report—

On the first point, that the qualification in respect of time, which has been in use in the case of persons naturalized under the Statute of 1858, ought not to be continued in the case of persons naturalized under the new Statute.

On the second point, that no qualification in respect of time should be inserted in the certificates of persons to be naturalized under the new Statute.

On the third point, that, in the case of persons naturalized previously to the passing of the new Statute, if they do not avail themselves of the opportunity given to them of obtaining certificates under the 7th clause of the new Statute, the same qualification, as heretofore in use, should be inserted in any passports to be issued to them.

On the fourth point, that no limitation should be inserted in the passports to be issued to persons naturalized under the new Statute other than what is provided in the 7th clause of that Statute, and for that purpose we think it would be convenient that the certificate of naturalization should specify the foreign State of which the party applying for the certificate is at such time a subject.

In case the Treaty concluded with the United States should be ratified, we are of opinion that all citizens of the United States, who shall become naturalized in the United Kingdom under the new Statute, would be entitled to the same privileges in regard to passports as may be enjoyed by natural-born subjects of the Queen. We may add, that we concur in the observations of Lord Tenterden contained in one of the papers sent to us, so far as those observations relate to the questions asked of us in Mr. Hammond's letter.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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have no hesitation in answering that we think no such encouragement can properly be given by this country consistently with the preservation of a fair neutrality. The second question is, whether Her Majesty's Government, declining to connect the cable if laid with the system of English telegraphs, should further interfere to prevent the laying of the cable itself.

And we are of opinion that it should so interfere. We gather from Mr. Scudamore's letter that the cable is really wanted, and would be employed almost exclusively for French military purposes, possibly as an indirect means of communication through this country between the different armies of France, and that but for the exigencies of war the cable would in all probability never have been required.

It appears to us, if Mr. Scudamore is correct in his view (which we see no reason to doubt), that even the indirect encouragement given by the Government not making use of its legal powers to prevent the laying of a cable likely to be used for such purposes would be inconsistent with a fair neutrality, and is a course therefore which we are unable to advise Her Majesty's Government to take.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## GENERAL.

### No. 87.

11th June.—[Naturalization Act.]

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### No. 88.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 16.)

*Temple, July* 16, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that Her Majesty's Government have received intelligence that France has declared war against Prussia, and that Her Majesty, having resolved to maintain the strictest neutrality in the hostilities, which may at once be expected to ensue, he was directed by your Lordship to request that we would immediately prepare a draft of Proclamation to be submitted for Her Majesty's approval in Council, notifying her resolution; and also a draft of a letter to the Board of Admiralty, Treasury, Colonial Office, War Office, and India Office, announcing Her Majesty's resolution. To facilitate the

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preparation of these documents, Mr. Hammond was pleased to transmit to us the documents of the same kind issued on the breaking out of war between Austria, Prussia, Italy, and the Germanic Confederation in 1866, and the announcement of hostilities between those Powers, which, however, we should observe, have not actually commenced at this moment between France and Prussia.

In obedience to your Lordship's commands, we have the honour to report—

That we have made such alterations in the forms sent to us of Her Majesty's Proclamation, and of the letter to be addressed to the Departments specified, announcing Her Majesty's resolution of neutrality, as appear to us necessary to adapt those forms to the state of war, though not of actual hostilities, now existing between France and Prussia.

We have, &c.
(Signed), R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 89.

*The Law Officers of the Crown to Earl Granville.—(Received July 21.)*

My Lord, *Temple, July* 21, 1870.

WE are honoured with your Lordship's commands, signified in Mr. Hammond's letter of the 20th instant, stating that he was directed to transmit to us a letter from the Treasury, inclosing a letter from the Commissioners of Customs, relative to the shipment of arms for France, and requesting to be informed whether general instructions on the subject should be issued to the Board of Customs. The draft of the answer, which your Lordship proposes to return to the letter from the Treasury, was also inclosed, and Mr. Hammond was pleased to request that we would furnish your Lordship with our opinion at our earliest convenience as to whether this reply is right and proper.

In obedience to your Lordship's commands, we have the honour to report—

That the Cabinet, having determined not to put in force the 150th section of the Customs' Consolidation Act, we are of opinion that the reply of your Lordship is right and proper.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 90.

*The Law Officers of the Crown to Earl Granville.—(Received July 21.)*

My Lord, *Temple, July* 21, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us a letter from the Admiralty inquiring whether a sale of naval stores, which it was proposed to hold at Portsmouth next month, could be construed as a departure from the strict neutrality between France and Prussia enjoined by Her Majesty's Proclamation, and he was to request that we would take the matter into our immediate consideration, and furnish your Lordship with our opinion as to the reply that should be given to the Board of Admiralty.

In obedience to your Lordship's commands we have taken the matter into our consideration, and have the honour to report—

That we are of opinion that your Lordship may properly reply to the Board of Admiralty that the proposed sale could not be reasonably construed as any departure whatever from the strict neutrality enjoined by Her Majesty's Proclamation.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 91.

*The Law Officers of the Crown to Earl Granville.—(Received July 26.)*

My Lord, *Temple, July* 25, 1870.

WE are favoured with your commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us an inclosed letter from the Southampton Agents of the North German Lloyds Ocean Mail-Steamers, in which the question was raised as to the light in which colliers chartered in London, for the purpose of following the French fleet, and supplying them with coal (and thus rendering them assistance against German vessels), would be regarded with reference to the terms of the Neutrality Proclamation; and that he was to request that we would take that letter into our consideration, and favour your Lordship with our opinion upon the subject, and whether any, and, if so, what steps should be taken by Her Majesty's Government to meet the case.

In obedience to your Lordship's commands we have taken the said letter into our consideration, and have the honour to report—

That, although the exportation of coal is not generally prohibited, the exporters being warned that, if it be supplied to either belligerent, they run the risk of capture, we are of opinion that, if colliers are chartered for the purpose of attending the French fleet and supplying them with coal to enable them to pursue their hostile operations, such colliers become "store-ships" employed in their service, and (if this fact be established) that they should be detained under the provisions of the Foreign Enlistment Act. We should advise the institution of immediate and searching inquiry.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 92.

*The Law Officers of the Crown to Earl Granville.—(Received July 28.)*

My Lord, *Temple, July* 28, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that he was directed to transmit to us an accompanying letter from the Privy Council Office, and its inclosures from the Board of Trade and Trinity House, on the subject of the employment of pilots by the ships of war of either of the belligerents, and that he was to request that we would take those papers into our immediate consideration and favour your Lordship with our opinion as to the propriety of the reply of the Board of Trade to the Trinity House communication, and also of the Circular referred to in Mr. Farrer's letter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That the Trinity House have sanctioned, subject to the opinion of the Board of Trade, the employment of pilots in "English waters," which we understand to mean "British waters." The reply of the Board of Trade authorizes their employment in "neutral waters," an expression which would apply to all waters other than French or Prussian, and would include (among others) Danish waters. We are clearly of opinion that the sanction should be confined to "British waters," and that in the strict sense of English ports, and sea within three miles of the shore, not in the wider sense in which the term is sometimes used. But, having reference to the Foreign Enlistment Act now before Parliament, and which may be passed in a few days, we think that no sanction can be safely given to pilots to do more than to navigate French vessels in or out of British ports or roadsteads when they are not at the time engaged in any hostile operations. We use the qualification "hostile" to exclude the case of a French ship of war being navigated into a British port in order to lie in wait for Prussian merchantmen, or out of a British port to capture them, or such use as French ships might make of our waters at Heligoland. We think it at the least questionable whether a pilot who enables a French ship of war to shorten her way to the Baltic by passing through our roadsteads, instead of going by the open sea, does not contravene the provisions of the 2nd section of the existing Foreign Enlistment Act.

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We think it clear that he does contravene the provisions of the new Foreign Enlistment Bill as it is now drafted.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

I agree with the Attorney-General and Solicitor-General in their opinion that the sanction should be confined to "British waters." I am not sufficiently informed as to the Foreign Enlistment Bill before Parliament to form an opinion whether, if it becomes law, the sanction must be further limited as suggested by them.

(Signed) TRAVERS TWISS.

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## No. 93.

*The Law Officers of the Crown to Earl Granville.—(Received July 29.)*

*Temple, July* 29, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating that he was directed by your Lordship to transmit to us a letter from Messrs. W. and H. P. Sharp, inquiring whether the opening of a public subscription for the advance of money by loan to either of the belligerent Powers would be a violation of Her Majesty's Proclamation of Neutrality, and to request that we would furnish your Lordship with our opinion as to the answer that should be returned to this inquiry.

In obedience to your Lordship's commands, we have the honour to report—

That we are of opinion that the advance of money by British subjects on account, or for the benefit of either belligerent, is not a matter which the Crown can of its own authority prohibit, and probably considerable legal difficulty would be experienced in any attempt to enforce a criminal liability for such an act. But directly and substantially to assist either belligerent is a proceeding of which it appears to us that Her Majesty's Government cannot in any way approve, and which does not seem to us to be an observance of that strict and impartial neutrality which Her Majesty observes, and which Her Proclamation expresses that she desires her subjects to observe in like manner.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 94.

*The Law Officers of the Crown to Earl Granville.—(Received July 29.)*

*Temple, July* 29, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that, with reference to our reports of the 25th instant, he was directed by your Lordship to transmit to us two letters from the Treasury, inclosing reports from the Customs Officers in London and Liverpool, relative to the alleged employment of British colliers to supply the French fleet with coal, and the suspected negotiations for the purchase of ships to be employed for belligerent purposes on Prussian and French account at Liverpool, and that he was to request that we would take these reports into our consideration and furnish your Lordship with our opinion as to the course which should be pursued in the matters to which they relate.

In obedience to your Lordship's commands we have taken the said reports into our consideration, and have the honour to report—

That, in our opinion, the existing materials furnish no sufficient ground for active interference on the part of Her Majesty's Government, but it is obviously desirable that the Custom-house Officers should be directed to exercise the utmost vigilance, and to report immediately all information they can obtain to Her Majesty's Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 95.

*The Law Officers of the Crown to Earl Granville.—(Received August 3.)*

*Temple, August* 3, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that, with reference to our report of the 28th ultimo, and to his letter of that day, he was directed by your Lordship to transmit to us therewith a letter from the Board of Trade, inclosing the draft of notice which they propose to give, founded on our report, for the instruction of pilots; and he was to request that we would take the draft into our immediate consideration, and inform your Lordship whether it met our views and was right and proper to be issued.

In obedience to your Lordship's commands we have taken this draft into consideration, and have the honour to report—

That we have given our best consideration to the observations of the Board of Trade, and have suggested a slight alteration in the interpretation clause, which will, we think, remove the difficulty which they suggest.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 96.

*The Law Officers of the Crown to Earl Granville.—(Received August 3.)*

*Temple, August* 3, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that, with reference to your letter of the 28th ultimo, he was directed by your Lordship to transmit to us therewith a letter from the Board of Trade, proposing to delay issuing fresh instructions to the pilotage authorities until the new Foreign Enlistment Act had passed.

And that he had requested the Board of Trade at once to issue such instructions in conformity with our opinion as to what the law was, without waiting to see what it would be; but he was to call our immediate attention to the observations made by the Board of Trade on one of the clauses of the proposed Act.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That on the whole we think that the proposed instructions may be properly issued at once, and we do not see our way to safely extending them.

We suggest that, in order to prevent any appearance of unfriendliness to the French, there should be added words to this effect—"Ships-of-war in distress may always be piloted out of immediate danger."

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 97.

*The Attorney-General and Queen's Advocate to Earl Granville.—(Received August 5.)*

*Temple, August* 5, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us the Treaty concluded on the 19th April, 1839, between Great Britain, Austria, France, Prussia, and Russia, by the Ist Article of which the independence and neutrality of Belgium, as stipulated in the VIIth Article of the Treaty signed on the same day between the Netherlands and Belgium, is guaranteed by the five Powers; and further stating that he was to request that we would report our opinion at our earliest convenience whether such guarantee is joint or several, and whether the refusal or incapacity of one or more of

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the Guaranteeing Powers to act on the guarantee liberates the remaining Powers from the obligation to do so.

In obedience to your Lordship's commands we have considered this matter and have the honour to report—

That we are of opinion that if the Treaty is to be construed by the rules which govern the construction of contracts by the law of this country, the guarantee is a joint one. We must point out, however, that the only effect of this construction of a guarantee given by several persons is that the party entitled to enforce it has to sue all the guarantors jointly. He may enforce the whole of the debt or damages against any one guarantor, who in his turn is able to enforce contribution from his co-guarantors. The term joint guarantee by no means imports that the guarantee of each is conditional on all the others performing their contract, and that upon one or more refusing to do so the others are released. No such construction would be placed on any guarantee unless such an intention were clearly expressed in it.

Applying these rules of our municipal law (which we believe to be substantially in accordance in this respect with that of most civilized countries), we reply to Mr. Hammond's second question that the refusal or incapacity of one or more of the Guaranteeing Powers to act does not in our opinion liberate the remaining Powers from the obligation to do so.

We are quite sensible that other considerations than the strict rules of the municipal law of any country may be applicable to the construction of Treaties. We cannot help thinking, however, that to hold the obligation of each of the five Powers conditional on all the others fulfilling their obligations,—a proposition leading to the consequence that if France invaded Belgium, all the other Powers would be thereby released from their obligations to Belgium,—would be opposed to the real meaning of the Treaty on any sound principles of construction.

Whether in the event of none of the co-guaranteeing Powers choosing to co-operate with us, Belgium could reasonably expect Great Britain to undertake single-handed a war against great Continental Powers is a question into which other elements enter than the strict construction of the Treaty, and on which we do not presume to give an opinion.

We have, &c.
(Signed) R. P. COLLIER.
TRAVERS TWISS.

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### No. 98.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 5.)

*Temple, August* 5, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed to transmit to us therewith a letter from the Treasury inclosing a letter from the Board of Customs respecting a negotiation for the sale of a steam-collier named "Solent" to the French Government, and to request that we would take the same into our consideration, and report our opinion as to the course which Her Majesty's Government should take in the matter.

In obedience to your Lordship's commands, we have the honour to report—

That Messrs. Hein and Co. should be informed that although the mere contract for sale may not be prohibited, still that Her Majesty's Government cannot, under the circumstances, allow the vessel to be dispatched, and that all persons concerned in dispatching her will run a serious risk of being criminally prosecuted.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 99.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 5.)

*Temple, August* 5, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us therewith a letter from the Treasury respecting a vessel named the "Nonpareil," shipping steam-coal for Copenhagen, Australia, and Vancouver's Island; and Mr. Hammond was pleased to request that we would take the same into consideration and report our opinion whether there is any sufficient reason for Her Majesty's Government interfering in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That although there appears strong grounds for suspicion, we cannot advise that upon the existing information a sufficient case is made out for the interference of Her Majesty's Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 100.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 8.)

*Temple, August* 8, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit for our perusal, and in case we should have any observations to make thereupon, a letter from the Treasury communicating a report from the Commissioners of Customs respecting the case of the "Steady," lately a gun-boat and then being fitted out at Liverpool ostensibly for mercantile purposes.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That the case appears of a very suspicious character. We suggest that Messrs. Bowdler and Co. should be requested to furnish the name of "the party in London" from whom they have received the alleged order to put the vessel in repair, whether he is the registered owner, if not, by what title he claims to give the order? They should also be asked to show the order. If they refuse to give information on these subjects, the suspicion against them will become stronger. We advise that they be warned that if the vessel should be dispatched, and should afterwards be employed in the service of either belligerent, they will run a very serious risk of being criminally prosecuted under section 9 and other sections of the "Neutrality Act, 1870." Whether further information be obtained from them or not, inquiries should be instantly made and reported as to the ship's registry, who is now registered as the owner, how long he has been so, if a recent transfer has been made, from whom, and we think that the ship should not be allowed to depart until further information is obtained.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 101.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 10.)

*Temple, August* 10, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed to transmit to us therewith a letter from the Treasury respecting the sale of steam-vessels to the French Government at West Hartlepool

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and Southampton; that the "Solent" was the subject of our report of the 5th instant; and Mr. Hammond was pleased to request that we would take these letters into our immediate consideration, and report to your Lordship, with our opinion as to the course which should be pursued by Her Majesty's Government in this matter.

In obedience to your Lordship's commands we have the honour to report—

### *Case of the "Solent."*

That with respect to the "Solent," Mr. Stiles, of Sunderland, who is described by Mr. Wilcox as a part owner of her, should be requested to give the name and address of the Agent of the French Government, who he alleges offered him a profit of 3,000*l.*, and further to state the purpose for which that agent desired to buy the ship. Mr. Wilcox should also be directed to inquire, or to put the police on the track of inquiring, what proposals this "Agent of the French Government" (as he is described) made, and to whom, with respect to the purchase of other ships; and if any evidence can be adduced against him to show that he was soliciting persons to violate the Foreign Enlistment Act, should be at once summoned before the Magistrates, and charged with that offence with a view to his committal for trial. It is said that the "Solent" has left Sunderland for Southampton. It should be ascertained whether she has arrived there, if not what is her real destination. The information from the Customs officers is of a very meagre and unsatisfactory character, and we suggest that they should be directed to make more searching and diligent inquiry. If Mr. Stiles did not sell her to the French Agent, to whom did he sell her? When; for what purpose; whither does he allege she was bound; who are his co-owners? All these questions ought to have been put to him, and his answers reported, or his refusal to answer.

### *Case of the "Norseman" and "Sweden."*

With respect to the alleged sale of the "Norseman" and the "Sweden" to the French Government, it appears that the "Norseman" has already been delivered at Cherbourg, and that the captain and crew are now at Hartlepool. The letter of Mr. Armstrong of the 28th of July looks extremely suspicions. We suggest that the Solicitor to the Treasury should be directed immediately to inquire into the matter either personally or by some local agent. The master and crew should be examined. The former must know who were the owners or at least who acted as such, what instructions he received, to whom he delivered the ship, and must be able to give other important information. The editor of the paper from which the paragraph was extracted should be communicated with. It should be ascertained who was the registered owner when the ship left, what transfer (if any) was made of her shortly before she left, who is Mr. Young mentioned in the letter of Mr. Armstrong, and many other inquiries which will suggest themselves to a solicitor, and which may afford ground for a prosecution. Many of these inquiries might and ought to have been made by the officers of the Customs. If the "Sweden" has not gone, we think that she should not be allowed to go until further information about her has been ascertained.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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## No. 102.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 12.)

My Lord, *Temple, August* 11, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that, with reference to our letter of the 5th instant and to previous correspondence respecting supplies of coal for the French fleet, he was directed by your Lordship to transmit to us, for our information, and for any observations we might have to make thereupon, a further letter from the Treasury and its inclosures upon this subject, and referring especially to the case of the vessels "Marie" and "Emma," which have cleared from Cardiff with coal for Cherbourg.

And Mr. Hammond was to add that Her Majesty's Consul at Cherbourg had been instructed to report whether these two vessels have arrived at Cherbourg according to their clearances.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Miller should be instructed to prosecute a strict inquiry, with a view to ascertain who are the real owners of the "Marie" and "Emma" respectively, which he reports to be ostensibly owned by Mr. H. Worms. Mr. Miller speaks of the two vessels as chartered by the French Government for two years; he subsequently speaks of them as chartered by "Mr. Worms and whosoever is associated with him." Mr. Miller should be requested to state what is the precise information which he has received as to the chartering of these vessels, and whether Mr. Worms, whom he describes as a French coal shipper, is a French subject.

With respect to the list of vessels reported to have cleared from Cardiff in coals to French ports since the 20th ultimo, Mr. Miller should be instructed to report immediately any of such vessels, if it should return to Cardiff, more particularly any of the five vessels which he reports to have cleared to Cherbourg or Brest.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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## No. 103.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 12.)

*Temple, August* 11, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed to transmit to us, for any observations which we may have to offer upon it, a letter from the Admiralty relative to the precautions which are being taken to prevent any of the old ships of war which have been sold out of Her Majesty's service falling into the hands of either of the belligerents in the present war.

In obedience to your Lordship's commands, we have the honour to report—

That the Officers of Customs should be instructed to report in whose name the "Brisk" is at present registered, and if any repairs are commenced upon her; to report forthwith the nature of the repairs, whether they are such as may be proper for the safety of her navigation, or are calculated to make her serviceable for war purposes.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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## No. 104.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 13.)

*Temple, August* 13, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us an accompanying letter from the Registrar-General of Seamen and its inclosures, respecting the case of the screw steamer "Hypatia," of London, which left Sunderland on the 23rd ultimo, for various destinations, but which there was reason to believe had been sold at Cherbourg to the French Government.

And that your Lordship would be glad to be favoured with any observations or suggestions upon that case if we should have any to offer.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That the Superintendent of Customs at Sunderland should be instructed to report under what precise circumstances the "Hypatia" left Sunderland on 23rd ultimo, and whether in ballast or with cargo. Inquiry should also be made whether she touched at Portland before she proceeded to Cherbourg. The Registrar-General of Seamen at Southampton should also be instructed to report the names of the seamen paid off at his office, and more particularly of the officers of the ship, if they were paid off. The "Hypatia" appears to have been transferred to the French Government almost imme-

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diately after her arrival in Cherbourg Roads, under circumstances which raise a suspicion that she had been despatched from England in violation of Article 8 of the "Neutrality Act, 1870."

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 105.

*The Law Officers of the Crown to Earl Granville.—(Received August* 13.)

My Lord,
*Temple, August* 13, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us an accompanying letter from the Admiralty calling your Lordship's attention to certain points which, not being adverted to in the letter from the Foreign Office to the Admiralty and other public Departments of the 19th ultimo, of which a copy was inclosed, the Board of Admiralty considered might be made the subject of further instructions for the guidance of British naval officers.

And that he was to request that we would take this matter into our consideration, and that we would favour your Lordship with our opinion at our early convenience, whether the answer which your Lordship proposed to return to the Admiralty, and of which a draft was annexed, was right and proper.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That the answer which your Lordship proposes to return to the first and second queries of the Admiralty are, in our opinion, right and proper. With regard to the answer proposed to be returned to the third query with reference to the sale of belligerent ships of war in British waters, we agree with your Lordship in thinking that it is unnecessary to furnish instructions at present to naval officers on this head.

On the last point we think that the question of the belligerent captor giving up foreign mails found on board captured vessels is one not to be hastily mooted without due consideration of the consequences of enemy's despatches becoming thereby protected from discovery and seizure.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 106.

*The Law Officers of the Crown to Earl Granville.—(Received August* 15.)

My Lord,
*Temple, August* 13, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us a letter from a Mr. Rayner, inquiring whether he would incur any penalty under the neutrality laws by communicating to either of the belligerents in the present war certain improvements in heavy artillery; and Mr. Hammond was pleased to request that we would furnish your Lordship with our opinion as to the answer that should be returned to Mr. Rayner.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion Mr. Rayner should be told, that it may be open to question whether, if he makes such communications as he describes to either of the belligerents, he may not be held to be in the military or naval service of such belligerent; be this as it may, that Her Majesty's Government must discountenance any such communications, which, if he chooses to make them, he must make at his own peril.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 107.

*The Law Officers of the Crown to Earl Granville.—(Received August* 20.)

My Lord,
*Temple, August* 19, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to transmit to us, with reference to our recent reports respecting the steam colliers "Marie" and "Emma," and for any observations we may have to offer thereupon, the accompanying letter from the Treasury inclosing copies of further reports from the Customs respecting those two vessels. Further reports are also furnished in regard to the "Steady" and "Brisk"; but that it does not appear that any further steps are necessary in regard to these last-named vessels.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Miller may be instructed not to interfere with any collier-vessel, whether French or English owned, which is *bonâ fide* engaged in trade between British and French ports; but if it should appear from the papers of any collier-vessel, ostensibly engaged in such trade, on her return to Cardiff that she has not delivered her cargo at the port for which she last cleared from Cardiff, that circumstance should be at once reported.

With regard to the steam-colliers "Emma" and "Marie," there does not at present appear to be sufficient evidence of their being store ships in the French Naval Service, to justify the interference of the Government. If it appeared that they were chartered by the French Government for the purpose of supplying the French fleet with coal, the case would be different.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 108.

*The Attorney-General to Earl Granville.—(Received August* 20.)

My Lord,
*Temple, August* 20, 1870.

I AM honoured with your commands signified to me in Mr. Hammond's letter of the 18th instant addressed to Her Majesty's Law Officers, stating that he was directed by your Lordship to transmit to them an accompanying letter and its inclosures, received from the Admiralty, in which the question was raised as to the propriety of a notification of blockade being conveyed from one belligerent to another by an English man-of-war; and that he was to request that they would favour your Lordship at their early convenience with their opinion as to the answer which should be returned to the Admiralty upon that subject.

In obedience to your Lordship's commands I have the honour to report—

That in my opinion the conveyance by a British man-of-war of the notification of a blockade from one belligerent to another is highly improper. The Governor of Heligoland appears to me to have been altogether in error in supposing that his refusal of a pilot to the French Admiral imposed upon him the duty of acting as agent of the French Admiral, or instructing a British officer to act as such agent in the notification of blockade.

It is true that Lieutenant Martin is directed by the Governor to deliver the notice to the British Vice-Consul at Cuxhaven, but this is to be done on behalf of the French Admiral, and in compliance with his request as stated in the first paragraph of the letter of the Governor of the 12th of August, that "he would communicate the approaching blockade of the Eider, Elbe, Weser, Jahde, to the North German authorities." I think therefore that the notice conveyed was from the one belligerent to the other, and cannot be regarded as a mere warning to English vessels of a blockade already existing and duly notified.

I have, &c.
(Signed) R. P. COLLIER.

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*Separate Report of the Queen's Advocate.*

I am of opinion that the application of the French Admiral to be furnished with a pilot for the purpose of sending in a flag of truce to Cuxhaven to give notice to the local

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authorities of the intended blockade of the River Elbe was properly refused by the Governor of Heligoland. Such a communication on the part of the Commander of a belligerent fleet to the authorities of an enemy's port which he intends to blockade is most unusual. There is no obligation upon a belligerent Commander as regards an enemy to notify his intention to blockade a port, but as regards neutrals such a notification, although not a duty, would be an act of humanity. In the present case the notification of the intended blockade, and of "the days of grace" intended to be allowed to neutral vessels, was for the benefit of such neutral vessels as might be lading cargoes in the ports on the Elbe. I am of opinion that it was perfectly consistent with the neutrality avowed by Her Majesty's Government for a British man-of-war to be the bearer of a letter from the Governor of Heligoland to Her Majesty's Consul at Cuxhaven, announcing the intention of the French Admiral, as notified to the Governor, and requesting him to make public such notification.

What would have been the binding effect of the notification of the French Admiral in the present case it will be unnecessary for your Lordship to consider, as a diplomatic notification from the French Government has been formally communicated to your Lordship of a date subsequent to the 15th August, but I may observe that the notification of the French Admiral being dated on the 12th August could not have been accepted as a notification of the fact of a blockade being established on the 15th instant.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 109.

*The Queen's Advocate to Earl Granville.*—(*Received August* 20.)

My Lord, *Temple, August* 20, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed by your Lordship to transmit to me therewith, with reference to the closing remarks in my report of the 18th instant, a letter from the Colonial Office, with which I should find the letter from the French Admiral to the Governor of Heligoland, inclosing the notice of blockade. That this notice and the letter, as I should see, do not bear out the construction put upon that measure in the Governor's communication to Her Majesty's Ambassador at Berlin and Consul at Hamburgh, on which my report of the 15th instant was founded, nor on his own telegram inclosed in the Colonial Office letter of the same day, but they are consistent with the notification published at Paris, to which my further report of the 18th instant applied, and which has again been received from Lord Lyons, as officially communicated to him by the French Minister for Foreign Affairs.

That your Lordship has suggested to Lord Kimberley to call on the Governor to explain this discrepancy; but in the meanwhile, as I should see by the inclosed telegrams that day received from Lord Augustus Loftus and Mr. Annesley, it has attracted the attention of Her Majesty's Ambassador and Consul, and your Lordship has thought it right at once to publish in the daily papers the telegram received from the Consul on the subject.

That your Lordship directed him, in placing the inclosed papers before me, to request my opinion whether the circumstances therein set forth require any further notice on your Lordship's part.

In obedience to your Lordship's commands, I have the honour to report—

That I am of opinion that no further notice is required upon the part of your Lordship, as regards the error in the communication made by the Governor of Heligoland to Her Majesty's Ambassador at Berlin and Consul at Hamburgh. The later communication on the part of the Prince de la Tour d'Auvergne to Lord Lyons must be taken to be the diplomatic notification of the blockade, made in due form to Her Majesty's Government, which it was the duty of Her Majesty's Government to make known forthwith to Her Majesty's subjects. (The "Neptunus," 2 Christopher Robinson, p. 113.) That duty having been duly performed by your Lordship, there is nothing further, in my opinion, to be done on your Lordship's part.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 110.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 23.)

My Lord, *Temple, August* 23, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that, with reference to our report of the 10th instant, he was directed to transmit to us the accompanying letter from the Treasury and its inclosures, containing further information respecting the steam colliers "Norseman" and "Sweden," and to request that we would furnish your Lordship with our opinion whether any, and if so, what further steps should be taken with regard to these vessels.

In obedience to your Lordship's commands, we have the honour to report—

That under the circumstances of this case, as the "Norseman" left England before the Neutrality Act of 1870 came into operation, we are of opinion that no proceedings can be taken against her former owner or master under that statute for despatching her from England, and as the facts stated do not show that she was in any way equipped or fitted out before she left England for the purpose of a transport or storeship, we do not think, as at present informed, that they bring her within section 7 of the Foreign Enlistment Act.

With regard to the "Sweden," which has returned to Hartlepool, and is about to proceed to Gottenburg, we have advised in a report already before your Lordship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 111.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 23.)

My Lord, *Temple, August* 23, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that with reference to our report of the 10th instant, he was directed to transmit to us three further letters and their inclosures received from the Treasury, respecting the sale of the steam collier "Sweden" to the French Government; and to request that we would take this correspondence into our early consideration, and furnish your Lordship with our opinion as to any steps which should be taken thereupon. The previous papers were also inclosed.

In obedience to your Lordship's commands, we have the honour to report—

That for reasons stated in our previous reports we think the detention of the "Sweden" was a proper precaution, but as after due inquiry there seems a fair probability that her real destination is Gottenburg, we are of opinion that she may be allowed to sail; but it may be explained to the shippers that information reached the Government of her intended sale to the French Government, upon which information she was detained while inquiries could be made into the matter. Her Majesty's Consul at Gottenburg should be instructed meanwhile to report her arrival, if she arrives, or her non-arrival, if she does not reach Gottenburg within the time when she would be reasonably due.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 112.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 25.)

My Lord, *Temple, August* 25, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that, with reference to our letter of the 13th instant, he was directed by your Lordship to transmit to us a letter from the Treasury forwarding reports from the Board of Customs with regard to the "Hypatia," and he was to request that we would furnish your Lordship with our opinion thereupon.

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In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That as it appears that the whole transaction connected with the dispatch of the "Hypatia" from England was completed before the Foreign Enlistment Act, 1870, came into operation, we are of opinion that no proceedings can be successfully instituted against the owners of that vessel for a breach of that Statute, and that the facts before us are not sufficient to bring the parties within the penalties of the old Foreign Enlistment Act.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 113.

*The Law Officers of the Crown to Earl Granville.—(Received August* 26.)

My Lord, *Temple, August* 26, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that, with reference to the reports which we have furnished to your Lordship on the question of the supply of coal by British vessels to the French fleet, he was directed to inclose a letter from the Treasury, inclosing a return of the vessels that have returned to Cardiff from French ports, and have again cleared with cargoes of coal, and to request that we would inform your Lordship whether we are of opinion that any further steps need be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That it seems to us that for the present, at any rate, the reports had better be continued. Care should be taken also to make sure, if possible, that the shipments of coal have been *bonâ fide* made to French ports, and that the ships have not been again rechartered to the Baltic from the French port of destination. Such a proceeding would, in our opinion, be an evasion of the Act.

We would further suggest that it might be well to desire our Consuls in the particular French ports to which coals have been consigned to report home as to how these coals were forwarded from the French ports to the Baltic.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 114.

*The Queen's Advocate to Earl Granville.—(Received August* 26.)

My Lord, *Temple, August* 26, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed to transmit to me a letter from Messrs. Russell and Co. inquiring whether the blockade of the coast of Sleswig is considered by Her Majesty's Government to be effective, and to request that I would furnish your Lordship with my opinion as to the answer that should be returned to this letter.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. Russell and Co. may be informed that it is for the Prize Courts of the belligerent imposing the blockade to construe the notification of the French Admiral, but that the validity of any asserted blockade of the River Hever will depend not upon the proper interpretation to be given to that notification, but upon the fact that an effective blockade of the mouth of that river is maintained by the French fleet in conformity with the 4th Article of the Declaration of Paris of April 16, 1856. That Messrs. Russell may be further informed that it is competent for any belligerent Power to blockake so much, and so much only, of an enemy's coast as may suit its purpose, and that the fact of part only of the seaboard of Sleswig being blockaded at present by the French fleet would not, in the opinion of Her Majesty's Government, justify any intervention on its part for either of the purposes suggested in Messrs. Russell's letter.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 115.

*The Queen's Advocate to Earl Granville.—(Received August* 27.)

My Lord, *Temple, August* 27, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that he was directed to transmit to me a notification of blockade of the Baltic German ports received from Her Majesty's Ambassador, and to request that, if the same is sufficient, I would prepare a notice for insertion in the "London Gazette."

I am also honoured with Mr. Hammond's letter of this day's date, transmitting two further despatches from Lord Lyons respecting the Baltic blockade, and also a despatch from Her Majesty's Minister at Copenhagen, another from Her Majesty's Consul at Stettin, and a telegram from Her Majesty's Consul at Königsberg; and Mr. Hammond was pleased to request that I would take the same into my consideration, with reference to the previous papers on this subject, and prepare such notice as may be required for insertion in the supplement to the "London Gazette" of yesterday.

In obedience to your Lordship's commands I have the honour to report—

That I have prepared a notice for immediate insertion in a supplement to the "London Gazette," which I have so drawn as to throw the responsibility upon the Imperial Ministry of Foreign Affairs if the notification in the "Official Journal" should prove to be at variance with any other declaration issued by the French Vice-Admiral.

I have, &c.
(Signed) TRAVERS TWISS.

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### Inclosure in No. 115.

*Notification.*

*Foreign Office, August* , 1870.

IT is hereby notified that the Right Honourable Earl Granville, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, has received from Her Majesty's Ambassador at Paris an official copy of the Notification of the blockade of the coasts of the Confederation of North Germany in the Baltic, transmitted to him from the Imperial Ministry of Foreign Affairs, which is as follows:—

"We, the Undersigned, Vice-Admiral, Senator, commanding-in-chief the naval forces of His Majesty the Emperor of the French in the Baltic Sea, having regard to the state of war existing between France and Prussia, as well as the States of the Confederation of North Germany, acting in virtue of the Powers which appertain to us, declare:—

"That, from the 15th August, 1870, the ports, harbours, roads, creeks, &c., comprised between 53° 25′ and 55° 53′ of north latitude, 7° 6′ and 18° 55′ of east longitude by the meridian of Paris, will be kept in a state of effective blockade by the naval forces placed under our command, and that friendly and neutral vessels will have a delay of ten days to complete their lading and quit the blockaded places.

"Every vessel which shall attempt to violate the said blockade will be proceeded against in conformity with the law of nations and the Treaties in force with neutral Powers.

"On board the 'Surveillante,' armour-plated frigate of His Majesty the Emperor of the French.

"Great Belt, August 15, 1870.

"The Vice-Admiral, Senator, Commanding-in-chief the
armour-plated Squadron of the North,
(Signed) "CTE. BOUET WILLAUMEZ."

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## No. 116.

*The Law Officers of the Crown to Earl Granville.—(Received August* 27.)

*Temple, August* 27, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th August instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, relative to the detention at Hamburgh of a number of emigrants engaged by the Agent of the Queensland Government to proceed to that Colony, and to request that we would report to your Lordship our opinion whether any

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application can properly be made to the French Government to allow the departure of these emigrants, notwithstanding the blockade.

Mr. Hammond was pleased to inclose a draft despatch which, if we saw no objection, your Lordship proposed to address to Lord Lyons on the subject.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to your Lordship's despatch, a draft of which is before us, being sent to Lord Lyons.

The sailing of these emigrants is a matter entirely apart from the war, and can have scarcely the remotest bearing upon it. And although the French Government, as things now stand, may perhaps refuse the permission asked, we can see no reason why, in the courteous terms suggested by your Lordship, it should not be asked for.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

Report—

That the application which your Lordship is solicited to make in this case is not simply that the emigrants may be allowed to depart from a blockaded port, but that they may depart in an enemy's ship. Had it been proposed that they should embark in a neutral vessel, I think that the application for a license for the vessel to pass the blockading squadron might have been reasonably entertained by the French Government, and, therefore, properly preferred by a neutral Government; but in the present case, as the vessel in which the passengers are to embark is an enemy's vessel, it will be necessary that your Lordship should solicit from the French Government a safe-conduct, which will enable the vessel, not merely to pass the blockading squadron in safety, but which will exempt her from capture as enemy's property, if she should anywhere fall in the way of a French cruizer on the high seas.

I hardly think the circumstance of the passengers being emigrants on their way to a British Colony is a sufficient ground for your Lordship to solicit the favour of such a safe-conduct for an enemy's ship.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 117.

*The Queen's Advocate to Earl Granville.—(Received August* 30.)

*Temple, August* 30, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit to me therewith a copy of a telegram from Lord Lyons, stating that he had been officially informed by the French Minister for Foreign Affairs that the beginning of the Baltic blockade is the 19th instant. I am to add that if you should think it desirable to make a further notification in this evening's "Gazette," the substance of the telegram, and not a copy of it, should alone be given, as the telegram came in cypher.

In obedience to your Lordship's commands I have the honour to report—

That as the rectification of the notice issued by the Commander of the French fleet in the Baltic is now without practical importance as regards neutral vessels which are within the blockaded ports, by reason of the days of grace having expired, I think it would be advisable to wait for the transmission of the official notification of the correction of the error, which I presume will be communicated to Lord Lyons by the French Foreign Office. It will be advisable, upon the arrival of the French official notification, for your Lordship to direct a corresponding notification to be inserted in the "London Gazette," so that it may be matter of public record.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 118.

*The Queen's Advocate to Earl Granville.—(Received August* 31.)

*Temple, August* 30, 1870.

My Lord,

AS I was about to forward my report, which your Lordship will have received, on the subject of the first telegram from Lord Lyons, a copy of a second telegram of this day's date, from Her Majesty's Ambassador at Paris, was communicated to me by Mr. Hammond, containing an extract from the "Journal Officiel" of this morning's date, noting an error in the previous official notification of the French Government, published in the "Journal Officiel" of 25th instant, with regard to the date of the commencement of the blockade of the German ports in the Baltic. Under all the circumstances I think it would be advisable for your Lordship to direct that no official recognition should be made of the correction of the error, by notifying it in the "London Gazette," until the arrival of the official document, which I presume will be transmitted in due course from the French Foreign Office to Her Majesty's Ambassador. I may observe that the notification of the 25th instant announced that a blockade would be established on the 15th instant. The present notification would appear to be that a blockade was only effectually established on the 19th instant.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 119.

*The Attorney- and Solicitor-General to Earl Granville.—(Received August* 31.)

*Temple, August* 30, 1870.

My Lord,

WE are honoured with your Lordship's directions signified in Mr. Hammond's letter of the 29th instant, stating that your Lordship had received our report of the 27th instant, approving the draft which your Lordship proposed to address to Lord Lyons with regard to the detention at Hamburgh of a number of German emigrants engaged to proceed to Queensland. The Queen's Advocate had appended to our report some observations as to the proposed departure of the emigrants in an enemy's ship, which he considered likely to raise difficulties, and that your Lordship would be glad to be informed whether we had seen those observations, and what our opinion is on the point raised by the Queen's Advocate.

Our report, together with the Colonial Office letter, was returned herewith for convenience of reference.

In obedience to your Lordship's directions we have taken these observations into our consideration, and have the honour to report—

That we had the advantage of seeing the report of the Queen's Advocate before we wrote our own, and with great respect for him we found ourselves unable to agree with it. We could not, and are still unable to see why your Lordship should not ask for a safe passage for this vessel or vessels, if more than one.* Nothing is leaving Germany which it can be the interest of France to retain there, and all the arrangements having probably been made before the war broke out, and the ship and her passengers being bound direct to a British colony, in pursuance of arrangements made without any reference to the war, we think that your Lordship may quite reasonably ask of a friendly Government the safe passage which is necessary. We do not apprehend any difficulty or complication as likely to arise in the event of the French Government acceding to the request.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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* The ship is leaving Germany, and being a German ship is liable to be made prize of war. T

## No. 120.

*The Queen's Advocate to Earl Granville.*—(*Received August* 31.)

My Lord, *Temple, August* 31, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that, with reference to my reports of yesterday, he was directed by your Lordship to transmit to me therewith a despatch from Lord Lyons, inclosing an official communication from the Minister for Foreign Affairs as to the date at which the Baltic blockade should be held to commence; and Mr. Hammond was pleased to request that I would prepare such notice as I might think necessary for insertion in the "London Gazette."

In obedience to your Lordship's commands I have the honour to inclose a notification of the official correction communicated by the French Government as to the date of the commencement of the blockade of the German ports by the French squadron in the Baltic Sea for insertion in the "London Gazette."

I have, &c.
(Signed) TRAVERS TWISS.

### Inclosure in No. 120.

*Notification.*

IT is hereby notified that the Right Honourable Earl Granville, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, has on this day received from Her Majesty's Ambassador at Paris the copy of an official communication from the Imperial Minister of Foreign Affairs announcing that the commencement of the blockade of the ports, &c., of the North German Confederation by the naval forces of His Majesty the Emperor of the French in the Baltic Sea dates in effect from the 19th day of August, and that the previous announcement of the 15th day of August as the date of the commencement of the blockade was erroneous.

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## No. 121.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 15.)

My Lord, *Temple, September* 14, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. A. Walker, complaining of the detention of the steam-ship "Steady" belonging to him by the Customs authorities at Birkenhead, and that the accompanying reports addressed to the Treasury contained particulars respecting that vessel, and he was to request that we would take the papers into our consideration and furnish your Lordship with our opinion as to the answer that should be returned to Mr. Walker.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That there are circumstances connected with the purchase of this vessel by Mr. Walker which are not altogether satisfactory as regards her destination, nor does the letter of Mr. Walker announcing that she is now "for sale" remove the suspicions attaching to the vessel. If she be for sale we do not see how Mr. Walker would suffer if she remained at Birkenhead until he had found a purchaser for her. If a trial of her engines be all that is desired, that might be allowed if proper precautions were taken to prevent her escape. We cannot forget that a "trial of their engines" was desired for the steam-rams, and abandoned when precautions were taken to prevent its being made a means of escape. We cannot advise the vessel being released until it appears to whom she is sold, and for what purpose. Though Mr. Walker speaks of her as his property, we not understand him to be the registered owner.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 122.

*The Queen's Advocate to Earl Granville.*—(*Received September* 15.)

My Lord, *Temple, September* 14, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed to transmit to me two letters from the Colonial Office relative to the proceedings of the French corvette "Déciés" in the waters off Heligoland; and to request that I would furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That under the circumstances of the French squadron, to which the corvette was attached, being engaged in maintaining a blockade of the Elbe, the Governor of Heligoland was justified in objecting to the corvette leaving her station, and anchoring within British waters for the purpose of taking on board a supply of coals.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 123.

*The Queen's Advocate to Mr. Otway.*—(*Received September* 18.)

My dear Sir, *Temple, September* 18, 1870

I SEND you a rough draft of an opinion which I will send in to the Foreign Office to-morrow morning in proper form. You had better telegraph to the Custom-house at Liverpool not to allow the "Steady" to have a trial-trip except with a guard on board her to secure her return to the float or river.

I think it was proposed in the case of the steam-rams to place some marines on board them. Whether any such force is disposable at Liverpool at present I know not, but it would be easy for the Germans to board her off the Ormeshead and land any river police in their boat.

You have omitted to inclose to me the report of the Law Officers of 17th instant, as you announce in the covering letter. If you will send it to the Temple to-morrow, I will communicate with my colleagues forthwith for their approval of my opinion and any comments which they may be disposed to make upon it.

Yours faithfully,
(Signed) TRAVERS TWISS.

### Inclosure in No. 123.

*Report on the "Steady."*

THAT the circumstances under which the late brig of war "Steady" is announced by Mr. Walker to be for sale again, coupled with the facts communicated in the letter of the French Consul to the Customs authorities at Liverpool, give rise to so much suspicion as to the uses to which that vessel may be applied in contravention of the "Foreign Enlistment Act, 1870," that the Customs authorities at Liverpool may, in my opinion, be properly instructed not to allow her to leave the Birkenhead float on a trial-trip without an adequate guard being placed on board her, as was proposed in the case of the steam-rams, so as to secure that she shall not be dispatched from this country in contravention of the Statute.

(Signed) TRAVERS TWISS.

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## No. 124.

*The Queen's Advocate to Earl Granville.*—(*Received September* 19.)

*Temple, September* 19, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 17th instant, stating that, with reference to the report of the Law Officers of the

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14th instant, he was directed to transmit to me a letter from the Treasury forwarding further reports from the Custom-house officers respecting the "Steady;" that it appears that the vessel is preparing to take her trial trip on Monday (this day) next; and Mr. Otway was pleased to request that I would take the papers into immediate consideration, and furnish your Lordship with my opinion as to whether any and what steps should be taken respecting her.

In obedience to your Lordship's commands I have the honour to report—

That the circumstances under which the late brig-of-war "Steady" is announced by Mr. Walker to be for sale again, coupled with the facts communicated in the letter of the French Consul to the Customs authorities at Liverpool, give rise to so much suspicion as to the uses to which that vessel may be applied in contravention of the "Foreign Enlistment Act, 1870," that the Custom-house authorities at Liverpool may, in my opinion, be properly instructed not to allow her to leave Birkenhead float on a trial trip without an adequate guard being placed on board her, as was proposed in the case of the steam-rams, so as to secure that she shall not be dispatched from this country in violation of the Statute.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 125.

*The Queen's Advocate to Earl Granville.*—*(Received September 21.)*

*Temple, September* 20, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 19th instant, stating that he was directed to transmit to me a letter from the Admiralty inclosing one from the India Office, in which the question is asked whether the prohibition to belligerent ships of war to bring prizes into British ports extends to prizes manned by a prize crew, though not accompanied by an armed ship, and to request that I would furnish your Lordship with my opinion as to the answer which should be given to this inquiry.

In obedience to your Lordship's commands I have the honour to report—

That the prohibition may of right be extended to prizes of war entering Her Majesty's ports in charge of a prize-master and crew, equally as to prizes carried by ships of war.

The language of the Circular is somewhat ambiguous, and would *primâ facie* appear only to interdict ships of war entering Her Majesty's ports accompanied with their prizes.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 126.

*The Queen's Advocate to Earl Granville.*—*(Received September 22.)*

*Temple, September* 21, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 19th instant, stating that he was directed to transmit to me a letter from Mr. Henry Campbell, M.P., forwarding one from Mr. Fraser, complaining of the ineffective blockade of the German ports in the Baltic; and to request that I would furnish your Lordship with my opinion of the facts alleged in that letter.

In obedience to your Lordship's commands I have the honour to report—

That the circumstance that no French cruizer had been seen from Stettin or Danzic or Memel would not alone be conclusive that the approaches to those ports are not, in fact, effectively watched by a French cruizer; but if merchant-vessels have entered those ports on several successive days without interruption by any French cruizer, that circumstance would be inconsistent with the test of a binding blockade, as adopted by France and Great Britain under the Declaration of Paris of 1856. Your Lordship would not, however, in my opinion, be justified in taking action in this matter without more accurate information on the question of fact. I may observe that the notice issued by the French Admiral of 15th August, 1870, was only an announcement of his intention to establish a blockade of the North German ports in the Baltic. I am not aware whether Her Majesty's Ambassador at Paris has received any communication from the French Government that a blockade of those ports has been, in fact, established by the French naval forces.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 127.

*The Attorney- and Solicitor-General to Earl Granville.*—*(Received September 22.)*

*Temple, September* 22, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 17th instant, stating that, with reference to our report of the 14th instant, he was directed by your Lordship to transmit to us a letter from the Treasury forwarding further reports from the Custom-house officers respecting the "Steady." It appeared that the vessel was preparing to take her trial trip on Monday next, and he was to request that we would take the papers into our immediate consideration, and furnish your Lordship with our opinion as to whether any and what steps should be taken respecting her.

In obedience to your Lordship's commands we have taken the matter into consideration and have the honour to report—

That we agree with the Queen's Advocate's report, as transmitted to your Lordship on the 19th instant.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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## No. 128.

*The Queen's Advocate to Earl Granville.*—*(Received September 22.)*

*Temple, September* 22, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that, with reference to his letter of the 27th ultimo, he was directed to inclose a despatch received from Lord Lyons containing a note addressed to his Excellency by M. Jules Favre, stating that the blockade of the North Sea has been raised, and to request that I would take the same into my consideration, and at once prepare such notice as may be required for insertion in the "London Gazette."

In obedience to your Lordship's commands I have the honour to report—

That I have prepared a notice for insertion in the "London Gazette" framed after the official notice of the establishment of the blockade, which was published in the Gazette of August 18 last.

I have, &c.
(Signed) TRAVERS TWISS.

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### Inclosure in No. 128.

*Notification.*

*Foreign Office, September* 22, 1870.

IT is hereby notified that the Right Honourable Earl Granville, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, has on this day received from Her Majesty's Ambassador at Paris the copy of an official communication from M. Jules Favre that the blockade of the coast of Prussia and the North German Confederation in the North Sea by the French naval forces has been raised.

## No. 129.

*The Queen's Advocate to Earl Granville.—(Received September 26.)*

My Lord,
*Temple, September* 26, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed to transmit to me therewith a despatch from Lord Lyons, inclosing a notice received from the French Foreign Office, announcing the raising of the blockade of the Baltic ports, and Mr. Hammond was pleased to request that, if the same is sufficient, I would prepare a notification for insertion in the supplement of the "London Gazette."

In obedience to your Lordship's commands I have the honour to report—

That I consider the notice of the raising of the blockade to be sufficient, and I have accordingly prepared a notification of the fact that the notice has been communicated to your Lordship for insertion in the supplement of the "London Gazette."

I have, &c.
(Signed) TRAVERS TWISS.

### Inclosure in No. 129.

*Notification.*

*Foreign Office, September* 26, 1870.

IT is hereby notified that the Right Honourable Earl Granville, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, has on this day received from Her Majesty's Ambassador at Tours, the copy of an official note of the 21st instant, from the French Foreign Department, announcing that the blockade of the German ports in the Baltic Sea has been completely raised by the French squadron.

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## No. 130.

*The Law Officers of the Crown to Earl Granville.—(Received September 27.)*

My Lord,
*Temple, September* 27, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating—

1st. That with reference to our letter of yesterday's date, he was directed by your Lordship to send us two further letters from the Treasury, inclosing correspondence respecting the detention of the "Steady" at Birkenhead; and he was to request that we would again take that matter into our consideration, and furnish your Lordship with our opinion as to the course that should be pursued in respect to the vessel.

2. That the former papers, including the Queen's Advocate's report of the 19th instant, were returned to us for convenience of reference.

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report—

That the force on board the "Steady" during her trial trip should be of such a nature as to afford an absolute security for her safe return. At such a time as this we venture to suggest that there ought to be Marines in some force in or near Liverpool, or at all events some force capable of taking armed possession of any ship in herself suspicious or while engaged in suspicious acts. We cannot advise that a trial trip should be permitted to the "Steady" without such a force of some kind being on board of her as to be capable of overpowering resistance in case she should make any attempt to escape.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 131.

*The Law Officers of the Crown to Earl Granville.—(Received September 27.)*

My Lord,
*Temple, September* 27, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating—

1. That he was directed by your Lordship to transmit to us a letter from the War Office, applying for information as to the instructions that should be given to the officer commanding the western district for his guidance in the event of a belligerent ship of war refusing to comply with the requirements of Her Majesty's Proclamation of Neutrality; and he was to request that we would furnish your Lordship with our opinion as to the answer that should be returned to the War Office.

2. That a short memorandum, which had been drawn up in the Foreign Office, of some precedents bearing on the subject, was inclosed for our information.

In obedience to your Lordship's commands we have the honour to report—

That upon a ship of war belonging to either of the belligerent Powers having notice to depart from any of Her Majesty's ports, in pursuance of the instructions contained in Earl Granville's Circular letter of the 19th July, and failing to comply with the same, it will be lawful for Her Majesty's officers to use force to compel her to put to sea. In what way force should be applied must depend upon the available means, whether the guns of a battery on shore can be directed against the vessel, or whether it may be necessary for one of Her Majesty's ships to intervene. In either case, we think that a formal warning of twenty-four hours should be given to the belligerent vessel of the intention of Her Majesty to inforce her right as a neutral to prohibit a belligerent cruizer making use of British waters for any purposes other than those of the necessary subsistence of her crew or the necessary repairs of the vessel itself. We would observe that Her Majesty's Proclamation would not touch this question, which is embraced in the circular of Earl Granville, unless some attempt were made to increase or augment the warlike power of the belligerent vessel.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 132.

*The Law Officers of the Crown to Earl Granville.—(Received October 8.)*

*Temple, October* 8, 1870.
My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that, with reference to our report of the 27th ultimo and previous correspondence, he was directed to transmit to us a letter from Mr. Walker threatening legal proceedings in case of the further detention of the "Steady;" and to request that we would furnish your Lordship with our opinion as to the answer that should be returned to this letter. The previous correspondence was also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Walker should be informed that a trial trip will be permitted to the "Steady" with a force of armed marines on board of her, so as to secure her return to the river.

We have, &c.
(Signed) J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 133.

*The Law Officers of the Crown to Earl Granville.—(Received October 11.)*

*Temple, October* 11, 1870.
My Lord,

WE are honoured with your Lordship's commands, signified in Mr. Hammond's letter of this day, stating that, with reference to our report of the 8th instant, he was

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directed by your Lordship to transmit to us a letter from Mr. Hilbery, Solicitor to Mr. Walker, applying for information as to the grounds of the detention of the "Steady," and to request that we would take that letter into our consideration, and furnish your Lordship with our opinion as to the answer that should be returned to it.

In obedience to your Lordship's commands we have taken the said letter into our consideration, and have the honour to report—

That in our opinion Mr. Hilbery may be informed that among the circumstances (all of which they do not feel bound to disclose) which have induced Her Majesty's Government to detain the vessel, is the fact of her being still unregistered, and the absence of all explanation why, if Mr. Walker is her owner, he does not register himself as such. Mr. Hilbery may be reminded of Mr. Walker's request for a trial trip, in order that her engines might be tested with a view to her sale; that this request has been complied with, subject to security for her return, and Mr. Hilbery should be requested to state whether or not this offer is accepted.

If it be refused, as it was in the case of the steam rams, some presumption may arise that the request was not *bonâ fide* made.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 134.

*The Queen's Advocate to Earl Granville.*—(*Received October* 17.)

*Temple, October* 15, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 13th instant, stating that he was directed to request that I would furnish your Lordship, at my earliest convenience, with my opinion as to whether the formation of an Ambulance Corps in this country, for the exclusive service of one of the belligerents in the war between France and Germany, would amount to a breach of neutrality.

In obedience to your Lordship's commands, I have the honour to report—

That the formation of an Ambulance Corps in this country for the exclusive service of one of the belligerents would not, in my opinion, amount to a breach of neutrality, if by "exclusive service" is meant that the ambulances are to attend the movements of the troops of one belligerent exclusively; but if it is intended that the staff of the ambulances, when in the field, shall not entertain and take care of sick or wounded soldiers, "to whatever nation they may belong," if they are brought in for succour, I should be of opinion that the corps would not be entitled to participate in the benefit of neutrality under the Convention of Geneva (August 22, 1864).

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 135.

*The Law Officers of the Crown to Earl Granville.*—(*Received October* 25.)

*Temple, October* 25, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us for our opinion, a letter which had been received from the Treasury containing correspondence respecting a vessel called the "Sharpshooter," formerly a gunboat, and now lying at Liverpool, whose destination is ostensibly set forth as Singapore; and he was to request that we would be good enough to inform your Lordship with as little delay as possible what course should in our opinion be adopted as regards this vessel.

In obedience to your Lordship's commands, we have the honour to report—

That a strict watch should, in our opinion, be kept on this vessel, and that she should not be allowed to depart, until the owner gives some explanation of the very suspicious circumstances which are reported concerning her.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 136.

*The Law Officers of the Crown to Earl Granville.*—(*Received October* 28.)

*Temple, October* 25, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th October instant, stating that he was directed by your Lordship to transmit to us for our consideration a letter which had been received from the Treasury containing a report from the Customs respecting the proceedings of the collier "Marie" in carrying coal from Cardiff to the French fleet; and to request that we would be good enough to favour your Lordship with our opinion as to what steps should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That as the "Marie" appears to be a French steamer, regularly employed in the coal trade, and originally despatched from a French port to load coal at Cardiff, we consider that she is not within the provisions of the Foreign Enlistment Act, which prohibits vessels being despatched by persons within Her Majesty's dominions with the intent that they shall be employed in the service of a belligerent.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 137.

*The Law Officers of the Crown to Earl Granville.*—(*Received October* 28.)

*Temple, October* 25, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that, with reference to our report of the 12th instant respecting the case of the "Steady," he was directed by your Lordship to transmit to us therewith further letters received from Mr. Hilbery on behalf of Mr. Walker, and he was to request that we would take the same into consideration, and report to your Lordship our opinion as to any further steps which should now be taken by your Lordship in the matter.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That we observe that Mr. Hilbery, in his letter of the 14th, complains that the Liverpool officials have had no information of the trial trip; we conclude that since then the necessary directions have been given, and if so, we infer from Mr. Hilbery's letter of the 19th that the trial trip is no longer desired.

Assuming the supposition to be correct, we would suggest that a letter be written to Mr. Hilbery, stating that the proper arrangements have been made for a trial trip, and requesting a definite answer whether it is desired or not.

It appears from Mr. Hilbery's statement, the correctness of which has been probably tested by this time, that Mr. Walker is now registered as the owner, and one ground of suspicion is thereby removed; but still some mystery seems to attach to the ship. Mr. Walker does not, it appears, intend to send her on any commercial voyage, but wishes to sell her; if so, we do not see why he should not sell her where she is; but he represented that, before he could find a purchaser, he must have an opportunity of testing her engines, this opportunity is given, and, as we assume, declined, and he wishes to send the vessel on no commercial adventure to some destination, which he does not disclose, ostensibly for the purpose of selling her.

We suggest that Mr. Hilbery be requested to state, on behalf of Mr. Walker:—What is the vessel's destination if she is allowed to leave Liverpool? Whether she is to go on a commercial voyage? If not, why this immediate necessity for leaving Liverpool? And why the trial trip, which was desired some time ago, is now deemed insufficient to test her engines with a view to her sale? If these questions be answered satisfactorily there may be no further reason for detaining the vessel.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 138.

### *The Queen's Advocate to Earl Granville.*—(*Received October* 27.)

*Temple, October* 27, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed to transmit to me the accompanying letter from the Admiralty, respecting the presence at Lowestoft of a German vessel in possession of a French prize crew, and communicating a protest from the Vice-Consul of the North German Confederation against the vessel being removed from the limits of the port, and Mr. Hammond was pleased to request that I would take this matter into my consideration, and furnish your Lordship with my opinion as to the course which should be pursued.

In obedience to your Lordship's commands, I have the honour to report—

That assuming the vessel in question to be, as represented, a prize of war in charge of an officer having a commission from the French Government, he had a right, in the absence of any Proclamation of Her Majesty to the contrary, to enter Lowestoft Roads with her, and to bring her to anchor there for any purpose compatible with the neutrality of British waters, and it is not the duty of Her Majesty's Government, nor would it be justified in disturbing his possession of the prize. It would be in fact inconsistent with neutrality for Her Majesty's Government to exercise any coercion over the prize. (Marten's "Droit des Gens," section 312.)

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 139.

### *The Queen's Advocate to Earl Granville.*—(*Received October* 28.)

*Temple, October* 28, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that, with reference to my report of yesterday stating my opinion that the German vessel at Lowestoft in possession of a French prize crew could not properly be interfered with to the extent of releasing her from duresse, he was directed to request my opinion, at my earliest convenience, as to what course should be adopted as regards that vessel with reference to the concluding paragraph of your Lordship's letter to the Admiralty and other Departments of the 19th July last.

In obedience to your Lordship's commands I have the honour to report—

That the French prize should not be allowed to remain for a longer time in Lowestoft Roads than may be requisite for her to procure the provisions of which she may be in need, or any necessary repairs, providing always that there is no stress of weather to prevent her going to sea.

With regard to the concluding paragraph of your Lordship's letter, I would observe that no public notification has been issued by Her Majesty forbidding belligerent vessels of war with their prizes, or belligerent vessels in charge of prize crews, from entering the waters of the United Kingdom, and that in the absence of such a notification, either belligerent has a right to assume that its prizes will not be denied the customary privilege of asylum in those waters for lawful purposes.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 140.

### *The Law Officers of the Crown to Earl Granville.*—(*Received October* 31.)

*Temple, October* 29, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that, with reference to the case of the "Steady," which is now before us, he was directed by your Lordship to transmit to us the inclosed letter from the Treasury, with a report of the trial trip of that vessel, which is still under detention, and he was to request that we would take those additional papers into our consideration.

In obedience to your Lordship's commands we have the honour to report—

That as it appears from the report from the Liverpool Board of Customs that the "Steady" has re-entered the dock, and it is intended to enlarge her boilers, it will be sufficient for the present if instructions are given to the Board of Customs at Liverpool that she is not to be allowed another trial trip without a renewed application and special permission to leave the dock for such purpose.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 141.

### *The Attorney-General to Earl Granville.*—(*Received October* 31.)

*Temple, October* 29, 1870.

My Lord,

I AM honoured with your commands signified in Mr. Hammond's letter of the 27th instant, addressed to the Law Officers, stating that he was directed by your Lordship to transmit an accompanying letter from the Admiralty, respecting the presence at Lowestoft of a German vessel in possession of a French prize crew, and communicating a protest from the Vice-Consul of the North German Confederation against the vessel being removed from the limits of the port; and, further, stating that he was to request that the Law Officers would take the matter into their immediate consideration, and favour your Lordship with their opinion as to the course which should be pursued.

I am also favoured with Mr. Hammond's further letter of the same date, stating that by your Lordship's directions he inclosed a previous letter from the Admiralty, and one from the Treasury, accompanied by further documents respecting the arrival and detention at Lowestoft of the said vessel, and that he was to request that the Law Officers would take the said papers into their immediate consideration, with those referred to in the first-mentioned letter.

In obedience to your Lordship's commands I have taken this matter into my consideration, and have the honour to report—

That it could not be proper, except under the pressure of some necessity for either of the belligerents to bring into and anchor prizes in British waters. Unless, therefore, there be some reason of necessity for the French crew coming into Lowestoft Roads, the terms of the Circular letter of the 19th July last, which appears to me in substance applicable to this case, should be immediately put in force against her.

That letter, however, has been misunderstood. It does not authorize the detention of prizes brought into our ports, but requires that they shall be immediately ordered to quit, and, if necessary, compelled to do so by force. I advise, therefore, that the prize be released, and required instantly to depart, unless there is absolute necessity for provisions; if so, such provisioning only should be allowed as will prevent the crew from starving before they reach the nearest French port.

I have, &c.
(Signed) R. P. COLLIER.

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## No. 142.

### *The Solicitor-General to Earl Granville.*—(*Received October* 31.)

*Temple, October* 29, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Admiralty, respecting the presence at Lowestoft of a German vessel in possession of a French prize crew, and communicating a protest from the Vice-Consul of the North German Confederation against the vessel being removed from the limits of the port.

And he was to request that we would take the matter into our immediate consideration, and favour your Lordship with our opinion as to the course which should be pursued.

In obedience to your Lordship's commands we have the honour to report—

That it would not be proper, except under the pressure of some necessity, such as

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stress of weather, for either of the belligerents to bring into and anchor prizes in British waters. Unless, therefore, there be some reason of necessity for the French crew coming into Lowestoft Roads, the terms of the Circular letter should be immediately put in force against her.

I have, &c.
(Signed) J. D. COLERIDGE.

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### No. 143.

*The Queen's Advocate to Earl Granville.*—(*Received October* 31.)

My Lord, *Temple, October* 31, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th instant, stating that, with reference to my report of the 30th August, respecting the wish of the British owners of cargoes on board German vessels captured by French cruizers, that Her Majesty's Ambassador at Paris should be instructed to apply to the French Government, with the view of obtaining their speedy release, and to the instructions to Lord Lyons founded on my report also inclosed, he was directed to transmit to me therewith two letters from the Committee at Lloyds, and from the Association for the Protection of Commercial Interests as respects wrecked and damaged property, representing the inconvenience to which the interests of owners of captured neutral cargoes are exposed by the suspension of the action of the French Prize Courts; and to request that I would take the same into my immediate consideration, and report to your Lordship my opinion whether, under the peculiar circumstances of the cases, there would be any objection to Her Majesty's Ambassador being instructed to represent the matter to the French Government, and to request that measures may be taken to relieve British parties from the inconvenience to which they are now exposed.

In obedience to your Lordship's commands, I have the honour to report—

That there is no objection, in my opinion, to Her Majesty's Ambassador at Paris being instructed to represent to the Provisional Government of Defence at Tours the inconvenience to which British owners of cargoes captured on board German vessels are exposed by the suspension of the action of the French Prize Courts, and to suggest that the officers of Customs in the ports to which such vessels may be sent in for adjudication may be authorized to permit the unlivery of the cargoes, when the documents establish a *primâ facie* case that the cargoes are British owned, and the claimants are willing to give security to abide the result of the final decision of the Cour des Prises. I do not think, however, that Her Majesty's Ambassador can properly ask for the release of the cargoes in the manner suggested by the Secretary of the Association for the Protection of Commercial Interests, namely, by the provisional decree of a Special Court established *ad hoc*.

It appears to me that, pending the abeyance of the sovereign power in France, the intervention of Her Majesty's Ambassador in any matter of maritime prize should be limited to administrative matters, as distinguished from judicial proceedings, and that he will not overstep those limits by suggesting, under the exceptional circumstances by which the action of the French Prize Courts have been arrested, that British cargoes on board of captured vessels should be released on reasonable security being given to abide the ultimate decision of the Cour des Prises as regards the cargo and freight.

With regard to the application from the Committee of Lloyds, your Lordship cannot, in my opinion, properly accede to Mr. Stephenson's request, if I do not misunderstand it, that Her Majesty's Government should endeavour to make some arrangement with the French Government for the immediate release of British owned cargoes without any security. If, however, Mr. Stephenson means to move your Lordship to procure the release of British owned cargoes on some conditions less onerous than a deposit equal to the value of the cargo in each case, he may be informed that your Lordship will instruct Her Majesty's Ambassador to represent to the Provisional Government of Defence the inconvenience to which British owners of captured cargoes are at present exposed, and will endeavour to bring about an arrangement for the release of such cargoes upon reasonable security being given by the claimants in each case.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 144.

*The Law Officers of the Crown to Earl Granville.*—(*Received October* 31.)

My Lord, *Temple, October* 31, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating that, with reference to the case of the "Steady," he was directed by your Lordship to transmit to us the accompanying letter from Mr. F. N. Hilbery, requesting to be furnished with a copy of the warrant under which that vessel may have been arrested, and to be informed whether she would be released on security being given that she would in future be used only in a legal manner.

And he was pleased to request that we would furnish your Lordship with our opinion as to the answer which should be returned on these two points.

In obedience to your Lordship's commands we have the honour to report—

That we think that the proper course would be to make out a warrant under the Foreign Enlistment Act, which will have the effect of ratifying what has been done by the local authorities. When the warrant is prepared a copy of it may be forwarded to Mr. Hilbery. We think that the vessel may be released on security being given to the full value. The best form of security which occurs to us is a recognizance to the Crown. We think that the amount should be the full value of the vessel.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 145.

*The Solicitor-General to Earl Granville.*—(*Received October* 31.)

My Lord, *Temple, October* 31, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that by your Lordship's directions he was to inclose therewith a previous letter from the Admiralty and one from the Treasury, accompanied with further documents respecting the arrival and detention in Lowestoft roads of the Holstein vessel "Heinrich," which papers he was to request I would take into my immediate consideration with those referred to me in conjunction with the other Law Officers in his letter of the 26th instant.

In obedience to your Lordship's commands I have the honour to report—

That I concur in the report of the Attorney-General in this matter of the 29th instant.

I have, &c.
(Signed) J. D. COLERIDGE.

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### No. 146.

*The Queen's Advocate to Earl Granville.*—(*Received October* 31.)

My Lord, *Temple, October* 31, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that he was directed to transmit to us a previous letter from the Admiralty and one from the Treasury, accompanied by further documents respecting the arrival and detention in Lowestoft Roads of the Holstein vessel "Heinrich," which papers he was pleased to request that I would take into my immediate consideration, with those referred to me in conjunction with the other Law Officers in Mr. Hammond's letter of the 26th instant.

In obedience to your Lordship's commands I have the honour to report—

That the vessel "Heinrich" should be released and her prize-master be requested, upon procuring the provisions of which she was in need, according to the report of the French Consul when she entered Lowestoft Roads, to proceed forthwith on his voyage, unless prevented by stress of weather.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 147.

*The Queen's Advocate to Earl Granville.—(Received November 4.)*

*Temple, November* 3, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed to acknowledge the receipt of my report of the 28th ultimo, respecting the case of the German vessel "Heinrich," brought into Lowestoft roads in charge of a French prize crew.

That in the concluding portion of my report I observed "that no public notification has been issued by Her Majesty forbidding belligerent vessels of war with their prizes, or belligerent vessels in charge of prize crews, from entering the waters of the United Kingdom, and that, in the absence of such a notification, either belligerent has a right to assume that its prizes will not be denied the customary privileges of asylum in those waters for lawful purposes."

That your Lordship directed him to call my attention to the fact that the letter from the Foreign Office to the Admiralty and other public offices of the 19th July last, and which contains in the last paragraph this provision, "armed ships of war of either party are interdicted from carrying prizes made by them into the ports, harbours, roadsteads, or waters of the United Kingdom or any of Her Majesty's colonies or possessions abroad," was published in the "London Gazette" of the same day. That on a previous occasion, namely, during the civil war in North America, a letter was addressed to the same departments from the Foreign Office of a corresponding tenour, which was laid before Parliament, and in like manner during the war between Austria, Prussia, Italy, and Germany, in 1866, a similar letter with a corresponding restriction was addressed to the same departments on the 26th June of that year, which was published in the "London Gazette" of the following day.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship's Circular letter to the Departments of State, notwithstanding it has been published in the "London Gazette," is not, in my opinion, such a notice as the comity of nations requires when a neutral Power has resolved to refuse all hospitality to the prizes of belligerent Powers with which she maintains relations of amity.

The occasions on which Great Britain has been called upon to discharge the duties of a neutral Power have been comparatively rare, so that the International rule of conduct in such matters is rather to be gathered from the practice of other nations when Great Britain has been a belligerent. Your Lordship will find that on the last occasion when Great Britain was a belligerent, the various neutral Powers issued edicts or ordinances, which were communicated to the Court of St. James'.

They may be conveniently referred to in Pistoye and Duverdy's "Traité des Prises Maritimes," vol. ii., annex ii., p. 476. Such also appears to have been the practice of the neutral Powers at the end of the last century, and a variety of such edicts, issued in 1799, will be found in Marten's "Traités," t. iii. These Ordinances, it may be observed, had a twofold character: they were declarations of the Sovereign Power itself, and as such the most formal notification, when communicated to the belligerents, and they constituted the law of each country pending the war, warranting the subjects of the neutral country in acting upon instructions from the executive Power which were in accordance with them. But I feel some difficulty in advising your Lordship that your Lordship's Circular letter would be a legal warrant to the officers of Her Majesty's Admiralty or Her Majesty's Customs to seize and detain the prizes of either belligerent, if they should come peaceably within British waters.

In the case of the "Heinrich," which was, I believe, seized and detained by Her Majesty's officers, if the crew had attempted to get her under weigh and a contest had ensued attended with loss of life, I fear that Her Majesty's officers would have had no justification of law for seizing and detaining her. On the other hand, if I am correct in assuming that no formal declaration of Her Majesty's intention to deny all hospitality to their prizes has been communicated to the belligerent Powers, and in consequence of the detention of the "Heinrich," a North German cruizer had been enabled to take up her station outside British waters and recapture the prize on her release from duresse, France would have had good reason to complain of the detention of the "Heinrich," as inconsistent with the neutrality avowed on the part of Her Majesty's Government.

Mr. Hammond has referred to a period of an exceptional character as the occasion on which a Circular letter in the present form was adopted by Her Majesty's Government, but there may have been peculiar reasons on that occasion for departing from the customary practice, inasmuch as the British Crown had no diplomatic relations with the so-called Confederate States, and had not recognized them as a Sovereign Power.

I may observe also that the views of the United States as a neutral Power, as expressed in 1855, were conformable to the ancient practice, being to this effect:—

"That when a neutral State has not signified its determination to refuse the privilege of asylum to belligerent ships of war, privateers, or their prizes, either belligerent has a right to assume its existence, and enter upon its engagement subject to such regulations and limitations as the neutral State may please to prescribe for its own security."

The issuing of a Circular letter by your Lordship was, in my opinion, a most proper proceeding for the purpose of giving instructions to Her Majesty's officers, but, as I am informed at present, no formal steps were taken to communicate Her Majesty's determination to the belligerent Powers. I ought perhaps not to omit to observe that the concluding Article of the Circular letter carries the refusal of hospitality beyond the limits of the precedents set by other Powers, as it applies to open roadsteads and to the open sea within three miles of any part of Her Majesty's dominions, whereas the neutral Powers in the last century were accustomed only to exclude belligerent prizes from their ports and havens, such being also the course pursued by the neutral Powers in 1854 towards Great Britain as a belligerent.

I am not certain that it is not *ultra vires* for Her Majesty to claim to exclude belligerent vessels absolutely from open roadsteads and the open sea, both of which are *communis juris*. Her Majesty may forbid any act of hostility to be attempted by any belligerent in open waters within three miles of her coasts, but her jurisdiction is not exclusive over such waters so as to authorize her to forbid belligerent vessels to enter them peaceably. Her Majesty may, indeed, refuse absolutely, as a matter of right, the use of her ports and havens to either belligerent, but an absolute denial of all hospitality cannot in practice be carried into execution.

The terms of your Lordship's letter may so far be a stumbling-block to Her Majesty's officers if a prize should come in which is in proved distress, whilst they may cause some embarrassment to Her Majesty's Government itself if the adverse belligerent should complain that your Lordship's instructions have not been truly and impartially enforced in all cases.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 148.

*The Law Officers of the Crown to Earl Granville.—(Received November 4.)*

*Temple, November* 3, 1870.

My Lord,

WE are honoured with your commands signified in Mr. Hammond's letter of the 2nd instant, stating that, with reference to our report of the 25th ultimo, respecting the case of the "Sharpshooter," formerly a gun-boat and now lying at Liverpool, and whose destination is ostensibly Singapore, he was directed by your Lordship to transmit to us the accompanying letter from the Treasury (dated October 29) containing a further report from the Board of Customs, with one from Mr. Bates, the owner of the vessel, and that he was to request that we would take these additional papers into our consideration and favour your Lordship with our opinion as to any further directions which should be given to the Treasury in this matter.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That Mr. Bates may be informed that his vessel will be allowed a free clearance when she is loaded with the cargo which he describes for Penang and Singapore.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 149.

*The Law Officers of the Crown to Earl Granville.—(Received November 16.)*

*Temple, November* 16, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Arthur Otway's letter of the 15th instant, stating—

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1st. That with reference to our recent reports respecting the cases of the "Steady" and "Sharpshooter," both of which vessels are still under detention at Liverpool, he was directed by your Lordship to transmit to us an accompanying letter from M. Tissot, the French Chargé d'Affaires at this Court, calling attention to the suspicious character of the proceedings of both vessels, and urging that corresponding measures of precaution might be taken in the case of the latter vessel as had been observed with regard to the "Steady."

2ndly. That he was to request that we would take M. Tissot's note into our consideration, and favour your Lordship with our opinion, at our earliest convenience, whether it in any way alters our opinion in regard to the course which had been, and should be, pursued in regard to those vessels.

In obedience to your Lordship's commands we have the honour to report—

That we observe in the letter of M. Tissot a statement that the owner of the "Sharpshooter" was the same person who armed the "Alabama." If it be true that Mr. Bates was concerned in the equipment or escape of the "Alabama," the suspicions attaching to the "Sharpshooter" become, in our judgment, very much stronger, and we think the silence which has been observed as to this fact by the Liverpool officials, who must have known it and known of its importance, requires explanation. We suggest that immediate inquiry should be made into the truth of the allegation, and we deem the answer to it so important that we desire to reserve our final opinion upon the case of the "Sharpshooter" until we have been informed of the result of the inquiry. If there be good reason to suppose that the "Sharpshooter" is really destined for the Prussian service, the probability may be increased that the "Steady" is also so destined. On the whole, therefore, we advise that the ships be detained, and nothing further done beyond the signature of the warrants (which in each case we advise) until the inquiry we have suggested be answered.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 150.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 18.)

*Temple, November* 17, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that, with reference to Mr. Otway's letter of the 15th instant, including a letter from M. Tissot, the French Chargé d'Affaires at that Court, calling attention to the case of the "Sharpshooter," and in which our opinion was requested as to whether the contents of the letter in any way altered our opinion as to the course which had been adopted by Her Majesty's Government in the case, and that he was directed by your Lordship to transmit to us the accompanying letter from the Treasury, inclosing copies of a correspondence which had passed between the Customs authorities and the French Consul at Liverpool, and in which the latter protested against the release of the "Sharpshooter," and that he was to request that we would take those further papers in like manner into consideration, together with those then before us.

In obedience to your Lordship's commands, we have taken all the papers into consideration, and have the honour to report—

That as it would appear from the letter of November 14th from the French Consul that the "Sharpshooter" has sailed, we have no further advice to offer as regards the propriety of detaining her. If it should prove that Mr. Bates has acted in bad faith towards Her Majesty's Government, we should advise proceedings to be instituted against him under section 8 of the Foreign Enlistment Act, 1870.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 151.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 18.)

*Temple, November* 17, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating—

1st. That with reference to the case of the "Sharpshooter," the papers respecting which are now before us, he was directed by your Lordship to transmit to us the accompanying letter and its inclosures, received from the Treasury, respecting a claim advanced by the owner of that vessel for compensation for alleged loss sustained by him in consequence of her detention for seven days at Liverpool, and which he estimates at 105*l*.

2nd. That Mr. Hammond was to request that we would take this matter into our consideration, and favour your Lordship at our early convenience with our opinion as to the answer which should be returned to that application.

In obedience to your Lordship's commands we have taken the matter into our consideration, and have the honour to report—

That until we are informed whether Mr. Bates, the owner of the "Sharpshooter," was concerned in fitting out or dispatching the "Alabama," we are unable to advise your Lordship what course should be taken with regard to his demand for demurrage.

Meanwhile, however, further inquiries might be properly made of the French Consul at Liverpool, as to the precise nature of the information on which he had requested her to be detained.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 152.

*The Queen's Advocate to Earl Granville.*—(*Received November* 21.)

*Temple, November* 19, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed to transmit to me the accompanying letter from the Admiralty, stating that questions have arisen as to the propriety of a neutral State supplying coals from Government stores to ships of war belonging to belligerents, and requesting to be furnished with your Lordship's views on this subject, and also as to whether coals should be supplied from Government stores when procurable from private sources, and also in the event of their not being so procurable; and Mr. Hammond was pleased to request that I would take this matter into my consideration and furnish your Lordship with my opinion as to the answer which should be returned to the Admiralty thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the proper answer to be given to the questions of the Admiralty may depend very much upon the terms of the agreement between the two countries, referred to in the Admiralty letter, respecting which I have no information. I have referred to the Treaty of Commerce of January 23, 1860, but the Article of that Treaty applicable to the exportation of coals does not meet the difficulty which has suggested itself to the Admiralty. In the absence of any special agreement I consider that coals are under certain circumstances necessary supplies for steam-vessels, and if a belligerent steam-vessel should come into a neutral port in distress for fuel, it may fairly be regarded as an obligation of neutral hospitality to allow a reasonable supply of coals to be furnished to her. What that supply should be must depend upon the distance of the neutral port from the nearest belligerent port, for that distance would be a proper measure of the necessary supply. When such a supply can be procured in the ordinary way of commerce, I am of opinion that it would not be proper for the officers of Her Majesty's Government to furnish the coals, unless indeed there should be some agreement to that effect between the two countries, of which, as I have already observed, I am not aware. When no sufficient supply can be procured from private stores, Her Majesty's officers may, in my opinion, properly supply the coals, if they do so consistently with due provision for the

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wants of Her Majesty's service precisely as they might properly supply a spar, or an anchor, if it could not be otherwise procured by the belligerent vessel.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 153.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received November* 21.)

My Lord,
*Temple, November* 21, 1870.

WE are honoured with your commands signified in Mr. Hammond's letter of the 18th instant, stating that he inclosed a correspondence respecting the case of the German vessel "Frei," captured on the 28th ultimo by the French vessel of war "Dessaix," as was alleged, in British waters; and further stating that we would perceive that, upon the recommendation of the Queen's Advocate, Lord Lyons had been instructed to direct a claim to be given in before the Prize Court at Tours for the restitution of the "Frei" and her cargo, as having been captured within neutral waters; and, further, that he considered the case one in which costs and damages should be awarded.

Mr. Hammond was further pleased to state that, in consequence of Lord Lyons' telegram of the 12th instant, a further draft of a despatch to Lord Lyons, directing him to call the attention of the French Government, officially, to this case, had been prepared and submitted to the Queen's Advocate, who, however, had expressed his opinion that such a representation would be premature, but considered that a less official notification of the proceedings to be instituted in the Prize Court might properly be made by Her Majesty's to that Government.

Mr. Hammond was further pleased to add that your Lordship requested that we would take this matter into consideration, and that we would inform your Lordship whether, after communicating with him, we agreed in the view of the Queen's Advocate on this case, or, if not, what course we would recommend should be pursued.

In obedience to your Lordship's commands we have taken this matter into our consideration, and communicated with the Queen's Advocate, as requested, and have the honour to report—

That the affidavit of the pilot is not before us, and we advise on the assumption that he is a credible person, and that he has sworn that he warned the French officer that he was in British waters, and gave him proof that the warning was correct. On this assumption we think that the official and diplomatic intervention of the English Ambassador would be perfectly proper; and that your Lordship may well forward to Lord Lyons the despatch which your Lordship has sent us in draft.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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### No. 154.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 25.)

My Lord,
*Temple, November* 25, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed by your Lordship to transmit to us an accompanying letter and its inclosures, received from the Treasury, respecting an application which had been made to the Collector of Customs at Plymouth for permission to tranship to a British steamer, for conveyance to Havre, a cargo of arms and ammunition expected to arrive in the steam-ship "Avon," from New York, and for which transhipment certain exceptional facilities had been requested. Mr. Hammond was pleased further to state that the Board of Customs, as we would perceive, had declined to accede to the said request, and that your Lordship would be glad to be favoured with our opinion upon the question thus raised.

In obedience to your Lordship's commands we have considered this matter, and have the honour to report—

That, in our opinion, the Board of Customs has acted quite rightly.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 155.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 30.)

My Lord,
*Temple, November* 29, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that, with reference to our report of the 21st instant, in which we concur in the propriety of sending to Her Majesty's Ambassador at Tours the further despatch, of which a draft had been submitted to us, respecting the capture of the German vessel "Frei" by a French vessel of war in British waters, he was directed to transmit to us the accompanying despatch, and its inclosures, received from Lord Lyons, from which we should perceive that the French Advocate whom his Excellency had instructed to enter a claim in this case before the Prize Court has distinctly advised Lord Lyons that it is not within the province of the British Embassy to intervene in a matter in which only the private parties interested have a *locus standi* before the Prize Court, and that Her Majesty's Government can only properly address the French Government diplomatically in the matter if they should desire to do so. And Mr. Hammond was pleased, accordingly, to request that we would again take this matter into our consideration, and furnish your Lordship with our opinion upon the general question now raised, of the competence of a British Embassy to intervene in such cases, and also in regard to the instructions which should be given to Her Majesty's Ambassador at Tours upon this subject; and he was pleased to add that the further draft approved in our letter above referred to has in the meantime been suspended.

In obedience to your Lordship's commands we have the honour to report—

That it appears from the report of the French Advocate that the practice of the French Prize Court differs from the practice of the British and the American Prize Courts in respect of the parties who are competent to make "a claim of territory" in the Prize Court. Lord Stowell has laid it down that the claim of territory is the privilege, not of the enemy, but of the neutral country, which has a right to see that no act of violence is committed within its jurisdiction (the "Eliza Anne," 1 Dodson, p. 244); whilst Mr. Justice Story has ruled that a capture made within neutral waters is, as between enemies, deemed to all intents and purposes rightful; it is only by the neutral Sovereign that its legal validity can be called in question, and as to him, and him only, is it to be considered void. The enemy has no rights whatever, and if the neutral Sovereign omits or declines to interpose a claim, the property is condemnable *jure belli* to the captors (the "Anne," 3 Wheaton, p. 446). It does not, however, follow from this rule of the British and American Courts, that the French Courts are not justified in following another rule, more especially if it is of a less rigid character as regards the captured enemy, namely, by allowing him to allege personally that the capture has been made within neutral waters. It may be observed that the practice of the French Prize Courts is not novel, as it was the practice of the Conseil des Prises in the days of the first French Republic (Pistoye and Duverdy, "Traité des Prises Maritimes," tom. i, p. 102). Under these circumstances, the question for your Lordship's consideration would seem to be whether your Lordship should authorize Lord Lyons to intervene diplomatically with the French Government, or should inform the owners of the "Frei" that they must assert a claim of territory in the Prize Court, and that they shall have the officious support of Her Majesty's Government, as suggested by the French Advocate. Looking to the fact stated in the report of the French Advocate, that the Captain of the cruizer has taken the bearings of the place of capture, and contends that the capture took place out of the limits of British jurisdiction, I am of opinion that the preferable course for your Lordship to adopt will be to inform the Prussian Ambassador that your Lordship has ascertained that, according to the practice of the French Prize Court, it will be proper for the master of the "Frei" to make a claim of territory in the French Prize Court, and that he shall there receive all such support from Her Majesty's Government as the practice of the Court will allow a neutral State to afford to him. Further, it appears to be a rule of the French Prize Court not to award damages in a claim of territory unless the captor is proved to have acted in bad faith in making the capture (Pistoye and Duverdy, tom. i, p. 104). This fact may be put in issue more conveniently in the Prize Court than in a correspondence between the two Governments, and with less risk of disturbing the friendly relations between them; and, as the Court of the captor is open to hear the claim for damages, the French Government may properly insist, in my opinion, on the question being submitted to a judicial inquiry before the Court of the captor.

I have, &c.
(Signed) TRAVERS TWISS.

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We (the Attorney and Solicitor-General) advise that a communication should be made to the owner of the "Frei" to the effect suggested by the Queen's Advocate in his report and we concur generally in the reasons given by him for that advice. But we are still of opinion that Her Majesty's Government would be justified on the statement of the pilot in calling the attention of the French Government diplomatically to the violation of the neutrality of this country. Indeed, if the statement of the French Advocate as to French prize law be correct, no other mode of asserting its territorial rights and complaining of their violation is open in France to a neutral country.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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## No. 156.

*The Law Officers of the Crown to Earl Granville.—(Received November* 30.)

*Temple, November* 30, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating that, in our report of the 16th instant, with reference to the cases of the "Steady" and "Sharpshooter," we advised, in consequence of a statement made by M. Tissot, the French Chargé d'Affaires at the English Court, that the owner of the "Sharpshooter" was the same person who had equipped the "Alabama," that immediate information on that subject should be furnished by the Customs authorities at Liverpool; and we further expressed our opinion that that point was so important that, whilst reserving our decision in regard to that vessel, the result, if unfavourable, might increase the probability that the "Steady" was also intended for the Prussian service; and we recommended that both ships should be detained and nothing further done beyond the signature of the warrants until the inquiry should be answered.

That we would see by the inclosed correspondence that the "Sharpshooter" had put to sea before her detention could be made good; but that the "Steady" was still under restraint.

That Mr. Hilbery, as we would further see, had been answered in accordance with our opinion that your Lordship, as then advised, did not feel at liberty to comply with his request for a copy of the warrant under which the "Steady" had been detained, whilst the main question of her release had stood over pending the result of the inquiry to be made of the Customs at Liverpool.

That the claim of the owner of the "Sharpshooter" for damages, on account of the detention of his vessel, amounting to 105*l*., had also remained in abeyance for the same reason.

That he was to transmit to us a letter from the Treasury, containing the report of the Customs officials on the subject, together with a further letter from Mr. Hilbery, offering to furnish any proofs required as to the legal nature of the transactions in the case of the "Steady."

That the tendency of the information furnished by the Customs was to show that there was no evidence of the alleged connection of Mr. Bates, the owner of the "Sharpshooter," with the "Alabama," whilst the French Consul at Liverpool had also failed to produce any evidence in that direction.

And that he was to request that we would take the further papers into consideration (together with the previous ones) and favour your Lordship with our opinion as to the points standing over for decision, namely, whether and on what conditions of security the "Steady" might now be released, and what answer should be returned to Mr. Bates' claim for compensation on account of the detention of the "Sharpshooter."

In obedience to your Lordship's commands we have taken the whole of the papers into consideration and have the honour to report—

That, with respect to the "Sharpshooter," we think that, as the vessel was released without requiring her to make an application to the Court of Admiralty, Her Majesty's Government may fairly admit the principle that some damage should be paid for her detention, and that the claim of Mr. Bates may be paid, subject to their being satisfied of the reasonableness of its amount.

On further consideration of the case of the "Steady," we think that, on the whole, it would be safer to leave with the Court of Admiralty the responsibility of deciding upon what security she should be released, if she is to be released, and that her owner should be referred to that Court.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 157.

*The Law Officers of the Crown to Earl Granville.—(Received November* 30.)

*Temple, November* 30, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating that with reference to his letter of the same date he was directed to transmit to us a further letter from the Treasury inclosing a letter from the Board of Customs at Liverpool respecting an application which has been made to the Collector and Inspector-General of Revenues at that port for permission to alter the boilers of the "Steady" with the view of obtaining increased speed; and to request that we would furnish your Lordship with our opinion as to the answer which should be returned on this subject.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that no consent should be given by the Crown to any alteration of the vessel pending proceedings in the Admiralty Court.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 158.

*The Solicitor- and Attorney-General to Earl Granville.—(Received November* 30.)

*Temple, November* 30, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating—

1. That he was directed by your Lordship to transmit to us accompanying reports which your Lordship had received from Her Majesty's Advocate-General in connection with the arrival in Yarmouth Roads of the North German vessel "Heinrich" in charge of a French prize crew, and the instructions which had in consequence been issued to the officers of Her Majesty's Customs in regard to the conditions and duration of the stay which that prize was to be allowed to make in British waters.

2. That it was not with reference to the proceedings in that particular case that he was now to ask our opinion; but we would see that a question had been raised by the Queen's Advocate upon two points: first, whether the channel through which the notifications which had been issued by Her Majesty's Government forbidding belligerent vessels of war with their prizes, or belligerent vessels in charge of prize crews, from entering the waters of the United Kingdom is such as, in order to render it valid, the comity of nations requires when a neutral Power has resolved to refuse all hospitality to the prizes of belligerent Powers with which she is at amity; and, secondly, whether it is not *ultra vires* for Her Majesty to claim to exclude belligerent ships from open roadsteads and the open sea, both of which the Queen's Advocate observes are *communis juris* when no act of hostility is attempted, or whether such power of exclusion is not rather limited to the actual ports and havens of the United Kingdom or of Her Majesty's Colonies abroad.

3. That he also inclosed a copy of a letter from the Foreign Office to the Admiralty and other public Departments of the 19th July last, the concluding paragraph of which had given rise to the questions to which the Queen's Advocate had now called attention, and the draft of which, as we would remember, received our approval, as well as that of the Queen's Advocate, before being sent off.

4. That the questions raised being of much importance your Lordship would be glad if we would take them into our consideration in communication with the Queen's Advocate, and favour your Lordship with our opinion collectively on the matter.

In obedience to your Lordship's commands we have taken these questions into our

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consideration in communication with the Queen's Advocate, and have the honour to report—

That there appear to be two distinct subjects discussed in the papers of the Queen's Advocate, and on which we beg to offer the following observations:—

First. As to the question whether there has been a sufficient notification to the belligerents of the intention of Her Majesty to deny to their prizes an asylum in British waters. Although the strict right to deny such asylum with or without such notification is undeniable, still international comity prescribes that some means shall be taken to make known its denial to the belligerents. On the whole we think that the publication of the Circular letter in the "London Gazette" may be considered as reasonably sufficient to make known to them a step which, to say the least, is not an unusual one. At the same time if we had been consulted on this point we should have advised that it would have been better out of abundant caution to address a formal notification to each belligerent. What has been done with respect to the "Heinrich," and the correspondence thereon, seem to afford all notification that can be necessary for the future. Whether it be desirable pointedly to call the attention of the French Government to the infraction of a provision which they do not appear sufficiently to have borne in mind is a question for the consideration of Her Majesty's Government.

We have next to observe that we do not share the doubt intimated by the Queen's Advocate that a portion of the concluding paragraph of the Circular letter is *ultra vires.* We are of opinion that that paragraph (the draft of which was, as Mr. Hammond observes, submitted to us for our approval) is quite correct. We are prepared to maintain the doctrine laid down by Wheaton* that "by the generally approved usage of nations which forms the basis of international law the maritime territory of every State extends not only to the ports, harbours, bays, mouths of rivers, and adjacent parts of the sea enclosed by headlands belonging to it, but to the distance of a marine league along all its coasts," *finitur terra dominium ubi finitur armorum vis.* It is true that certain comities may attach to roadsteads and to the deep passages of territorial seas, especially where they lead to other seas otherwise inaccessible. Some questions may be raised as to the municipal jurisdiction of a country over its own subjects or ships on the one hand, or over pirates as belonging to no civilized community on the other, within three miles of the shore of another country. Waters within the three-mile line may sometimes by statutes be treated as part of the high seas for judicial purposes, nevertheless the right of the Sovereign of the country to prohibit the entrance of vessels of foreign belligerents into such waters we hold to be indisputable. It is possible that the Queen's Advocate meant nothing inconsistent with what we have now said; but we think that to speak of Proclamations in respect to roadsteads being *ultra vires* of the Sovereign of this country is to use language capable at least of misleading, and not likely, without explanation, to mislead.

We have only to add that we construe Article 4 of the Circular letter as subject to those implied exceptions to this and other regulations which are dictated by common humanity, and not as excluding vessels driven to our shores by stress of weather, or other temporary necessity.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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### Inclosure in No. 158.

### Case of the "Heinrich."

*Separate Report by the Queen's Advocate.*

THAT I have had the advantage of meeting the Attorney-General and the Solicitor-General in consultation, and of reading their report addressed to your Lordship, to which I was unable yesterday from pressure of business to subjoin any observations.

In regard to the first point, I concur with the Attorney-General and the Solicitor-General so far, that I consider that the denial of asylum by Her Majesty's Government may be taken at this stage of the war to have acquired a notoriety *de facto,* which dispenses with the necessity of notifying formally to the belligerent Powers, in accordance with international comity, the intention of Her Majesty to exclude the prizes of either belligerent from British waters. As the Attorney-General and the Solicitor-General state their opinion, that Article 4 of the Circular must be construed subject to the customary exceptions, I have no further observations to offer on that Article. The point upon which I still feel some difficulty is as to the right of a neutral Power to exclude a merchant-vessel because it is in possession of a belligerent prize crew, from the use of an open roadstead, so long as such vessel uses it only for the purposes of peaceful navigation. I allude to a roadstead which is constantly used by the ships of all nations in their passage along the open sea. But, as the Attorney-General and Solicitor-General have stated their opinion, that what they consider to be the exclusive right of a neutral nation as regards its territorial waters is to be exercised with due regard to the customary comities, the difference between us resolves itself rather into a question of abstract right than of practical use. But I may remark that Mr. Wheaton, after laying down the limits of what he terms the maritime territory of a State in the passage cited in the report of the Attorney-General and the Solicitor-General, and after asserting an exclusive right of property on the part of every State, as regards its ports, harbours, bays, and rivers, goes on to say: "It may, perhaps, be thought that these considerations do not apply with the same force to those portions of the sea which wash the coasts of any particular State within the distance of a marine league, or as far as cannon-shot will reach from the shore. The physical power of exercising an exclusive property and jurisdiction, and of excluding the action of other nations within these limits, exists to a certain degree, but the moral power may perhaps seem to extend no further than to exclude the action of other nations to the injury of the State by which the right is claimed. It is upon this ground that is founded the acknowledged immunity of a neutral State from the exercise of acts of hostility by one belligerent Power against the other within those limits." (Elements, p. 343.)

In the same spirit Lord Stowell observes (the "Twae Gebroeders," 3 Robinson, p. 352):—"It is an observation of law that the passage of ships over territorial portions of the sea or external waters is a thing less guarded than the passage of armies overland, and for obvious reasons: an army in the strictest state of discipline can hardly pass into a country without great inconvenience to the inhabitants; roads are broken up; the price of provisions is raised; the sick are quartered on individuals, and a general uneasiness and terror is excited; but the passage of two or three vessels or a fleet over external waters may be neither felt nor perceived. For this reason the act of inoffensively passing over such portions of water without any violence committed there is not considered as any violation of territory belonging to a neutral State; permission is not usually required; such waters are considered as the common thoroughfare of nations, though they may be so far territory that any actual exercise of hostility is prohibited therein."

In the same sense Ortolan ("Diplomatie de la Mer," l. iii, ch. viii), in commenting on the "Droit d'Asile," writes:—"Ainsi que nous l'avons dit en traitant de la mer territoriale, une nation ne possède un droit exclusif de propriété que sur ses ports et sur ses rades fermées ou foraines, et sur ses golfes et baies qui peuvent être assimilées à ces dernières: elle n'a sur l'espace ouvert des eaux mesuré à partir de ses côtes par la portée du canon, qu'un droit d'empire; qu'un pouvoir de législation, de surveillance, et de jurisdiction, en vertu desquels, si elle est maîtresse de surveiller les navires étrangers qui y passent, et d'empêcher qu'ils ne s'y établissent d'une manière permanente et nuisible, elle ne peut s'opposer à un transit inoffensif qui n'est que l'usage légitime d'un élément commun à tous."

Other European authorities of eminence might be cited who adopt the same distinction between the internal waters (*intra fauces terræ*) and the external waters of a neutral State, as regards the innocent use of the latter by belligerents. It will be sufficient for my purpose to have called your Lordship's attention to the distinction so made by the above-mentioned authorities as the warrant for my suggestion that it might be open to doubt whether the absolute prohibition by Great Britain of the use of its open roadsteads by the vessels of either belligerent was not *ultra vires,*

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 159.

*The Lord Chancellor to Earl Granville.—(Received December 2.)*

31, *Great George Street, S.W., December* 1, 1870.

Dear Lord Granville,

THERE can be no doubt of the right of the neutral Power whose territory has been violated demanding (diplomatically) redress. This, indeed, is with us, and I think with most countries, the only mode of obtaining satisfaction for the injured belligerent—for the belligerent ship is lawfully captured as between him and his enemy.

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* Lawrence's "Wheaton," page 342.

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The French law, then, in allowing the belligerent himself to sue for redress, appears rather to soften the asperity of the rights of war as between the French and their enemy, but at the same time to render it impossible for the neutral to obtain direct redress by any action except that of diplomatic remonstrance.

I think where the offence is not wilful, we may reasonably defer asking for reparation till after the trial between the other parties is over, which trial may throw light upon the facts, but, at the same time, as we cannot be parties to the trial, we cannot submit to be bound by its result.

I suggest as the reasonable course (where the injury is not under any claim of right on the part of the French captain to invade our limits, but simply on a question of doubt raised by him as to the distance at which the capture took place), would be as follows:—

Lord Lyons to state that, as the question of distance is in dispute, and evidence may be given in the action which may throw light upon the subject, Her Majesty's Government do not desire to press the question upon the French Government till after the action (if any) shall have been tried, but that, in case of no action being brought, or in the event of the point not being made clear to the satisfaction of Her Majesty's Government whether a territorial wrong has been committed or not, Her Majesty's Government reserves full right to bring the matter before the French Government for explanation.

To Bismarck the offer may be made of rendering any assistance that may be consistent with the French law for the fair trial of the case.

Yours very sincerely,
(Signed) HATHERLEY.

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### No. 160.

*The Queen's Advocate to Earl Granville.—(Received December 5.)*

*Temple, December* 5, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed to transmit to me the accompanying letter from the Colonial Office, inclosing a copy of a despatch from Sir Henry Ord, the Governor of Singapore, forwarding a correspondence between the French Consul in that colony and himself, respecting the Governor's refusal to permit the French corvette "d'Assas" to take in a supply of coals at that port on her journey to Pondicherry from Saigon; and Mr. Hammond was pleased to request that I would furnish your Lordship with my opinion whether the construction put by the Governor upon the third rule laid down in the letter to the Admiralty and other departments of the 19th July last, was correct, and whether his conduct in this matter may properly be approved.

In obedience to your Lordship's commands I have the honour to report:—

That the answer given by the Governor of Singapore to the question submitted to him by the French Consul at that port may be properly approved by your Lordship. At the same time the Governor should be informed that, although your Lordship approves the discouragement which he gave to a contingent abuse of the privilege of coaling allowed to belligerent vessels by your Lordship's Circular, it is not your intention that a supply of coals under the limitation prescribed by that Circular should be denied to belligerent vessels which may come into the port of Singapore *bonâ fide* in want of coals to enable them to keep the sea.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 161.

*The Lord Chancellor to Earl Granville.—(Received December 9.)*

31, *Great George Street, December* 7, 1870.

THE Lord Chancellor presents his compliments to Earl Granville, and with reference to the reports of the Law Officers submitted to his consideration by Earl Granville's note of the 5th instant, begs to state:—

1st. That he agrees with the Attorney- and Solicitor-General in the opinion that the Circular of the 19th of July last does not go beyond a legitimate exercise of the rights possessed by every neutral to protect its territory; and he further agrees with them in thinking that the notification in the "Gazette" was a sufficient notification, though a formal communication to the belligerents of the provisions of the Circular would have been advisable, for the sake of avoiding a plea of ignorance on the part of the commander of any arrested vessel.

2nd. No point of difference appears to arise between the Law Officers except that which relates to the 4th provision of the Circular. The Lord Chancellor on this point also agrees with the Attorney- and Solicitor-General. The authorities cited by the Queen's Advocate, viz., Wheaton and Ortolan, both admit the territorial jurisdiction within the recognized distance from the shore, but both assert that such jurisdiction ought not to interfere with the ordinary right of passage over the ordinary track for the purpose of navigation. Wheaton, however, says that the neutral "may exclude the action of other nations to the injury of the State by which the right is claimed;" but Ortolan says, the neutral "est maîtresse de surveiller les navires étrangers qui y passent, et d'empêcher qu'ils ne s'y établissent d'une manière permanente et nuisible." Lord Stowell, in the case cited by the Queen's Advocate, also alludes to "vessels inoffensively passing over such portions of water." Now, the Circular is issued "to prevent the use of the harbours, &c., in aid of the warlike purposes of either belligerent."

This appears to me a perfectly legitimate purpose, and the forbidding the use of a roadstead for the safer conveyance by one belligerent of his prize is a prohibition which does not transgress the rule laid down by the great authorities above cited in favour of innocent navigation of the waters in question. If such transit with a prize were permitted, the belligerent might immediately run with its prize within the territorial jurisdiction of a neutral, and avail himself of the neutral's protection for the whole length of the neutral territory's sea-board.

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### No. 162.

*The Queen's Advocate to Earl Granville.—(Received December 9.)*

*Temple, December* 8, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Ambassador at Tours, inclosing a copy of his correspondence with Mr. J. M. Hamilton, of Manchester, respecting a claim which he has made upon the French Government on account of his expenses incurred in recovering possession of the cargo of the German brig "Lucie," which is stated to have been captured by the French gunboat "Hamelin" and taken into Rio de Janeiro, when the cargo was made over, as neutral property, to Mr. Hamilton's agent by the French Consul. Three reports, which have been received from Mr. Cobbold, Her Majesty's Chargé d'Affaires at Rio, respecting the captures made by the "Hamelin," and the correspondence which has arisen between the Brazilian, German, and French Ministers, consequent upon these occurrences, were also inclosed; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the instructions which should be addressed to Lord Lyons in the case of the "Lucie."

In obedience to your Lordship's commands I have the honour to report—

That Lord Lyons may be properly instructed by your Lordship to obtain from all interference in this case.

Lord Stowell has laid it down, with regard to neutral cargoes captured on board of enemy's ships, that "it cannot be expected that the merchant in time of war should obtain possession of his goods seized with exactly the same convenience as he would have done under the original consignment in time of peace, and when none of the accidents of war had intervened to interrupt the delivery" (the "Diana," 5 Rob., p. 73).

I may add that, according to the practice observed in British Prize Courts, the French captor would be entitled in this case to claim the payment of freight from the neutral owner of the cargo, as his cargo was carried to its port of destination; whilst, from the silence of the owners on this subject, it may be inferred that the captor has waived all such claim by allowing the cargo to be forthwith landed at Rio de Janeiro without requiring the owner to obtain possession of it under the process of a French Prize Court.

I have, &c.
(Signed) TRAVERS TWISS.

1870

### No. 163.

*The Queen's Advocate to Earl Granville.*—(*Received December* 12.)

My Lord, *Temple, December* 10, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed to acknowledge the receipt of my letter of the 5th instant, which, whilst stating my opinion that the Governor of Singapore may be approved in regard to the answer given by him to the French Consul on the question of supplying coals to the corvette "D'Assas," I recommended that the Governor should at the same time be informed that it is not the intention that a supply of coals under the limitation prescribed by the Circular of the 19th of July last should be denied to belligerent vessels which might come into the port of Singapore *bonâ fide* in want of coals to enable them to keep the sea. That as such a privilege would appear to be in direct opposition to the restriction intended to be enforced under paragraph 3 of the Circular referred to, Mr. Hammond was pleased to state that your Lordship would be glad to know how, in my opinion, the two principles can be reconciled.

In obedience to your Lordship's commands I have the honour to report—

That my report was intended to be in harmony with, and in no way to be in contradiction to, paragraph (3) of your Lordship's Circular. The case suggested by the French Consul was, as I understood it, that the corvette "D'Assas" should by design leave Saigon, where there were supplies of coal ample for her use, with only sufficient coal on board to carry her to Singapore, and with the intention of making good her supply at Singapore to carry her onward to her port of destination, Pondicherry.

The Governor of Singapore very properly in my opinion discountenanced the suggestion as being in abuse of the permission accorded by your Lordship's Circular, which I presume to have been intended to meet the accidental wants of belligerent vessels, and not to make good any deficiency of coal, which should be the result of design. I thought it, however, advisable that in approving the Governor's answer to the French Consul, your Lordship should for fear of any misconception on his part explain to him, that your Lordship did not intend that he should refuse all supplies to French vessels, which should come into Singapore accidentally short of coals to enable them "to keep the sea;" but in using that expression, I considered that the Governor would interpret it subject to the limitations of paragraph (3) of your Lordship's Circular, namely, until they could reach the nearest port of their own country, or some nearer destination.

I may take this opportunity of calling your Lordship's attention to the possible case of French postal vessels in the Eastern Seas, which may be ships of war, and which may call at British ports short of coal within the three months limited by your Lordship's Circular, whether any special permission may be required in their case.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 164.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 17.)

My Lord, *Temple, December* 17, 1870.

WE are honoured with your commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed by your Lordship to inclose to us an accompanying letter from the Colonial Office, inclosing copies of two despatches from the Governor of New South Wales, on the subject of the supply of coals and contraband of war to belligerent vessels, and to request that we would take those papers into our consideration, and favour your Lordship at our earliest convenience with our opinion as to the instructions which should be addressed to the Governor of New South Wales both on the question of the supply of coal, and generally in regard to contraband of war.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That we are not aware of any better instructions that can be given to the Colonial Governors, as to the manner in which belligerent ships of war should be dealt with, than those contained in your Lordship's Circular letter of the 19th July last, supplemented by Lord Kimberley's Circular of the 7th October.

We may observe that an erroneous idea seems to have become current at Sydney, possibly in consequence of the assertion of the Consul of the North German Confederation in his letter of the 6th September, 1870, that coal is under all circumstances contraband of war.

N°. 164*

## Germany.

*The Law Officers of the Crown and the Queen's Advocate to the Earl of Clarendon.*—(*Received May* 11.)

My Lord, *Temple, May* 11, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Charles Spring Rice's letter of the 6th instant, stating—

1. That he was directed by your Lordship to state to us that it having been ascertained, in the course of an investigation into Marriage Warrants, issued under the Act 12 & 13 Vict., cap. 68, now in force, that Her Majesty's Consul at Frankfort, though unprovided with one, had been in the habit of solemnizing and registering marriages of British subjects, he was called upon for an explanation of his proceedings in the matter.

2. That he was also to inclose to us Mr. Consul Kuchen's Report,* together with a letter from the Registrar-General stating his views with regard to the case; and he was to request that we would take that matter into consideration, and favour your Lordship with our opinion as to the validity of those marriages; and, if we consider them invalid, as to the proper course to be pursued with regard to them.

In obedience to your Lordship's commands we have the honour to report—

That it appears from Mr. Consul Kuchen's Report that he has had no authorization in accordance with the provisions of section 19 of 12 & 13 Vict., cap. 68, to solemnize and register marriages. We are of opinion, therefore, that the marriages of British subjects solemnized and registered by him without any such statutory authorization derive no validity from that Statute, and we are not aware of any law which renders the marriages in question valid marriages.

We think that the proper course will be to enact that the marriages in question shall be deemed and held to be as valid in law and cognizable in like manner as if they had been solemnized and registered by and under the authority of a British Consul duly authorized under the provisions of 12 & 13 Vict., cap. 68.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* No. 6, April 28.

1870

We think it advisable that Lord Belmore should be informed that coal is to be regarded as an article *ancipitis usûs*, which may become contraband of war where it is destined to be used for purposes directly belligerent.

This question, however, is immaterial, if the opinion which we have often expressed be correct, that according to international law there is no duty on a neutral State to prevent the exportation by merchant-vessels of contraband of war to belligerents. The prevention of this trade lies with the belligerent injured by it, whose Courts adjudicate on captures, and determine what articles are, and what are not, under given circumstances, contraband of war, a question which cannot be determined beforehand by the neutral country from which they are exported. It follows that we think the view taken by the Colonial Attorney-General erroneous, and that we regard the introduction of the Colonia Bill (which we do not understand to have yet passed) as somewhat untoward.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Greece.

### No. 165.

*The Queen's Advocate to Mr. Hammond.—(Received July 5.)*

*Temple, July* 4, 1870.

Sir,

I AM honoured with your letter of the 1st instant, stating that you were directed by the Secretary of State to transmit to me the accompanying documents* respecting an application which has been made by the General Manager of the Ionian Bank to Her Majesty's Minister at Athens for his interference with the view to the payment by the Hellenic Government of certain bonds of the late Ionian Government held by the Bank, and which are guaranteed by Treaty with Great Britain. You were also pleased to inclose for my information a Memorandum by the Librarian of the Foreign Office, showing the bearing of the Treaty of 1864 upon this matter, and to request that I would take this case into my consideration and inform you whether, under the circumstances, Her Majesty's Government would be justified in pressing for the payment of the claim of the Ionian Bank.

In obedience to your commands I have the honour to report—

That a difficulty exists as regards the right of Her Majesty's Government to insist upon the immediate payment of the claim of the Ionian Bank from the total silence of the Convention of 1864 as to any time, within which the Hellenic Government has undertaken to fulfil the engagements of the Government of the Ionian States. It may be, however, that the debt due to the Ionian Bank falls under the category of debts alluded to in the report of the Hellenic Minister of Finance of 3rd April, 1869, of which the capital became payable three months from the time the holder of the securities notified in writing to the Ionian Treasury his desire for payment. If such should be the case, then the tenour of the securities themselves will supplement the Convention, and if notice has been duly given by the Directors of the Bank to the Hellenic Government, I think that Her Majesty's Government would be justified in pressing for the immediate payment of the claim of the Bank.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 166.

*The Queen's Advocate to Earl Granville.—(Received November 5.)*

*Temple, November* 4, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 1st instant, stating that he was directed to transmit to me a letter which your Lordship has received from Messrs. Palmer and Howe inclosing the petition of

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* Mr. Erskine's No. 172 and Inclosure.

1870

Mr. Moses Levy, a native of Zante, for a certificate of registration as a British subject, and to request that I would take these papers into my consideration and furnish your Lordship with my opinion as to the answer which should be returned to Mr. Levy's application.

In obedience to your Lordship's commands, I have the honour to report—

That it will be proper to inform Messrs. Palmer and Howe that Mr. Moses Levi is by birth an Ionian subject, and although Zante, of which island he is a native, was under the protectorate of the Queen of England at the time of his birth, that circumstance did not constitute him a subject of the Queen so as to entitle him to a certificate of registration as a British subject.

I have, &c.
(Signed) TRAVERS TWISS.

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# Hayti.

## No. 167.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 1.)

*Temple, January* 31, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 13th instant, stating that, with reference to the reports of the Law Officers of the Crown to Her Majesty's Secretary of State for the Colonies of the 6th March and 30th December, 1868, on the subject of the claim of General Solomon, the Haytian Minister in this country, for compensation for his arrest and expulsion from Jamaica during the disturbances in that island in the year 1865, he was directed to transmit to us the accompanying further correspondence which has taken place on this subject, and to request that we would take the same into our consideration and furnish your Lordship with our opinion as to the answer which should be returned to General Solomon.

In obedience to your Lordship's commands I have the honour to report—

That we agree with the report of the former Law Officers on this case. The Haytian Government is entitled to claim for General Solomon, who was resident in Jamaica by his own choice as a private person, the same rights as belong to British subjects there residing, namely, recourse to our Courts of Justice for the redress of any injuries sustained by them; but the Haytian Government is not entitled to claim for him a right beyond that possessed by British subjects, namely, of demanding compensation from the Government. If access to our Courts were denied to him, or if they did him manifest injustice, a claim against the Government might possibly arise, but not till then.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 168.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 17.)

*Temple, March* 16, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed to transmit to me a letter from Mr. Maxwell Savage preferring a claim on account of arms and ammunition supplied by him to the late Haytian Government, part of which has been destroyed, and part seized by the revolutionary party, and requesting that Her Majesty's Chargé d'Affaires may be instructed to protect his interests; and to request that I would take this letter into my consideration and furnish your Lordship with my opinion as to the answer which should be returned to Mr. Maxwell Savage.

In obedience to your Lordship's commands I have the honour to report—

That it would be advisable that Mr. St. John should report to your Lordship upon the circumstances of this case, as far as they are within his knowledge, and meanwhile Mr. Maxwell Savage should be informed that your Lordship will direct inquiry to be made respecting the matters of which he complains.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 169.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June* 16.)

*Temple, June* 15, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that, with reference to my report of the 16th March on the subject of the claim of Mr. Maxwell Savage on account of arms supplied by him to the late Haytian Government, he was directed to transmit to me, together with the previous papers, further correspondence which has taken place respecting this case, and to request that I would take the same into my consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That from the report of Mr. St. John it would appear to be open to question whether the arms deposited in the Custom-house at Port-au-Prince were not the property of the late Haytian Government, although asserted by Mr. Maxwell Savage to have been there deposited on his own account. The information which Mr. St. John has received on this head derives support from the letter of the Custom-house authorities at Port-au-Prince addressed to the agents of Mr. Maxwell Savage, which Mr. Maxwell Savage has forwarded to your Lordship in his letter of 3rd June, 1870, and from which it appears that the arms in question were placed in a depôt in the Custom-house "which exists for the account of the Government." Under these circumstances, more especially as Mr. St. John states that it appears to be "a matter of account whether the arms have not been fully paid for by the late Haytian Government," I am of opinion that Mr. Maxwell Savage and Messrs. Webley and Son of Birmingham, who have lately come forward and state themselves to be joint partners with Mr. Maxwell Savage in the transaction, should be informed that, as a Commission has been appointed by the present Haytian Government to examine and report on all claims of creditors against the late Government, the proper course for them to pursue will be to prepare a statement of their claim, and to submit it with the requisite vouchers to that Commission as soon as its sittings commence.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 170.

*The Queen's Advocate to Earl Granville.*—(*Received October* 3.)

*Temple, September* 30, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 28th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Acting Consul-General at Port-au-Prince upon the subject of a claim advanced by Messrs. Williams and Knowles, of Nassau, Bahamas, to compensation for the seizure, on two different occasions, of their schooner, the "Belinda W," by vessels of war in the service of the party now in possession of the Government of Hayti, and on account of the ultimate condemnation and sale of that vessel; and Mr. Otway was pleased to request that I would take this case into my consideration, and furnish your Lordship with my opinion as to the instructions that should be given to Mr. Byron thereupon.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Acting Consul-General at Port-au-Prince should be instructed to ascertain by what species of Tribunal, and on what grounds, the "Belinda W" was confiscated by the Haytian authorities, whether for breach of the Haytian Customs laws, or as a vessel in the service of the enemies of the captor. The claim of

1870

Mr. Byron Bode appears to be one of a very doubtful character, from whatever point of view it be regarded; but before your Lordship should decide not to entertain it, it would be advisable, in my opinion, to ascertain more precisely the grounds upon which the vessel and cargo were confiscated.

I have, &c.
(Signed) TRAVERS TWISS.

## Italy.

### No. 171.

*The Queen's Advocate to Earl Granville.—(Received August 21.)*

*Temple, August* 20, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 19th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Consul-General at Naples, representing the sale and transfer of North German vessels to British subjects, and a letter from the Board of Trade suggesting, if it is the fact, that French Prize Courts do not recognize the sale of an enemy's ship to a neutral, that notice to that effect should be issued to British purchasers; and to request that I would report to your Lordship, at my earliest convenience, my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Her Majesty's Consul at Naples may properly require from any British subject claiming to have granted to him a provisional certificate under section 54 of "The Merchant Shipping Act, 1854," for a vessel purchased by him from a North German subject, a declaration of ownership in conformity with section 38 of that Act, as a test of the purchase not being colourable. It is true that section 54 of the Merchant Shipping Act is silent as to any test of ownership, as regards vessels purchased in foreign ports; but I think it will be a reasonable precaution, under the circumstances, on the part of Her Majesty's Consul, to require a declaration to the effect above-mentioned, as being in conformity with the spirit of the Act, as regards the ownership of vessels registered as British vessels in the United Kingdom, and I see nothing in the Act which prohibits him from so doing.

I have, &c.
(Signed) TRAVERS TWISS.

P.S.—There will be no objection to Her Majesty's Consul informing any British subject who may apply to him for a provisional register, as the owner of a vessel purchased from a North German subject, that his title will be precarious if his vessel should be captured by a French cruizer.

T. T.

## Japan.

### No. 172.

*The Law Officers of the Crown to Earl Granville.—(Received July 30.)*

*Temple, July* 29, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a despatch and its inclosure, from Her Majesty's Minister in Japan,* respecting the arrangements concluded between the Japanese Government and the foreign Representatives for the formation of a foreign settlement at Yedo. Mr. Hammond was pleased also to inclose the previous correspondence in the matter,* and to request that we would take those papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That your Lordship may properly approve the further arrangement relative to the foreign settlement at Yedo, which has been forwarded to your Lordship in the despatch of Sir Harry S. Parkes of May 7, 1870.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

### No. 173.

*The Law Officers of the Crown to Earl Granville.—(Received October 25.)*

*Temple, October* 24, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed to transmit to us a despatch, with its inclosures, from Her Majesty's Minister in Japan, respecting the illegal proceedings of the United States' Consular authorities at Kanagawa, in entering and removing from the premises of Messrs. Howles and Black certain property belonging to the bankrupt estate of that firm, as well as causing the arrest of the person, a British subject, who had been placed in charge of those premises; and Mr. Hammond was pleased to request that we would take these papers into our consideration and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That this is not a case in which Her Majesty's Government would, in our opinion, be justified in making a claim against the United States' Government for compensation to Mr. Sutherland, inasmuch as he brought the violence upon himself, a point which Sir Harry Parkes has already suggested.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

## New Granada.

### No. 174.

*The Queen's Advocate to the Earl of Clarendon.—(Received March 3.)*

*Temple, February* 28, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that he was directed by your Lordship to inform me that, in accordance with suggestions contained in my report of 9th October last, on the subject of the claims of Mr. Percy Brandon against the Colombian Government, on account of certain bonds issued by the former Government of New Granada, Her Majesty's Chargé d'Affaires at Bogota was instructed to call upon Mr. Brandon to furnish explanations with regard to the deed of agreement and subsequent transactions between himself and Mr. Michelsen, and that he was now to transmit to me an accompanying despatch from Mr. Bunch, offering some observations on the claim, and inclosing a copy of a letter from Mr. Brandon containing the explanations in

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* No. 75, May 7, 1870.

* Sir H. Parkes, No. 182, October 30; No. 195, November 28; to Sir H. Parkes, No. 190, December 21, 1867.

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question; and Mr. Hammond was pleased to request that I would take the same into my consideration and favour your Lordship with my opinion thereupon, and as to the instructions which should now be given to Mr. Bunch with regard to the matter.

The previous papers were also sent therewith for convenience of reference.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That the statement of Mr. P. Brandon, which has been forwarded to your Lordship in Mr. Bunch's despatch of December 13, 1869, does not, in my opinion, remove the difficulties in this case which have been raised by the report of the Committee of the Colombian Senate. That Her Majesty's Government has the right, if it thinks fit, to insist upon the Colombian Government paying off the "Vales" at par, in the mode provided by the Convention of 1824, I have no doubt; but I hesitate to say that this is not a case in which your Lordship ought to exercise a discretion, and decline to press the subject further upon the attention of the Colombian Government.

If the "Vales" were still in the hands of Mr. Michelsen, I should have no hesitation in advising your Lordship to decline all further interference, and even now it is obvious that the result of your Lordship's successful intervention would be to obtain for the estate of Mr. Michelsen, a Danish subject, who evidently purchased the "Vales" at their depreciated value on speculation, a profit far in excess of any profit to be realized by fair mercantile transactions.

On the other hand, Mr. P. Brandon asserts that he will be unable to recover the balance of the debt due to his principals from the estate of Mr. Michelsen if your Lordship does not constrain the Colombian Government to pay off the "Vales" at par. I should be sorry to do injustice to Mr. P. Brandon, but I am not quite satisfied that this is an argument to which your Lordship ought to defer. I should, however, prefer that your Lordship should have the advantage of the opinion of the Attorney-General and the Solicitor-General on this part of the case. That Mr. Michelsen purchased the "Vales" at their depreciated value with a full knowledge of the Decree of 1861 is clear from the recital in the purchase deed, whilst Mr. P. Brandon gives no reasons whatever for assenting to Mr. Michelsen's proposal that he should restore to him the "Vales" which he had received in deposit in 1858, and take in exchange, for the purpose of realization, the "Vales" purchased by Mr. Michelsen in 1866, and for which he now seeks to obtain full value from the Colombian Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 175.

*The Attorney- and Solicitor-General to the Earl of Clarendon.*—(*Received March* 11.)

*Temple, March* 11, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 4th instant, stating—

1. That he was directed by your Lordship to transmit to us the accompanying report from Her Majesty's Advocate-General upon the subject of the claim of Mr. Percy Brandon against the Colombian Government on account of certain bonds issued by the former Government of New Granada.

2. That we would perceive that the Queen's Advocate, while he had no doubt that Her Majesty's Government had the right, if they thought fit, to insist upon the Colombian Government paying off the "Vales" at par, in the mode provided by the Convention of 1824; appeared, nevertheless, to incline to the opinion that the case was one in which your Lordship might exercise a discretion, and decline to press the matter further.

3. That as, however, the Queen's Advocate thought it advisable that your Lordship should have the benefit of our advice also, Mr. Hammond was pleased to transmit to us the correspondence that had passed upon the subject, and he was to request that we would take those papers into our consideration, and, if necessary, confer thereon with the Queen's Advocate, and that we would favour your Lordship with our opinion as to the course that should be pursued in the matter.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That in our opinion the Colombian Government can be properly required by Her Majesty's Government to give the full value for the bonds to those Englishmen who originally received them from the Colombian Government on the faith of the Convention of 1824, and to any Englishmen who claim those bonds or any of them directly from their original English holders; but upon any of these bonds being sold to a Colombian subject, the Colombian Government had a right as against such subject to treat them as depreciated in value, and we are of opinion that on such depreciated bonds being purchased by an Englishman, the purchaser acquired no title against the Colombian Government to hold the bonds for a greater value than they possessed in the hands of the Colombian vendor.

We are therefore of opinion that Her Majesty's Government are not entitled to insist on payment in full of any of the bonds of Mr. Brandon, unless there be some (as to which the facts do not appear quite clear) to which he can deduce a title direct from the original holders and not through a Colombian subject.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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## No. 176.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received March* 15.)

*Temple, March* 14, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 8th instant, stating that he was directed to transmit to me a note from the French Embassy in this country, requesting to learn what course Her Majesty's Government propose to take in regard to a so-called "commercial contribution levied by the authorities of the State of Panama." Despatches which have been received from Mr. Bunch and from Mr. Consul Wilthew, giving the explanations which your Lordship has called for in the matter, were also inclcsed. That I should perceive from these papers that a law of the Granadian Congress in 1835 established certain exemptions from taxation; that the Government of the United States of Colombia (the present title of the Republic) holds that the creation of Sovereign States under the Federal system has deprived that law of its force, and that each State can levy for internal purposes whatever taxes it may require.

That a further point is also raised in Mr. Bunch's despatch, namely, the right of the individual States to establish such onerous duties as would practically put an end to the right of trade secured to this country by Treaty with the Republic. That it does not appear that as yet any British interests have been specially affected by the course taken by the State of Panama, but that as the points in question may eventually have an important bearing with reference to the position held by that State as regards traffic across the isthmus, Mr. Spring Rice was to request that I would furnish your Lordship with my opinion on these points, and as to any steps which Her Majesty's Government should take for the assertion of British interests.

In obedience to your Lordship's commands I have the honour to report—

That I am not disposed to advise your Lordship that the right of Panama, as one of the Sovereign States constituting the United States of Colombia, to levy upon all foreign merchants who are resident within its territory the commercial contributions of which they complain, is controlled by the law of the Republic, formerly called New Granada, of 25th May, 1835, to which they appeal.

The main question raised by the merchants is in fact a question of constitutional law, upon which the Courts of the United States of Colombia are the competent Courts to decide, and it appears that the question has been formally brought before the Supreme Federal Court at Bogota, and that Court has decided that the State of Panama is not restricted by the constitution of the Union from imposing the contributions complained of.

Unless, therefore, this judgment should be appealed from and be reversed by some superior federal authority your Lordship would, I presume, in accordance with the usual comity in such matters, be disposed to respect it as decisive that the faculty of imposing the contribution complained of belongs, under the constitution of the Union, to the State of Panama. There is, however, another question upon which the merchants lay great stress. They say that the Republic of New Granada, by its law of 25th May, 1855, virtually engaged itself towards foreign Powers to

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maintain for twenty years after the opening of the railroad between the two oceans not merely the exemptions from taxes specified in Articles 1, 2, and 3 of that Law, but also the amount of contributions to be levied by the Municipal Council of Panama upon merchants in that canton selling foreign goods for consumption in the country. Assuming, for argument's sake, that the good faith of the Union is engaged by its own declaration not to exact for a given period in the Canton of Panama any of the taxes specified in Article 3 of the Law of 1835, I am of opinion that Articles 10, 11, and 12, which direct the Municipal Council of Panama to levy certain contributions on merchants selling foreign goods for consumption in the country, are not Articles which would have restricted the Union from imposing other or higher contributions on such merchants.

The question, therefore, of international obligation on this head would have failed, in my opinion, as regards the Union, and must equally fail as regards the State of Panama, which can be under no higher obligation than the Union itself.

With regard to the question raised in Mr. Bunch's despatch as to the right of Panama to impose "such onerous duties as would practically put an end to the right of trade secured to this country by Treaty with the Republic," I have not the Treaty before me so as to be able to judge of the precise bearing of its provisions on Mr. Bunch's question.

I may add that there would appear from Mr. Spring Rice's letter to be a slight misconception as to the views of the United States of Colombia. They have reserved to themselves exclusively, under the Constitutional Act of 1855, everything relating to the inter-oceanic communication, and the executive power of the Union has held subsequently to the passing of that Act that the exemptions from taxation specified in Article 3 of the Law of 1835 are within the control of the Union, and cannot be abrogated by the State of Panama. Its decision however on this point does not touch the contributions which may be levied on merchants selling foreign goods at Panama for consumption within the country, and it would appear from "the observations" made by M. Morro, the Secretary of Finance, on the letter of the North American merchants (page 26), that a law of the Granadian Republic (2nd June, 1849) declared articles destined for consumption in the isthmus to be not comprised in the exception against the faculty of the Provincial Chambers of the Isthmus to impose contributions on foreign merchandize, and that amongst the stipulations of the contract on the Panama railroad it is expressly stated that the goods and effects which are intended for consumption in the interior of the Republic shall pay the duties or imposts established, or which may be established, on the removal of the said goods from the storehouses of the company.

I consider that your Lordship cannot at present take any steps for the protection of British interests except in the way of friendly suggestion to the State of Panama that the tendency of its fiscal legislation is to prevent the natural influx of foreign capital into Panama, and so to impede the growth of the prosperity of that city, in which as one of the termini of the railroad British merchants using the railroad have an especial interest.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 177.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 9.)

*Temple, July* 9, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 2nd instant, stating:—

1. That upon the receipt of our report of the 11th March, upon Mr. Percy Brandon's claim on the Colombian Government in regard to the value of certain bonds issued to Messrs. Watts and Jones under a Convention between Great Britain and New Grenada concluded in 1854, the Earl of Clarendon addressed the accompanying instruction to Mr. Bunch, Her Majesty's Chargé d'Affaires at Bogota; and Mr. Hammond was directed by your Lordship to transmit to us the reply which had been received from Mr. Bunch, inclosing a copy of a letter from Mr. Percy Brandon calling attention to certain points in connection with this case which he conceived had not been fully understood and considered by Her Majesty's Government.

2. That the previous papers were likewise inclosed, and Mr. Hammond was pleased to request that we would take the case again into consideration and favour your Lordship with our opinion as to whether there is anything in Mr. Brandon's last letter which should induce him to alter the decision arrived at on our advice by Lord Clarendon.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that there is nothing in the observations made by Mr. Percy Brandon in his last letter to Her Majesty's Chargé d'Affaires at Bogota which should induce the Secretary of State to vary the decision of Lord Clarendon on the subject of Mr. Percy Brandon's claim against the Colombian Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 178.

*The Queen's Advocate to Earl Granville.*—(*Received September* 1.)

*Temple, August* 31, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed to transmit to me the accompanying letter from Mr. W. Ackers Cage, inclosing copies of correspondence which has passed between Her Majesty's Chargé d'Affaires at Bogota and himself with reference to a claim against the Colombian Government for 50 per cent. of the value of eight Colombian bonds of which Mr. Ackers Cage is the holder, such being the amount which, according to the Convention of 1834 between that Republic and those of Venezuela and Ecuador, the former agreed to pay of the liabilities of the old Republic of Colombia. That the quota due to Mr. Ackers Cage from Venezuela was awarded that gentleman by the Mixed Commission which recently sat at Caracas for the settlement of pending British claims. The previous papers were also transmitted, and Mr. Hammond was pleased to request that I would take this case into my consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That as far as I am able to understand the purport of Señor Cano's communication to Mr. Bunch, it is to the effect either that the State of Venezuela is liable to pay off the bonds of Mr. Ackers Cage in full, as belonging to the floating debt payable in the Custom-house of that State, or that the holder of the bonds has been guilty of *lâches* as regards any claim against the Republic of New Granada by not obtaining an adjustment of their payment between the three Republics under the Convention of 1834 before the expiration of the term prescribed by the Commission of Ministers. Upon the latter point I am not certain that I have before me the necessary data to form a trustworthy opinion; but from the provisions of Article XVIII of the Convention of 1834 it would appear to have been the duty of the Governments of the three Republics to submit to the Commission of Ministers within a definite period "a specific account of the floating debt assigned for payment in the Custom-houses of their respective territories," and when the amount should be known the Commission of Ministers was to adjust it between the three Republics. I am not, therefore, prepared at present to advise your Lordship to assent to the suggestion of Señor Cano that New Granada would be entitled to repudiate any claim against herself on the ground of *lâches* on the part of the holder of the bonds, as, if there has been any *lâches* in this case, it will apparently have been on the part of the State of Venezuela, in whose Custom-house at La Guaira the bonds appear to have been made payable. What would be the effect of *lâches* on the part of the State of Venezuela under such circumstances it may not be necessary for your Lordship to consider at present, as I gather from the latter part of Señor Cano's communication that, "in virtue of the compensations made by the Commission of Ministers, New Granada acknowledged and paid in full the floating debt credited in its Custom-houses and its Treasury debt, notwithstanding that the latter was much more considerable than that which it had to acknowledge according to the agreement, and in the same manner Venezuela and Ecuador had to acknowledge all the floating debt in their Custom-houses and their Treasury debt."

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If this be a correct representation of the mutual liabilities of the three Republics in what concerns the floating debt assigned for payment in the Custom-houses of their respective territories, Venezuela would appear to be responsible for the payment in full of the eight bonds which are in the hands of Mr. Ackers Cage, and Mr. Ackers Cage would have no claim against the Republic of New Granada.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 179.

*The Queen's Advocate to Earl Granville.*—(*Received September* 2.)

*Temple, September* 1, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed to transmit to me the accompanying despatch from Mr. Bunch, forwarding a claim of Mr. George Fletcher on the Colombian Government for compensation for losses which he states he sustained in consequence of his being robbed of certain goods in the State of Canca by both belligerents during the Civil War which raged in that country during the years 1861 and 1862; and to request that I would take this case into my consideration, and furnish your Lordship with my opinion whether Mr. George Fletcher's claim should be supported by Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Mr. George Fletcher's claim upon its merits ought not to be supported by Her Majesty's Government. Mr. Fletcher appears to have preferred a claim before the Tribunals of the country, which entertained it, and made their award. I see no grounds, upon the face of Mr. Bunch's report, for your Lordship's intervention to set aside that award.

Under these circumstances it becomes unnecessary to consider whether Mr. George Fletcher is entitled to the protection of Her Majesty's Government within the State of Colombia in his asserted character of a British subject.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 180.

*The Queen's Advocate to Earl Granville.*—(*Received December* 16.)

*Temple, December* 15, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, with reference to my report of the 28th December, 1867, he was directed to transmit to me the accompanying despatch and its inclosures, from Her Majesty's Chargé d'Affaires at Bogota, containing a full report on the claim of Messrs. Robinson and Fleming, of London, on the Government of Colombia for a balance alleged to be due to them on account of a steamer called the "Cuaspad," which they purchased in 1866, in pursuance of a contract made with General Mosquera, then the Colombian Envoy in London; and Mr. Hammond was pleased to request that I would take the case into my consideration, and furnish your Lordship with my opinion thereupon.

Mr. Hammond was also pleased to inclose the previous correspondence relating to Messrs. Robinson and Fleming's claims on the Colombian Government, from which I should perceive that, with the exception of the present one, all their claims have been settled since the date of my report above alluded to.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that the claim of Messrs. Robinson and Fleming against the Colombian Government is a just claim, on the assumption that, for the reasons stated, they found it impossible to effect an insurance upon the "Cuaspad" for a greater amount than 16,000*l*.

I have, &c.
(Signed) TRAVERS TWISS.

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## Pacific Islands.

### No. 181.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 14.)

*Temple, January* 13, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 11th instant, stating that he was directed to transmit to me a despatch from the Acting British Consul in the Fiji Islands, asking to be furnished with instructions as to the position of British subjects who, under the circumstances therein set forth, enter the service of the Chiefs of those Islands; and to request that I would take this matter into consideration, and report to your Lordship my opinion thereupon.

Mr. Spring Rice was also pleased to inclose, as somewhat connected with this matter, for my concurrence, the draft of an instruction, together with the despatch on the subject, which your Lordship proposes to address to Mr. March with respect to British subjects engaged in trading operations in the interior of the Fiji Islands.

In obedience to your Lordship's commands I have the honour to report—

That the draft of instructions proposed to be addressed to Her Majesty's Acting Consul in Fiji may be properly approved by your Lordship. With regard to the general question raised in the despatch of Mr. Acting Consul Thurston of August 23, 1869, I am not sufficiently informed as to the precise relations which exist, if any, between Her Majesty the Queen and the Chiefs of Fiji, so as to be able to advise your Lordship as to the general instructions which should be addressed to Her Majesty's Acting Consul in reference to British subjects who may enter into contracts of service, or otherwise, with any of those Chiefs.

I am disposed, as at present informed, from papers submitted to me on previous occasions, to advise your Lordship that such contracts should not be regarded as contracts between a British subject and a foreign Sovereign, as the Acting Consul seems disposed to consider them, but rather as contracts between private individuals in a foreign country,—one of the parties to the contracts being a British subject, and the other a citizen of the foreign country; and that a British subject would not be entitled to claim the intervention of Her Majesty's Acting Consul to enforce the fulfilment of any such contracts by the citizen of the foreign country.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 182.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received March* 2.)

*Temple, February* 28, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 14th instant, stating that he was directed to transmit to us a letter from the Colonial Office and the papers therein inclosed, relative to the case of a British subject named Jonathan Morgan; that it appears from these papers that this individual proceeded to the Fiji Islands in search of employment; that while there he committed a breach of the peace, the particulars of which are fully set forth, and that in consequence Mr. Thurston, the Acting British Consul, deported him under close confinement during the voyage to Sydney, in order that proceedings might be taken against him on his arrival at that place; that the Police Magistrate at Sydney, however, after inquiry, discharged Morgan from custody; that in our report of the 15th March last we expressed our opinion on the instructions about to be addressed to Her Majesty's Consul in the Fiji Islands as to his position in regard to jurisdiction; that the drafts of these instructions and of a previous despatch on the subject were also

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inclosed, because, although addressed to Mr. Consul March, they indicate the course which Her Majesty's Government are desirous that their Agent in these islands should pursue in such matters; and Mr. Spring Rice was pleased to request that we would take this case into our consideration, and furnish your Lordship with such observations as we may have to offer thereupon.

We are also honoured with Mr. Spring Rice's letter of the 21st instant, transmitting a further letter and its inclosure from the Colonial Office, relating to this case.

In obedience to your Lordship's commands we have the honour to report—

That this case seems an illustration of the extreme inconvenience of the present relations (if they may be called such) of Her Majesty's Government with the Fiji Islands. The British Acting Consul, though he may have had a natural right for the protection of human life to place Captain Morgan under control, had no right whatever to deport him in irons to Sydney. Whatever may be the merits of the case in other respects, this much appears clear, that the Consul might, we think, properly be so informed. It is difficult to form an opinion of the merits on widely conflicting *ex parte* statements made by the respective parties, but we are not disposed to think, as far as we can judge, that the Consul will be proved deserving of any other censure than that above suggested. Should Captain Morgan apply further for compensation, he may, we think, fitly be told to take such steps as he may be advised, and that Her Majesty's Government must decline to interfere.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 183.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received March* 12.)

*Temple, March* 12, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Charles Spring Rice's letter of the 25th ultimo, stating—

1. That Earl Granville had communicated to your Lordship our report of the 11th January, regarding the steps which it might be desirable to take in view of the kidnapping operations in the Pacific Islands.

2. That we would learn from the draft of a letter to the Colonial Office, therewith inclosed, the view which your Lordship had taken of our suggestions, and that it was proposed that the Government Draftsman should receive from the Foreign Office and Colonial Office simultaneously instructions to draw the draft of a Bill to be presented to Parliament, each Department confining itself to the points where it is specially concerned.

3. That, so far as the Foreign Office is concerned, those points are the powers proposed to be vested in Her Majesty's Consular Officers; and on that point your Lordship observed that we were of opinion that the difficulties which had hitherto interfered with the extension, in the case of the Fiji Islands, of the provisions of the Foreign Jurisdiction Act remained undiminished; but that we considered that advantage might be taken of the proposed Imperial legislation to enable Her Majesty's Consul to make regulations from time to time touching the receiving, exporting, or carrying by sea any natives of the islands, breach of such regulations to be punished as a misdemeanour.

4. That it would, however, appear necessary, in order to enable the Consul to enforce those regulations, that he should legally be empowered to issue warrants for the apprehension of persons charged with the offence of kidnapping, and that he should be enabled to send such persons for trial before the Australian Courts; and your Lordship requested that we would report to you our suggestions as to the instructions which should be addressed to the Government Draftsman on those points.

5. That Mr. Rice was pleased to add that, considering the peculiar circumstances of the British community at Fiji with which Her Majesty's Consul would have to deal, it would be a great advantage if the proposed enactment could strengthen his hands generally in enforcing discipline over British settlers; and that, in view of the possible necessity of appointing British Consular Agents in other neighbouring quarters, it might be also desirable that Her Majesty's Government should be in a position to extend similar powers to such Agents in case of need.

6. That this last point required attention with reference to immigration of British coolies to the French Colony of New Caledonia, where your Lordship had lately appointed a gentleman to act as British Vice-Consul.

In obedience to your Lordship's commands we have the honour to report—

That we beg leave to refer to the concluding paragraph of our former report, and to suggest that, before a Bill is prepared, it would be desirable to ascertain whether the consent of France and America can be obtained to the giving our Consul jurisdiction over their subjects to any and what extent. It further occurs to us that, before providing by Imperial legislation for the Colonial Courts dealing with offences in Fiji, and for the Consul at Fiji directing the deportation of offenders to the Colony, it may be well to ascertain whether the Colony is willing to accept any and what jurisdiction upon the subject. Until these matters are ascertained, we scarcely feel in a position to advise more definitely on the subject of the provisions of a Bill than we have done in our former report.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 184.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 23.)

*Temple, November* 22, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us the accompanying papers respecting the proceedings of the master of a British vessel, the "Atlantic," who was charged with having decoyed natives in the Pacific Islands under false pretences, for the purpose of conveying them practically as slaves to the Fiji Islands.

That the correspondence included a report from the Legal Adviser to the Treasury on Slave Trade matters, who, as we would perceive, suggested that certain existing Acts of Parliament might extend to the case, and he was to request that we would favour your Lordship at our earliest convenience with our opinion whether Mr. Rothery's views were correct; and, if so, whether legal proceedings could be taken against the vessel under the Acts of Parliament to which he (Mr. Rothery) referred; whether the captain of the vessel could not be legally taken into custody on his arrival in British territory, and sent for trial before a British Court of Law, and whether the Consul was justified in detaining the vessel, and sending her for trial to Sydney.

In obedience to your Lordship's commands, we have the honour to report—

That we concur generally in the views expressed by Mr. Rothery. We are of opinion that the Acts to which he refers are wide enough to embrace this case; that legal proceedings such as he recommends may be taken against the vessel; that Captain Hayes may be legally taken into custody on his arrival in British territory, and sent for trial before a British Court of Law, and that the Consul is justified in detaining the vessel and sending her for trial to Sydney.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### Annex.

*Report by Mr. Rothery to the Lords Commissioners of Her Majesty's Treasury upon the case of the "Atlantic."*

In obedience to your Lordships' commands I have perused and considered the documents herewith returned, consisting of a letter from the Under Secretary of State for Foreign Affairs, bearing date the 19th ultimo, with its inclosures, relative to the

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case of a British vessel called the "Atlantic," which had been detained by the British Consul in the Navigator Islands, on a charge of kidnapping the natives; and the Under-Secretary states that Lord Granville would be glad to have my opinion upon the whole case, upon the proceedings of the Consul, and as to the proper course to pursue in the matter.

The present is one of those unhappy cases to which your Lordships' attention was called in the early part of the present year in connection with a Bill which it was proposed to bring in, and which formed the subject of my report to your Lordships of the 8th of June last. The circumstances of the present case are as follows:—

In the month of September 1869, a captain, W. W. Hayes, whose character seems to have been well known in those seas, was at Apia in Upola, one of the group of the Samoa or Navigator Islands, when he was applied to by a person called Frederick Henry Severight, who had then recently arrived from the Fiji Islands, with orders from several planters there to procure labourers for them. Captain Hayes was at that time without a vessel, having lost the ship which he had owned, but he soon afterwards obtained from Messrs. Betham and Moore, an English firm established at Apia, the command of the schooner "Atlantic," in which he sailed on the 12th October following, with Mr. Severight on board. After touching at various places, they, on the 20th of the following month of November, sighted Manikiki, or Humphrey's Island, another of the Samoan group; and there Captain Hayes, a woman who lived with him on board his vessel named Mary Jordan, her brother Joseph Jordan, who acted as interpreter, and Mr. Severight, landed.

The same night the "Atlantic" drifted out to sea, and it was eight or ten days before she again fetched the land.

In the meantime Hayes, the Jordans, and Mr. Severight were lodged on shore in the native missionary's house, and having learnt that the islanders were desirous of going to a neighbouring island called Rakahana, or Revison's Island, to carry a quantity of cocoa-nuts, and some hats and mats as presents to the islanders, Captain Hayes proposed to take them over without charge, and to return with them after they had seen their friends. He proposed, too, that the whole settlement should go—men, women, and children. Before, however, the return of the "Atlantic," Captain Hayes had begun to excite the suspicions of the islanders by his having deflowered a child of tender years, and by his evident anxiety to get the whole of the female portion of the settlement on board; but it was proposed by the elders that the women and girls should remain behind, and that only the males should go. To this arrangement, however, Captain Hayes strongly objected, telling them that it would not look well to pay their visit unaccompanied by their women; but all his efforts to persuade the female portion of the settlement to go on board failed. At length, however, when he had got on board some 20,000 cocoa-nuts and a quantity of mats and hats, Captain Hayes seems to have made a last effort to induce the natives to come on board; and, with that view, he sent the dingy, belonging to the missionary teacher Taiti, ashore to persuade the people to come and receive payment for their goods. In about an hour or two the dingy returned, accompanied by a native boat, in which there were two little girls, eight boys, one middle-aged woman, and several old men. When Captain Hayes found that he could not persuade any more natives to come on board, he told Joseph Jordan to take the two little girls and eight boys down into the cabin, and endeavoured to persaade the elderly natives to return to the shore in the boat. This, however, they seemed very unwilling to do without their children, but at length all the old people were got into the native boat with the exception of the old man named Moete and the woman, both of whom had children on board, and who consequently refused to leave. The vessel thereupon stood out to sea, and Captain Hayes then, for the first time, informed the natives whom he had on board that it was not his intention to go to Rakahana at all, but to the Fiji Islands.

The "Atlantic" then sailed direct for Puka-puka, or Danger Island, another of the Samoan group. But before arriving there, Captain Hayes inquired of Moete what he intended to say to any natives who might come on board, and having been told by him that he should say that they had been stolen from Manikiki, he ordered Moete and all the Manikikians to go below when they got near the island, and fastened down the hatches upon them, and this course he adopted during the whole time that they lay off Puka-puka whenever any native boat approached the ship, fearing that, if any communication should take place, he would not be able to obtain any labourers from Puka-puka.

The attempt of Captain Hayes to obtain labourers at Puka-puka did not at first meet with much success, for the natives from some cause or other seem to have entertained some suspicion of his intentions. Through the agency, however, of the native missionary, Okotai, the difficulties were to a certain extent removed, and it was ultimately arranged that a small body only of them, nineteen or thereabouts, should in the first instance go, accompanied by their chief, Pilote; the agreement was for a period of six months to pick cotton at Voilete in the Island of Upola, but the chief was to remain with them for two months, when he was to be taken back to Puka-puka, and, if satisfied with the treatment they received, Captain Hayes was promised 100 labourers.

On Pilote and the Puka-pukans coming on board the vessel was got under weigh, but it was not until she was well clear of the island that the Manikikians were allowed to come on deck. On seeing them, and hearing from Moete how they had come on board, the Puka-pukans immediately concluded that they also had been betrayed, and that Captain Hayes did not intend to carry out his engagement with them—a suspicion, I fear, which there is too much reason to believe was well founded, for although the agreement, which is to be found amongst the papers, and which purports to have been signed by all the natives, is to work for a period of only six months "on the Island of Upola or any other island of the Samoan group," to which both Puka-puka and the Manikiki belong, there is very strong evidence that the agreement which Captain Hayes induced the Puka-pukans to sign, whether with or without the connivance of the native missionary Okotai, was to labour for a period of five years at Naitamba in the Fiji Islands; for both Mr. Severight and Mr. Powell, the missionary resident at Pago-pago, in the Island of Tutnila, another of the Samoan group, to which the vessel proceeded immediately after leaving Puka-puka, speak to having seen such an agreement, and the latter states that he believes that the agreement, which is amongst the papers, was forged by Captain Hayes after his arrest by the natives, and whilst he was staying at his, the missionary's, house, as hereinafter mentioned.

The "Atlantic" then proceeded to Pago-pago, where she arrived on the evening of the 14th December, and on the following morning Captain Hayes ordered the natives, both Manikikians and Puka-pukans, to go on shore to wash their clothes, and gave strict instructions to Moete that he was not to let one of them escape. Moete, however, soon after they had landed, proceeded to inform the Chief of Pago-pago, Manga by name, that he and the rest of the Manikikians had been stolen from their homes. Accordingly, Manga accompanied him to Mr. Powell, the missionary, when Manga stated that it was the intention of himself and his people to seize the vessel and release the natives. Mr. Powell, however, warned them against the consequences of so violent a proceeding. No sooner, however, had they left him, than Mr. Severight came to Mr. Powell, and confirmed the statement that the vessel was, as it is called, a man-stealer, and that the natives on board had been kidnapped. On receiving this information, Mr. Powell suggested to the natives that they should tell the Manikikians that, if they had been stolen, they need not return to the ship, but that they had better remain on shore.

In the meantime Moete had returned with the Chief Manga to the place where he had left the Manikikians and the Puka-pukans, and found that they had all returned on board. It was then arranged that he should go back to the vessel, assemble all the natives, and advise them, on his giving a signal, all to jump into the sea at once and swim ashore. He accordingly did so, and on the signal being given they all, with the exception of about ten of the more weakly, jumped into the sea and reached the shore in safety.

The few who remained on board were immediately seized by Captain Hayes and his crew, and thrust below the deck.

At this time the ship's boat with the mate and some of the crew were on shore taking in water, and Manga, finding that some of the natives were still detained on board, seized the boat and her crew. Captain Hayes then finding that his boat and crew were detained, immediately armed himself with his revolvers, and taking a native boat, proceeded to the shore. Manga seeing the captain approach armed, and well knowing his desperate character, ordered some of his men to put off in another canoe, with directions, when they got into shallow water, to upset the captain's boat, and thus wet his powder. The stratagem succeeded perfectly, and Captain Hayes being unable to use his revolvers, was easily overpowered and disarmed.

Notwithstanding this man's previous conduct the natives seem to have treated him with the greatest kindness and consideration; they took him to Mr. Powell's house and there lodged him, and Manga immediately wrote off to Mr. Hunkin, Her Majesty's Consular Agent resident at Leone, the capital of this Island of Tutuila,

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and which was about fifteen miles distant, stating what he had done, and requesting his immediate attendance. Mr. Hunkin, however, at first declined to attend, as he was under the impression that the "Atlantic" was an American vessel; but on receiving other more urgent letters from Manga, and a letter from Captain Hayes himself saying that, although he was an American-born citizen, the vessel was British, and claiming his intervention, Mr. Hunkin proceeded in a native boat to Pago-pago. He arrived there early on the 18th of December, and found Captain Hayes still a prisoner, but well treated; and after various negotiations, but with which it is not necessary to trouble your Lordships, it was agreed that Captain Hayes and the vessel should be released, to enable her to proceed to Apia, there to have the matter decided by the British Consul; but as the natives refused to trust themselves within his power, it was arranged that they should remain at Pago-pago, pending a reference to the British Consul.

It was thought then that everything was arranged; but here the difficulty arose on the part of the crew of the "Atlantic," who likewise feared to remain on board with the captain, believing that once released he had not any intention of going to Apia. Under these circumstances, Mr. Hunkin determined to take upon himself the responsibility of sending the vessel under the command of the mate to Apia to receive the Consul's directions, retaining Captain Hayes with him; and, to save appearances, Captain Hayes requested that it might be given out that he remained as Mr. Hunkin's visitor. The natives also remained at Pago-pago.

The "Atlantic" arrived at Apia on the 24th December, in charge of Mr. Hussey, the mate, when Mr. Williams, the British Consul, immediately determined to take the vessel to Pago-pago, and to bring the master and natives in her to Apia.

Accordingly, on the 9th of January following, Mr. Williams returned with them all to Apia, and on the 12th of that month opened a Court of Inquiry into the circumstances. The inquiry continued from that day until the 23rd of the same month, when owing to Captain Hayes having had a fit, which confined him to his bed, it was necessarily suspended for some days. Ultimately the inquiry terminated on the 14th of February, and the conclusion to which the Consul came was, that Captain Hayes was guilty of the charges which had been preferred against him, and that the best course for him to pursue was to refer the whole case to Sydney. Knowing, however, the desperate character of the man, and having no place in which to confine him, and being fairly convinced that, as soon as he knew what the decision was, he would immediately make his escape, he delayed giving judgment, and in the meantime, and as no one could be found sufficiently bold to take charge of the "Atlantic" to Sydney with Captain Hayes on board, Mr. Williams addressed a letter to Commodore Lambert, requesting his assistance for that purpose; Captain Hayes, however, having some suspicion that it was intended to send him to Sidney, and being out on his parole, thought it best to make his escape, and on the 1st of April following he left the island in a brig called the "Pioneer," of Shanghae.

It should here be added that, after Captain Hayes' departure, the vessel seems to have remained in the Consul's hands, the owner, Mr. Betham, having refused to accept her on the conditions proposed by the Consul in a letter from him dated the 10th of March last. And by a letter from Mr. Williams, dated the 7th of March, it seems that between the 12th January and that day, no less than seven of the Puka-pukans, or more than one-third of the whole number, had died, and that others were then very ill from the change of diet—their food in their own islands consisting entirely of cocoa-nuts and fish. How many of these poor creatures still survive, and what has become of them, there is nothing in these papers to show.

Such, then, are the facts of this unhappy case; and after a very careful perusal of the whole of the evidence, which is extremely voluminous, I think there can be no doubt that the charges preferred against Captain Hayes have been fully established.

Those charges were, as regards the Manikikians, that he had taken them away against their will, with the intention of disposing of them in the Fiji Islands; and, as regards the Puka-pukans, that he had entered into an engagement with them to labour for six monts in an island of the Samoan group, and that he was carrying them also away to the Fiji Islands.

The natives, many of whom were examined by the Consul, appear to me to give a very clear and consistent account of the whole transaction.

Their evidence is supported by that of Mr. Severight, of Mr. Powell, and, in a measure, by that of some of the witnesses produced on behalf of Captain Hayes. Indeed Captain Hayes appears to me hardly to deny the charges preferred against him. He does not deny that his agreement with the Manikikians was to take them with their cocoa-nuts to Rokahana, and yet, instead of so doing, he sailed away with them to Puka-puka.

The excuse that the natives were too few to land the cocoa-nuts, and that they had only brought one boat instead of two for the purpose, is a mere pretext, for it could never justify the carrying away of these young people from their homes.

It is admitted by all the captain's witnesses that when the Manikikians came on board they were under the impression they were going to Rokahana; that Captain Hayes ordered Jordan to take all the young people down into the cabin; and that it was then, and then only, that they learnt for the first time that they were not going to Rokahana. It is impossible, therefore, to believe that these children went voluntarily in the ship, and that they were not carried off against their will.

The agreement, too, which was produced by the captain, and to which their names purport to have been signed, is, so far as the Manikikians are concerned, confessedly a forgery, for it is admitted by every one that they were not allowed to have any communication with the shore at Puka-puka, but were always sent below when any boat approached; and yet Okotai, the native missionary at Puka-puka, whom they never saw, purports to be one of the attesting witnesses to their signatures.

The statement, too, of the mate and others of the crew of the "Atlantic," that Moete had brought the two young girls on board, saying that they had been sent by the missionary Taiti, in whose house Captain Hayes had been staying during his residence at Manikiki, to do what he liked with them, if true, would no doubt seriously compromise the characters both of Moete and of the missionary; but I do not see how it would justify the carrying off those people from their homes.

On the whole, looking at the facts of the case, seeing that the object of the voyage was to obtain native labour, and that Mr. Severight, who was on board for the purpose, required that labour for the Fiji Islands; looking also at the evidence given by Mr. Powell of the existence of an agreement, which Captain Hayes had fraudulently induced the Puka-pukans to sign, to work for him at the Fiji Islands; remembering, too, the unscrupulous character of Captain Hayes, who is described by Mr. Williams, the British Consul, as being a man of desperate character, "well known throughout the Colonies, San Francisco, Sandwich Islands, and China," and whose career has "been one of roguery," so that "there are but few parts of the world where he can go without being apprehended by the law," I think that there can be little doubt that his intention was, as Mr. Williams says, to take the natives, Manikikians as well as Puka-Pukans, against their wills to the Fiji Islands, there to force them to labour; and had he succeeded in his object it may well be doubted whether any of them would ever again have returned to their homes.

If, then, the charges preferred against Hayes be established, I think there can be little doubt that he is deserving of the most severe punishment which the law allows.

The offence with which he is charged, although not what is ordinarily called the Slave Trade,—by which I mean the African Slave Trade,—is in effect slave-trading in the larger sense of the term; it is the forcible or fraudulent carrying off persons against their wills to be used and dealt with as slaves. And the question which has now to be considered is, whether the offence is one which the laws of this country can reach?

It is certainly much to be regretted that the Bill which it was proposed to bring in, and which formed the subject of my report to your Lordships of the 8th June last, has not been passed, as it was expressly designed to meet a case of this kind, and there would then have been no doubt as to the legality of the Consul's proceedings, or as to the punishment which would have awaited Captain Hayes. It may, however, be well to inquire whether there is anything in the existing Slave Trade Acts which would meet such a case as the present.

In advising upon this point I shall do so with the utmost reserve, as I doubt not that your Lordships would prefer in a case of this description to have the opinion of the Law Officers of the Crown, the questions involved being of great importance.

My duty will be confined simply to calling your Lordships' attention to those provisions of some of the Slave Trade Acts which appear to me to have a bearing on the case.

The first Act then, to which I will call your Lordships' attention, is the Slave Trade Consolidation Act, the 5th Geo. IV, c. 113. Now, although there is no doubt that this Act was expressly directed against the African Slave Trade, its provisions would seem to have a more general application, and to have for their object, so far as British vessels are concerned, the entire suppression of the Slave Trade wheresoever carried on, and

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to whatever country the slaves, or the persons to be treated or dealt with as slaves, may belong. The 2nd section of that Act provides "That it shall not be lawful for any person to deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves; or to carry away or remove, or to contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves;" or to import or bring into any place whatever, or to ship or embark any such persons, &c.

The 3rd section imposes certain penalties for dealing in slaves, or exporting or importing them, or shipping them for the purpose of exportation or importation; and the 4th section declares that the ship, vessel, or boat which shall be found employed in such a trade shall, together with any property on board belonging to any owner or part owner of the vessel, be forfeited to the Crown.

And then the 9th section proceeds as follows: that if any British subject or any person resident within Her Majesty's dominions shall upon the high seas, &c., "knowingly and wilfully carry away, convey, or remove, or aid or assist in carrying away, conveying, or removing, any person or persons away as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves;" or if any person shall "knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining on board any ship, vessel, or boat any person or persons for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as slave or slaves," then and in every such case the person so offending shall be deemed to be guilty of piracy, and shall be punished accordingly.

The 10th section provides that any person engaging in any such trade, as well as the master supercargo, or any officer of the vessel, shall be deemed guilty of felony.

And the 11th provides that any petty officer or seaman serving on board any such vessel shall be deemed guilty of a misdemeanour.

Now in all these sections there are no words which limit the operation of the statute to the African Slave Trade, the provisions are perfectly general, and would seem to include any act of slave-trading by British subjects, or by persons subject to British jurisdiction, wheresoever carried on, and whatever may be the nationality of the slaves or persons used or dealt with as slaves.

There is another Act to which it may be well also to call your Lordship's attention, the 6 and 7 Vict., cap. 98, the 1st section of which extends the provisions of preceding statute to the case of British subjects resident in foreign countries; and the 2nd section declares "That all persons holden in servitude as pledges for debts, and commonly called pawns, or by whatever other name they may be called or known, shall, for the purposes of the said Consolidated Slave Trade Act, &c., be deemed and construed to be slaves or persons intended to be dealt with as slaves."

Looking at the general terms of these statutes, I am inclined to think that they would reach the present case; that the "Atlantic" if proceeded against would be forfeited, and that Captain Hayes, if arraigned before a British jury, would meet with the punishment he so richly deserves.

But whether the prosecution were successful or not I think it should be undertaken; the offence of which Captain Hayes is accused is of so heinous a nature, and the evidence against him appears to me to be so strong, that it would be a cause of much regret if he were to escape with impunity. I should add that the fact that Captain Hayes was apparently a citizen of the United States would make no difference; he was at the time master of a British vessel, sailing under the British flag, and as such would be subject to British jurisdiction; indeed, in writing to the British Consular Agent in Tutuila, he admits his status of a British subject, claims the Consul's protection as the master of a British vessel, and as being in the same position as if English born.

As regards Mr. Williams, the British Consul at Apia, respecting whom Lord Granville has asked your Lordships' opinion, it appears to me that he was right in seizing this vessel, and that he would have been fully justified in sending her as well as her master for adjudication before the Courts at Sydney. And if the vessel still remains in his custody, I would, subject to the opinion of the Law Officers of the Crown, venture to suggest that proceedings should forthwith be instituted for her condemnation.

Captain Hayes, it appears, has escaped; but should he at any time again come within British jurisdiction, I venture to suggest, with the same reservation, that he should be arrested and at once placed upon his trial.

It might be well also to ascertain what part Messrs. Betham and Moore, the owners of the vessel, have had in these transactions, and whether they were in any way parties to these nefarious proceedings; if so, they ought also to be put upon their trial.

Before concluding this report it will be proper to advert to a fact which arises incidentally in the case. It will be seen that it was chiefly through the instrumentality of the native missionaries at Manikiki and Puka-puka, Taiti and Okotai by name, that the natives were induced to go on board; it was with these missionaries that Captain Hayes chiefly communicated, and he resided with his woman, Mary Jordon, in Taiti's house at Manikiki for several days; there is also a charge against this missionary of having sent two young girls to Captain Hayes by Moete.

It does not appear whether these persons are agents of the Church Missionary Society, but it might be well to suggest to Lord Granville that the attention of that Society should be called to the facts, in order that the charges may be investigated, and if well founded, that steps should be taken to prevent their recurrence.

In conclusion, I would observe that the conduct of Mr. Hunkin, the Consular Agent in Tutuila, and of Mr. Powell, the missionary at Pago-pago, are, in my opinion, deserving of commendation; they appear to have acted, under circumstances of great difficulty, with promptitude and discretion. It is, however, to Manga, the chief of Pago-pago, to whose courage and determination these poor natives entirely owe their liberty, that the greatest praise is due; the skill with which he succeeded in disarming Captain Hayes, and thus preventing bloodshed, and the consideration with which he seems to have subsequently treated him whilst still retaining him as a prisoner, are deserving of the highest commendation; the service, too, was one which was not unattended with danger, looking at the desperate character of Captain Hayes, and it seems to have been performed with great judgment and discretion.

All of which is most humbly submitted to your Lordships' wisdom.

(Signed) H. C. ROTHERY.

*Doctors' Commons, October* 15, 1870.

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*Opinion of the Law Officers of the Crown on the above Report.*

We concur generally in the views expressed by Mr. Rothery. We are of opinion that the Acts to which he refers are wide enough to embrace this case; that legal proceedings, such as he recommends, may be taken against the vessel; that Captain Hayes may be legally taken into custody on his arrival in British territory, and sent for trial before a British Court of Law; and that the Consul is justified in detaining the vessel and sending her for trial to Sydney.

(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

*Temple, November* 22, 1870.

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## Persia.

### No. 185.

*The Queen's Advocate to the Earl of Clarendon.—(Received March* 23.)

*Temple, March* 22, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed by your Lordship to transmit to me an accompanying letter which had been received from Mr. Hector, inclosing a printed copy of a correspondence on the subject of the proceedings of certain wool-dealers at Harveyzeh. A letter with a memorandum from Sir Henry Rawlinson upon the subject was also inclosed; and Mr. Hammond was pleased to request that I would

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take these papers into my consideration, and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken these papers into consideration and have the honour to report—

That I agree with Sir H. Rawlinson in his view that it would be useless to discuss this question any further at Baghdad; and Mr. Alison is in my opinion right in suggesting that the alternative course of suing the parties in Persia is the proper course. I think your Lordship may properly instruct Mr. Alison to take such steps as he thinks most advisable to bring this question to a settlement in the manner proposed by him. The mercantile features of the case hardly allow, in my opinion, of such a high-handed course being adopted at present by your Lordship, as Sir H. Rawlinson deems to be necessary in order to secure the satisfaction of Messrs. Hector's just claims.

I have, &c.
(Signed) TRAVERS TWISS.

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## Peru.

### No. 186.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received March* 1.)

*Temple, March* 1, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 26th instant, stating that he was directed by your Lordship to call our immediate attention to the correspondence of which a list was inclosed regarding the detention in Peru of two British vessels. We would observe that the case had been the subject of legal proceedings in Peru, but that the vessels were detained in consequence of proceedings taken with the cognizance of the Peruvian Government.

We would also observe that, in conformity with the request of the parties in this country concerned in the vessels, Mr. Jerningham was instructed by the last West Indian mail to propose that, if the vessels were released, the owners were ready to give bond for any sum claimed by the Peruvian Government, on the understanding, however, that the case should be referred for arbitration.

That, subsequently to the despatch of your Lordship's instructions in that sense, Mr. Jerningham's despatch No. 8 had been received at that office, as well as Messrs. Galloway's letter of February 19, from which it appeared that it had been reported in late advices from Peru that, on the eve of the departure of the mail for Europe, forcible steps had been threatened against the vessels.

That the matter would accordingly have appeared to have assumed a new footing; and, as the case was one which involved heavy losses on the British subjects concerned, your Lordship requested that we would report to your Lordship at our earliest convenience such observations as we might have to make on the case, and specially as to the extent and manner in which Her Majesty's Government were called upon to interfere in regard to it in sufficient time to enable instructions to be forwarded to Mr. Jerningham by the mail of March 1.

And that, to facilitate our labours in the matter, your Lordship had requested the Board of Trade to furnish such observations as they might have to make on the case, which involved considerations of a technical as well as legal character, and that he was to inclose the report which had, in consequence, been received from the Board of Trade.

Since the date of the before-mentioned letter we have received a further letter from Mr. Spring Rice in this matter, stating that, with reference to his letter of the 26th instant, respecting the British ships "Star of Brunswick" and "Prince Rupert," he was directed by your Lordship to transmit to us for our consideration the accompanying further despatch from Her Majesty's Chargé d'Affaires at Lima respecting the case of those vessels.

In obedience to your Lordship's commands, we have taken this matter into our consideration, and have the honour to report—

That the question in dispute between the owners of the vessels and the Peruvian Government appears mainly one of fact, viz., whether the vessels were or not overloaded to such an extent as to disentitle them to a clearance at the port of Callao. On this question the papers do not enable us to form a positive opinion, and we are not altogether satisfied that the owners were right and the Peruvian Government wrong. As we understand the case, however, this question has been determined by the Peruvian Tribunals both of the First Instance and of Appeal in favour of the Government,

Under these circumstances, if the ordinary rules of international comity between civilized nations are applicable to our relations with Peru, the matter is ended, and the decision of the Courts must be acquiesced in. If, however, there be ground for impeaching the decision of the Peruvian Tribunals on the score of gross injustice, corruption, or fraud, a case of remonstrance may arise against the Government.

Under the circumstances, we do not see what instructions can at present be given to Mr. Jerningham, further than to inquire and report whether the proceedings before the Tribunals appear to have been regular and proper, or whether there are valid grounds, and if so what, to complain of them. Until some substantial grounds are made out to impeach their conduct, and to show their decision not merely opposed to what the owners may contend to be the weight of evidence, but manifestly and flagrantly unjust, we do not think that a cause of remonstrance arises, although Mr. Jerningham may very properly use his good offices to obtain a settlement of the dispute.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 187.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received April* 20.)

*Temple, April* 19, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence upon the subject of a claim made upon the Peruvian Government by Mr. Joseph Pickering for the sum of 318,536*l.* 1*s.* 2*d.* as compensation for the abrogation by that Government of a concession granted in 1864 to him and his associate, Don Manual Avelino Orihuela, for the construction of a railway from Iquique to La Naria; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and favour your Lordship with my opinion upon the case.

In obedience to your Lordship's commands I have taken these papers into consideration, and have the honour to report—

That it appears to me, upon the perusal of Mr. J. Pickering's memorial, that he has shown no title of right to claim compensation from the Peruvian Government on account of the abrogation of his concession, although he may have some equitable claim on that Government to be reimbursed the expenditure on the permanent way of the railway, which he has made in a *bonâ fide* effort to carry out his contract.

The Peruvian Government will have had all the benefit of that expenditure in taking possession of the railway, and Mr. J. Pickering's failure to complete his contract appears from his memorial to have been mainly attributable to the depreciated credit of the Republic itself.

Under these circumstances I am of opinion that your Lordship will be justified in declining to comply with Mr. Pickering's request that Her Majesty's Minister at Lima should be instructed to present his memorial to the President of the Republic, and to support officially his claim for compensation on the grounds set forth at length in that memorial.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 188.

*The Law Officers of the Crown to Earl Granville.—(Received August* 10.)

*Temple, August* 9, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 20th ultimo, stating that, with reference to our report of the 27th March, relative to the case of the British ships "Prince Rupert" and "Star of Brunswick," he was directed to transmit to us a despatch from Mr. Jerningham containing a report on the points raised, in regard to which we asked for further information.

A letter from Messrs. Moore and Galloway, preferring a demand for compensation on account of the detention of these vessels, and the previous correspondence and papers subsequent to our report, were also inclosed, and Mr. Otway was pleased to request that we would furnish your Lordship with our opinion as to the course it would be proper for Her Majesty's Government to take in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the decisions of the Tribunals of foreign countries are generally to be respected. Her Majesty's Government cannot undertake to impugn them, because they may have been arrived at by modes of procedure different from ours, still less because the facts on which they are based are disputed by the party decided against. Such decisions can only be impugned if they appear to be in manifest and flagrant violation of the rules of natural justice, or if the Tribunals pronouncing them are proved to be corrupt or barbarous.

In this case it appears that a paper issued by the Callao Board of Surveys, "assigning the draught the ships should have," was shown to the captains and signed by them. They, indeed, alleged that they signed this paper in ignorance of its contents; but whether this allegation was true or false, and how far it was material, were questions for the decision of the Peruvian Tribunals.

It appears by the statement of the Advocate of the captains (which must be taken with some allowance) that the "Diputacion de Comercio," a Tribunal having cognizance of the question, found that the ships had been laden beyond the prescribed draught. It further appears that the captains appealed from this decision to the Judge of the Superior Tribunal, who confirmed the sentence, and ruled, moreover, that the captains were responsible for demurrage. That the captains again appealed to the Fiscal of the Supreme Court, who confirmed the sentence, except so far as it related to demurrage. It is true that the Advocate complains of irregularities in the proceedings of the Court of First Instance, on account of which he thinks that its decision ought to have been reversed by the Superior Courts, but it is obvious that the opinion of an Advocate cannot weigh against the decision of an Appellate Tribunal. The question remains, is it shown that the Peruvian Tribunals, to the highest of which the captains have appealed, are corrupt, or that their decisions are in flagrant violation of natural justice? We can find no proof whatever of either of these allegations, which are not to be established by vague and general assertions or complaints. We do not undertake to give an opinion whether the decisions were right or wrong, but we think it proper to say, that upon the statements before us, which are to a great degree *ex parte*, we are by no means satisfied that the decisions were wrong. It may be that the Peruvian surveyors are open to receive bribes, and that they might have been bribed to connive at a breach of the regulations, but this does not affect the question whether Her Majesty's Government are entitled to disregard the decisions of the Peruvian Tribunals, and apply to the Peruvian Government for redress. We think that no case has been made out calling upon them to do so. Your Lordship may well inquire, however, if you think fit, as Lord Clarendon was asked to do, of Admiral Hastings or any other person acquainted with the country, and enjoying your Lordship's confidence, as to the truth of these allegations concerning the corruption of the Peruvian officials, and should your Lordship's inquiries result in sustaining these allegations, your Lordship may well call the serious attention of the Peruvian Government to the subject, with an intimation that it may not always be possible, if the system of bribery is persevered in, to abstain from unpleasant intervention, should the working of the system be such as to expose British subjects to substantial, though perhaps not technical, hardship and injustice.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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## No. 189.

*The Law Officers of the Crown to Earl Granville.—(Received August* 15.)

*Temple, August* 12, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that with reference to our report of the 31st of May last upon the subject of the claim of Mrs. Stevenson to certain property at Callao, he was directed by your Lordship to transmit to us the inclosed further correspondence which had passed between the Foreign Office, Sir John Ogilvie, and Her Majesty's Chargé d'Affaires at Lima.*

That we would perceive that the Peruvian Government declined to revoke the sentence of the Supreme Court, according to which Mrs. Stevenson was debarred, as an alien, from claiming the moveable property of her grand-daughter, and he was to request that we would take those papers into our consideration and favour your Lordship with our opinion as to the steps which it might be proper for Her Majesty's Government to take in the matter.

Mr. Hammond kindly inclosed previous papers for convenience of reference.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That our previous report of May 31, 1869, distinguishing between real and personal property, proceeded upon an interpretation of Article 635 of the Peruvian Civil Code, which, in our opinion, might reasonably be given to it; but it appears from the despatch of the Peruvian Minister of Foreign Affairs of the 14th June last, that such is not the interpretation which he puts upon it, and we assume that he speaks upon the advice of Peruvian lawyers, and that his interpretation would be adopted by the Peruvian Courts if the question could be raised before them. It appears, however, that the question cannot now be raised before those Courts, as Mrs. Stevenson, upon the advice of her Peruvian counsel in the suit, in which she has had an adverse judgment, claimed the succession to the whole estate of her grand-daughter, making no distinction between personalty and realty, and judgment has gone against her claim in all the Peruvian Courts under circumstances which would preclude her from raising separately before them any further claim to the personalty apart from the realty.

We fear therefore that Mrs. Stevenson is barred from raising any further question before the Peruvian tribunals, which, as the domicile of her grand-daughter was Peruvian, are the proper authorities to expound the law of succession applicable to her personalty. Assuming, as we have done, that Mrs. Stevenson cannot have further recourse to the Peruvian Courts, we are not prepared to say that the interpretation put upon the Peruvian Law of Succession by the Peruvian Minister is repugnant to its obvious sense, or that it would be contrary to natural justice for the Peruvian Republic to require complete reciprocity, as regards all kinds of property, as a condition of their allowing a subject of a foreign State to take any kind of property by succession in Peru.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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* To Sir J. Ogilvie, May 6; to Mr. Jerningham, No. 14, June 7; to Sir J. Ogilvie, June 9, September 14, 1869; to Mr. Jerningham, No. 50, June 27; No. 89, July 26, 1870; to Sir J. Ogilvie, August 1 and August 5, 1870.

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# Portugal.

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### No. 190.

*The Queen's Advocate to the Earl of Clarendon.—(Received January 24.)*

*Temple, January* 22, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 19th instant, stating that, with reference to my report of the 18th ultimo, upon the draft of a Convention with Portugal, making such modifications in the Treaty of the 3rd July, 1842, for the suppression of the Slave Trade, as are requisite in consequence of the intended suppression of the Mixed Commissions established under that Treaty, he was directed to transmit to me, for my consideration, a draft of Convention revised in accordance with the suggestions contained in my report above-mentioned, and in my report on a similar draft of Convention with the United States; and Mr. Otway was pleased to state that your Lordship would be glad to receive my opinion thereupon.

Mr. Otway also stated that the draft has been prepared upon the principle of altering the Treaty of 1842 no further than is absolutely necessary for the precise object in view, and that for this reason no attempt has been made to improve the instructions to the Commanders of ships of war. Nor has it been thought desirable expressly to cancel the Annex C to the Treaty of 1842, which contains regulations in respect to the treatment of liberated negroes. That, so far as these regulations depend upon the existence of the Mixed Commissions, they will fall to the ground with the Commissions. That in other respects (if any), there seems no harm in their remaining unrepealed, and at all events your Lordship thinks it may be left to the Portuguese Government to propose their repeal, if it thinks fit to do so. That the same doubt occurs with regard to the concluding phrase of Article IV of the Treaty of 1842, as with regard to the corresponding Article of the Treaty with the United States of 1862, referred to in Mr. Otway's letter of the 19th instant.

In obedience to your Lordship's commands I have the honour to report—

That the scope of this Convention appears to be very similar to that of the Convention with the United States, as regards the alternative provision for delivering over detained vessels to cruizers of their own nationality, but the draft supplies no instructions for such cases. The omission would be immaterial, if the instructions of either Government to its own cruizers were confidential, as further instructions might be supplied, if found necessary; but the instructions are declared to be an integral part of the Treaty, and it would hardly be safe in my opinion to provide for cases where the detained vessels are sent in for adjudication, and to make no provision for cases where they are handed over to cruizers of their own nationality, or are discharged as unseaworthy.

I have suggested a few verbal or formal amendments in the margin of the draft, but have refrained from making any substantial addition to the instructions until I should hear further, in deference to your Lordship's wish that the instructions should be altered as slightly as possible.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 191.

*The Queen's Advocate to the Earl of Clarendon.—(Received February 7.)*

*Temple, February* 5, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 31st ultimo, stating that, with reference to my report of the 22nd ultimo upon the draft of a Convention with Portugal for making such modifications in the Treaties

for the suppression of the Slave Trade as will be required by the contemplated discontinuance of the Mixed Commissions established under that Treaty, he was directed to state to me that your Lordship has made in the draft Convention some alterations corresponding to those which I have recommended in the draft of a similar Convention with the United States; and Mr. Otway was pleased to request that I would once more examine the draft Convention with Portugal in connection with the observations contained in his other letter of the 31st ultimo relative to the draft Convention with the United States, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the same question arises in this Treaty as in the Treaty with the United States, in connection with the new provision that the detained vessel may be handed over at sea to a cruizer of her own nationality. If she is to be considered thenceforth in charge of the cruizer, and its Government is to be responsible for bringing the vessel to adjudication, there will be no necessity for the proposed addition to Article III, which has been made at my suggestion; but it should not be overlooked that her own Government will have no interest in justifying the seizure of the vessel, and unless the seizure should be justified, damages may be given against the seizors. Under the former Treaty the seizors kept their hands upon the vessel and delivered her up, with her papers, into Court, and they had perfect security that a proper trial would be held, and their seizure of the vessel justified as far as evidence could do so. Under the proposed Convention, as the seizure is to be adjudicated upon by the Courts of the country to which the vessel belongs, and as the commander of the cruizer, to which she may be given up, will have no personal interest in the adjudication, it may well deserve consideration whether the interests of the seizors will be sufficiently protected, unless the charge of the vessel, until she is brought to adjudication, should continue in their hands.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 192.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received February 28.)*

*Temple, February* 26, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Charles Spring Rice's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at St. Michael's asking for information as to the validity of certain marriages performed at the British Consular chapel at that place under the circumstances therein stated, and soliciting that if necessary an Act of Parliament might be passed to render them valid; and he was to request that we would take Mr. Monson's despatch into consideration and favour your Lordship with our opinion as to the course which it would be proper for Her Majesty's Government to pursue in the matter.

In obedience to your Lordship's commands we have the honour to report—

That if, as we assume, the British Consular chapel is not part of the Consulate buildings, the marriages in question are not valid under 12 and 13 Vict., cap. 68, and that it will be proper that an Act of Parliament should be passed declaring them to be valid.

We have, &c.
(Signed) R P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 193.

*The Queen's Advocate to Mr. Otway.—(Received July 4.)*

*Temple, June* 30, 1870.

Sir,

I AM honoured with your letter of the 29th instant, stating that you were directed by the Secretary of State to submit to me the inclosed draft of a letter which he proposes to address to the Admiralty under the following circumstances:—

That an arrangement has recently been entered into with the Portuguese Government

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for the abolition of the Mixed Courts established under the Slave Trade Treaty between Great Britain and Portugal of 1842, and a Convention, of which a draft is inclosed, is now under the consideration of the Portuguese Government. That pending its conclusion, however, the two Governments have, as I should perceive from the inclosed correspondence, mutually agreed that the Mixed Commission Courts shall be suspended after the 30th of this month, whether or not the proposed Convention is signed by that time, and that these Courts will from that date cease to entertain Slave Trade cases. That a question, therefore, arises as to the mode of dealing with captured slavers during the continuance of this temporary arrangement, as the Act 6 and 7 Vic., c. 53, which applies to the disposal of such prizes, distinctly directs that they shall be conveyed before the Mixed Commission Courts for adjudication. That the Secretary of State apprehends that, when the Convention is signed and ratified, there will be no difficulty in carrying it into effect by means of an Act of Parliament, and that the Act might, if necessary, be made to have a retrospective effect; but that it is the period that may intervene before the Convention is signed and an Act is passed that requires to be provided for. That in the event of the proposed instructions being sent to commanders of British and Portuguese cruizers the result would be, in the case of a British ship captured for being engaged in the Slave Trade, that she would be handed over to a British authority for trial before a British Court; and in view of the law of England regarding the Slave Trade, the Secretary of State apprehends that no difficulty would arise in prosecuting the offending vessel, although the requirements of the Act 6 and 7 Vic., would not be complied with. That a captured Portuguese slaver would, in the same manner, be handed over to the nearest Portuguese authority for trial before a Portuguese Court, and that the Secretary of State apprehends that no action would stand against the British officer, who had made her over to the Portuguese, for not complying with the provisions of the above-mentioned Act, because his proceeding would be protected by the instructions of his Government, which in turn would be covered by the mutual agreement arrived at between the two Governments. That the Secretary of State would be glad, however, to be furnished with my opinion upon these points, and whether the draft instructions are right and proper, and, if not, you were to request that I would advise what steps should be taken to give effect to the provisional arrangement with Portugal.

In obedience to your commands I have the honour to report—

That as far as regards any personal responsibility of the commander of one of Her Majesty's cruizers for seizing and detaining a Portuguese vessel under the proposed new instructions, the instructions would be a protection to him, even if their propriety should be questionable so long as the Convention of 1842 is still in force, seeing that the old instructions, with which the proposed new instructions conflict, are declared by Article VIII of that Convention to form an integral part of it. I would observe that no arrangement appears to have been at present made between Her Majesty's Government and that of Portugal for the sending in of captured vessels to the nearest authority of their nation agreeably to the proposed instructions, the arrangement, as I understand it, having only regard to the abolition of the Mixed Commission Courts.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 194.

*The Queen's Advocate to Earl Granville.—(Received September* 13.)

*Temple, September* 13, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 12th instant, stating that he was directed to transmit to me two despatches from Her Majesty's Consul at St. Michael's, reporting certain proceedings on the part of British merchant vessels in contravention of the Queen's Proclamation of Neutrality during the present war; and to request that I would take the inclosed despatches into my consideration, and report to your Lordship my opinion as to the instructions which should be addressed to Mr. Monson on the subject. That I should perceive that Mr. Monson asks that these instructions may be sent to him by telegraph, through Her Majesty's Minister at Lisbon, by the steamer from that port of the 15th instant.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Monson may be properly instructed to warn the master of any British steamer which may be leaving port to communicate with homeward bound Prussian merchant-vessels, that the steamer may thereby incur risk of capture by French cruizers, and that Her Majesty's Consul could not interfere to protect it. Mr. Monson may also be informed, if your Lordship pleases, that such communication on the part of the steamer would not be a breach of any British Statute, but that it would rest with the French Prize Court in each case to determine whether the circumstances under which the steamer was employed rendered her liable to condemnation, as being in the enemy's service.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 195.

*The Queen's Advocate to Earl Granville.—(Received November* 24.)

*Temple, November* 23, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 21st instant, stating that he was directed to transmit to me a letter which has been received from the Post Office, requesting your Lordship to address a representation to the Portuguese Government in support of the claim of the Post Office for a certain rate of postage on letters, newspapers, and printed papers, forwarded from Lisbon to South America, and *vice versâ*, by the vessels of the Steam Navigation Company, with which the Post Office has lately concluded a contract for the conveyance of mails between Liverpool, Bordeaux, and Lisbon on the one side, and the ports of Rio Janeiro, Monte Video, and Valparaiso on the other. That the claim of the Post Office is founded on the XIXth Article of the Postal Convention between Great Britain and Portugal of the 6th April, 1859, of which a copy was inclosed. That I should perceive from the correspondence between the Post Office here, and the Director of the Portuguese Post Office, that the latter declined to admit the claim at first, on the ground that the Pacific Steam Navigation Company conveyed the Portuguese mails gratuitously, in consideration of certain advantages and exemptions conceded to them in the port of Lisbon. That this objection having been disposed of by the Company declining any longer to perform the service gratuitously, the Director of the Portuguese Post Office then alleged that the payment to the British Post Office is not claimable, because the Convention of April 6, 1859, applies only to "mail-packets" maintained by the British "Government," whereas the vessels of the Pacific Company do not receive a fixed annual subsidy from the British Post Office, but are paid according to the weight of letters and newspapers they convey, and therefore do not come within the terms "mail-packets maintained by the British Government," used in the Convention; and Mr. Otway was pleased to state that your Lordship, before writing to Her Majesty's Minister at Lisbon, in the sense desired by the Post Office, would be glad to be furnished with my opinion whether there is any weight in the objection thus raised.

In obedience to your Lordship's commands I have the honour to report—

That the objection raised by the Director of the Portuguese Post Office is, in my opinion, of no substantial weight. There is nothing in the context of Article XVIII of the Convention which warrants the technical interpretation of the term "maintained," as contended for by the Director. The word occurs three times in the course of that Article in slightly different senses; and in the passage more especially referred to is the equivalent of the Portuguese word "estabélecidos." I am of opinion that the proper interpretation of the word "maintained" in the passage referred to, is that the communication by Post Office packets should be regularly kept up by the British Government without any expense to the Portuguese Government other than the rate of postage specified in the Convention, the arrangements under which such communication is kept up by Her Majesty's Government being entirely outside the Convention.

I have, &c.
(Signed) TRAVERS TWISS.

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## Prussia.

### No. 196.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received April* 18.)

*Temple, April* 16, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 9th instant, stating that the Lords Commissioners of Her Majesty's Treasury have applied to your Lordship to know what answer should be returned to an application from the Consul-General of the North German Confederation as to the right possessed in this country by Her Majesty's Custom-house authorities to retain possession of the books of a commercial firm suspected of an intention to defraud the Revenue; and Mr. Spring Rice was therefore directed to request that I would take the accompanying correspondence into my consideration, and report to your Lordship my opinion as to what answer should be returned to the Lords Commissioners of the Treasury.

In obedience to your Lordship's commands I have the honour to report—

That I am not aware of any Statute which empowers Her Majesty's Officers of Customs to seize and detain the books of a commercial firm suspected of an intention to defraud the Revenue. They have certainly no such power by the common law.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 197.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 6.)

*Temple, May* 6, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 22nd ultimo, stating that he was directed to transmit to us the accompanying papers respecting the claim of Mr. D. M. Stiebel, the minor son of a naturalized British subject, to be furnished with a British passport; that the case is one of a peculiar nature, as it involves the question of the nationality of the son born of a naturalized British subject in the country of his father's original allegiance; and Mr. Spring Rice was pleased to request that we would furnish your Lordship with our opinion, both on the case generally as to the national status of a person so situated, and also as to the answer which should be returned to Mr. Stiebel's present application; whether he should be granted a passport, and, if so, whether unconditionally, or with restrictions as to the countries for which it should be available, or other limitations.

In obedience to your Lordship's commands we have the honour to report—

That we think it doubtful whether this is a case which comes within the provisions of the 6th section of 7 and 8 Vict., c. 66, as regards the transmission of the rights and capacities of a natural-born British subject to the child of an alien who has been admitted to British naturalization. The 6th section of the Statute purports, in our opinion, to confer the privilege of transmitting the rights and capacities of a natural-born British subject only upon such naturalized aliens as at the time of their naturalization are resident in this country with a *bonâ fide* intention of settling in it, and the *bona fides* of their intention may, we think, be properly tested by their subsequent conduct.

In the present case, it appears that Mr. Stiebel, the father, almost immediately upon his obtaining his certificate of British naturalization, went back to his native city of Frankfort, where he married a native lady, and has ever since continued to reside there with his family. Mr. Daniel N. Stiebel, who now applies to your Lordship to be admitted to certain privileges of a natural-born British subject, is the second child of this marriage, and was born at Frankfort in 1853. Under these circumstances, we think it at least doubtful whether the condition of residence with a *bonâ fide* intention to settle in this country, as required by the Statute, was satisfied by Mr. Stiebel, the father, so as to entitle him to a certificate of naturalization. But, assuming him to be so entitled, and giving full effect to the certificate, we agree with Lord Tenterden that it has not the effect of protecting Mr. Stiebel's son against the country of his native allegiance. Under all the circumstances, and having regard to the change about to be effected by the Naturalization Bill, we think that your Lordship would be justified in refusing a passport; but that, if it be granted, it should be subject to the conditions suggested by Lord Tenterden, and that an answer explaining this should be sent to Mr. Stiebel.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 198.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 19.)

*Temple, July* 19, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to state to us that your Lordship has received a representation from the Prussian Ambassador, saying that it is of the utmost importance to the North German Government that the inhabitants of Heligoland should not be allowed to do pilot service to any but English ships of war, and requesting that Her Majesty's Government would give orders accordingly as soon as possible to the Governor of Heligoland; and Mr. Hammond was to request that we would take this matter into our consideration, and report to your Lordship what course should be taken by Her Majesty's Government in regard to it.

In obedience to your Lordship's commands we have the honour to report—

That the Prussian claim that "the inhabitants of Heligoland should not be allowed to do pilot service to any but English ships of war" is too wide, but if it be restricted to "ships of war of either belligerent" it may, in our opinion, be admitted; and the Governor of Heligoland may be properly directed to forbid the inhabitants to act as pilots "for the ships of war of either belligerent," and to enforce the prohibition by all lawful means at his command.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 199.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 26.)

*Temple, July* 25, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 24th instant, stating that with reference to his letter of the 23rd instant, he was directed by your Lordship to transmit to us therewith a translation of a letter from the Prussian Ambassador, calling attention to the employment of colliers from Newcastle in conveying coals to the French fleet, and he was to request that we would take the same into immediate consideration, together with the letter on the same subject now before us, and report our opinion on both at our earliest convenience.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion Count Bernstorff should be informed that Her Majesty's Government do not undertake to prevent the export of arms or munitions of war to either belligerent, and that the Queen's Proclamation does no more than warn Her Majesty's subjects of the risk of hostile capture, which they run if they engage in contraband adventures. He should be reminded that in this Her Majesty's Government are but pursuing the same course which they took during the American war, and the continental wars of 1859 and 1866, at the outbreak of each of which Proclamations similar to the present were issued.

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That if, however, it were clearly shown to Her Majesty's Government that any ships were chartered by or for the French Government, to be employed in their service as store-ships, different considerations might arise.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 200.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 10.)

*Temple, August* 10, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 9th instant, stating that he was directed by your Lordship to submit to us an accompanying note from Count Bernstorff, suggesting, as a precaution against coal being exported from this country for the supply of the French fleet, by means of ships clearing with a colourable destination for a neutral port, that the masters or owners of ships freighted with coal for German or Baltic ports should be bound to deposit at the Custom-house of the port of egress, before clearing outwards, a bond for double the value of the cargo, which bond should not be returned until proof had been brought from the Consul at the port of delivery or otherwise that the cargo had been duly delivered at the port for which the ship cleared.

And Mr. Otway was pleased to request that we would favour your Lordship with our opinion on this suggestion, and that we would do so with the least possible delay, as Count Bernstorff had called attention to the large number of colliers now about to leave Newcastle, avowedly for Danish ports.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion Count Bernstorff should be informed that Her Majesty's Government have no power by the law of this country to comply with his request, which would entail an interference with trade such as no neutral country can be called upon to undertake, and which this country has never undertaken.

That no more can be done than to stop such vessels as may be shown by some evidence to be transports or store-ships in the French naval service, or destined to become such, and possibly to prosecute criminally persons who despatch such vessels upon false pretences.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 201.

*The Queen's Advocate to Earl Granville.*—(*Received August* 22.)

*Temple, August* 22, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that I was aware that by the Treaties of 1839 and 1867 the neutrality of Belgium and that of Luxemburg are respectively guaranteed by England, Austria, France, Prussia, and Russia.

That the Prussian Embassy last night communicated to the Foreign Office a telegram from the Ministry for Foreign Affairs at Berlin, dated August 20, 8·22 A.M., of which the following is a translation:—

"So very great numbers of wounded have been announced from Saarlouis that great difficulties, perhaps calamities, may ensue. It would be very important if the greater part of the wounded could be transported from Saarlouis, viâ Luxemburg, to Aix-la-Chapelle.

"Between Couz and Wasserbillig, it is true, the railroad is interrupted, but it might easily be restored, or the communication might be effected through waggons. We have inquired at Brussels and at Luxemburg whether this would be considered compatible with neutrality, but we wish to know also the opinion of the British Government."

The transport thus proposed to be effected, and which would doubtless include wounded French prisoners as well as Prussian wounded, would be almost entirely through neutral territory; and Mr. Hammond was pleased to request that I would consider this matter, and at my earliest convenience inform your Lordship whether such a measure, if allowed by the Belgian and Luxemburg Governments, could be carried out consistently with the guarantees given by the five Great Powers, two of whom in the present case are belligerents, of the neutrality of those countries.

In obedience to your Lordship's commands I have taken this matter into consideration, and have the honour to report—

That I am of opinion that it would not be consistent with the letter of the Treaty of London, which guarantees the territorial neutrality of Luxemburg, for the Prussian Government to transport its own wounded soldiers and its wounded French prisoners across the Grand Duchy of Luxemburg to Aix-la-Chapelle, even with the consent of the Grand Duke. It is true that the concession of such transit would be an act of humanity on the part of the Grand Duke; but, at the same time, it is calculated to relieve the Prussian Government from one of the great embarrassments which usually attend a state of war, and the pressure of which is already severely felt by it. I do not think that the circumstance of wounded French prisoners sharing the benefit of the transport with wounded Prussians alters the aspect of the question.

At the same time, I think that it would be in accordance with the spirit of the Treaty of Geneva, that the transport of wounded belligerents across territory which is neutralized by Convention, should be held to be consistent with its neutral character; but before such an interpretation can be put upon the neutrality of the Grand Duchy, as guaranteed by the five Powers, the consent of all the Parties to the Treaty must, in my opinion, be obtained.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 202.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 25.)

*Temple, August* 24, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 22nd instant, stating that he was directed to transmit to us two letters containing applications from British subjects to be permitted to enter the Prussian service as surgeons,* one of the applicants wishing to be attached to field hospitals and the other to confine his services to towns; and to request that we would state whether, in our opinion, such permission could be given consistently with the provisions of the Foreign Enlistment Act, and of the Proclamation of Neutrality; whether, in such case, any distinction should be made between service in the field and in stationary hospitals; and, finally, if we are of opinion that the permission can be given, in what form it should be granted, whether by a notification or by special license to each applicant.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that Mr. Parker would contravene the Neutrality Act, 1870, by entering the Prussian service as a field hospital surgeon without Her Majesty's license, but, as such service in the field is invested by an European Convention with the character of neutrality, we think that Her Majesty may accede to Mr. Parker's request consistently with Her Majesty's Proclamation of Neutrality.

The permission should be given under the form of a special license to Mr. Parker, and not under a general notification.

Mr. Scott's intended avocation would not, in our opinion, necessarily involve a violation of the Statute, but as he might unintentionally violate it, we think it would be safer for him to have Her Majesty's license, which should be granted to him in a special form.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Mr. Gardiner, August 19; Mr. Parker, August 10, 1870.

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### No. 203.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 25.)

*Temple, August* 25, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of to-day, stating that on Sunday last he submitted to the Queen's Advocate a question which had arisen on a telegram communicated to him (Mr. Hammond) by the Prussian Embassy, and the words of which were stated in the Queen's Advocate's report sent therewith.

That, in the course of the afternoon of that day, and before the Queen's Advocate's report was received, the inclosed telegram had been sent to Paris for communication to the French Government, which had since distinctly refused its assent to the proposal of the Prussian Government. But the Prussian Government, it appeared, had, in the interval, obtained the permission of the Belgian and Grand Ducal Governments to transport their wounded, it was not clear whether both Prussian and French or only Prussian, through their territories, which, having come to the knowledge of the French Government, they protested against the proceeding as a breach of the neutrality of those countries, and your Lordship had heard that the Belgian Government had withdrawn their permission, as the Luxembourg Government would also doubtless do.

And that your Lordship nevertheless desired him to request our opinion whether the entrance into a neutral country of unarmed wounded Germans would be inconsistent with neutrality; and this opinion your Lordship would be glad to receive from us at our earliest convenience.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That however painful it may be towards the wounded in war to give such an opinion, we are bound to say that we concur in the report of the Queen's Advocate of the 22nd of this month, which we think perfectly correct, and which we are unable to qualify.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

P.S.—I am unable to alter the view which I have already expressed on this subject.

(Signed) TRAVERS TWISS.

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### No. 204.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 27.)

*Temple, August* 27, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit to us therewith a letter from the North German Ambassador complaining that the French fleet and store-ships were allowed to frequent the waters of Heligoland; and a letter from the Colonial Office, inclosing a telegram from the Governor of Heligoland, denying that the French men-of-war or transports find shelter in British waters, but admitting that French freight ships come within them occasionally, and pass the night under the shelter of the land, departing in the morning; and Mr. Hammond was pleased to request our opinion on this statement, with reference to the rules laid down in your Lordship's letter of July 19, therewith inclosed.

In obedience to your Lordship's commands we have the honour to report—

That there does not appear to us to be any reason for questioning the perfect accuracy, in point of fact, of the telegraphic despatch of the Governor of Heligoland, and, assuming its accuracy, we are of opinion that your Lordship's directions of July 19, 1870, have not been infringed by anything which the Governor of Heligoland reports to have been done by French vessels.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 205.

*The Queen's Advocate to Earl Granville.*—(*Received September* 3.)

*Temple, September* 3, 1870.

My Lord,

WITH reference to Mr. Hammond's letter of yesterday, touching the taking into Belgium of Prussian and French wounded soldiers, and tending them there, I have the honour to report further—

That a telegram has this afternoon been received from the Attorney-General as follows:—

"The permission sought would be in effect to enable the Prussians to establish their military hospitals in Belgium. This would not be consistent with Belgian neutrality."

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 206.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 6.)

*Temple, September* 5, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us a Memorandum which had been communicated by Count Bernstorff, complaining that the course adopted by Great Britain in permitting the export to France of arms and war material is inconsistent with an attitude of benevolent neutrality towards Prussia, and urging that no parallel can be drawn between the supply of war material to Russia by Prussia during the Crimean war, and the exports now said to be made from this country to France; and further stating that Mr. Otway was to inclose translation of two notes from Count Bernstorff, giving detailed particulars respecting the persons by whom, and the mode in which, arms and ammunition are sent to France, and calling upon Her Majesty's Government to take immediate steps to stop further exports, and that he was to request that we would take the papers into our immediate consideration, and favour your Lordship, at our earliest convenience, with our opinion as to the nature of the reply which should be made to Count Bernstorff's representations.

We are also honoured with your commands signified in Mr. Otway's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us copy of a further note from Count Bernstorff, giving fresh details respecting the exports of war material to France, and requesting that orders may be given at the Custom-houses of the United Kingdom to stop the articles which he designates; and that he was to request that we would take the papers into our consideration with those already sent to us.

We are also honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a letter from the Treasury respecting an alleged intention on the part of Messrs. Lehran and Co. to make shipments of arms for France from Folkestone in cases described as containing "hardware;" and that he was to request that we would take that letter into our consideration, and report to your Lordship, at our earliest convenience, whether any, and if so, what steps should be taken in the matter by Her Majesty's Government.

In obedience to your Lordship's commands we have taken these matters into our consideration, and have the honour to report—

That, with respect to the details of supposed exports of arms and ammunition sent to your Lordship by Count Bernstorff, and as to which we understand it to be very doubtful whether Count Bernstorff has not been greatly misinformed, we are not in a position to express any opinion as to the matters of fact.

With regard to the questions of international law raised by his memorandum, we have to observe that we cannot assent to the justice of Count Bernstorff's distinction between a benevolent neutrality and a neutrality which is not so.

A nation is either belligerent or neutral, and, if neutral, is bound not to concern itself with or to express any opinion as a nation on the justice or injustice of

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the war, but to conduct itself with strict impartiality between the two contending parties.

Neither can we admit the soundness of Count Bernstorff's contention that the rules of international law must be changed according to the severity with which they may affect the interests of particular nations. Such a contention, we think, to be clearly inadmissible.

He is also not founded in his statement that the executive can or that it was ever contended that the executive could prohibit the export of contraband of war as such.

If the subject-matter of his memorandum were one of first impression, it is possible that many arguments might be adduced on either side. But it is not so, and your Lordship might tell Count Bernstorff, if you think proper, that there is nothing in the law of nations warranting you in going further than you have gone already; that there is, on the contrary, the clearest and most unbroken precedent and authority, foreign as well as English, for the course which this country has pursued; and that it is not possible, even if it were desirable, for this country alone to alter the hitherto received rules, by which the rights and duties of neutrals are defined and regulated, and which we have carefully observed—rules acknowledged and sanctioned by Prussia herself both in her Treaties with the United States of 1799 and 1828 and in her own conduct, as your Lordship has already pointed out and Count Bernstorff hardly disputes, during the Crimean war.

It may be further observed that both belligerents entered upon the war with a full knowledge of the rules of international law, and of what has been the uniform practice of this country.

Each belligerent therefore had a right to expect that the existing rules and former practice would be maintained, and either belligerent might with some reason complain of any change of rule or alteration of practice by this country while the war continues.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 207.

*The Queen's Advocate to Earl Granville.—(Received September* 15.)

*Temple, September* 14, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed to transmit to me, for such observations as I might have to offer thereupon, a despatch from Her Majesty's Consul at Danzig relative to the alleged insufficiency of the French blockade in the Baltic.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Consul at Dantzig should be instructed to ascertain how many vessels have entered the port of Dantzig since the blockade was announced by the French Admiral, and whether they report that there are no French cruizers at present stationed off that port.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 208.

*The Queen's Advocate to Earl Granville.—(Received September* 15.)

*Temple, September* 14, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 13th instant, stating that he was directed to transmit to me a despatch and its inclosures from Lord A. Loftus relative to the case of the French vessel "Nativité," and to request that I would take the same into my consideration and report to your Lordship my opinion as to the instructions which should be addressed to Lord A. Loftus on the subject.

In obedience to your Lordship's commands I have the honour to report—

That it rests with the Prussian Prize Courts to construe their own declaration, and to decide whether Mr. Kennedy, in urging the captain of the "Nativité" to continue his voyage to a German port, has not misunderstood its purport. I am of opinion that Her Majesty's Ambassador at Berlin cannot well interfere in the matter, which is, I think, beyond the proper scope of his good offices.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 209.

*The Queen's Advocate to Earl Granville.—(Received September* 29.)

*Temple, September* 29, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 28th instant, stating that he was directed to transmit to me the accompanying letter from the Home Office, inclosing a correspondence which has passed between the North German Consul at Liverpool and the Mayor of that town, in which the former requested that the manager of the powder magazines might be instructed to recall his refusal to give up the name of the vessel that had shipped cartridges for Spain, and that the latter replied by declining to interfere in the matter; and Mr. Otway was pleased to request that I would furnish your Lordship with my opinion as to whether the authorities at Liverpool acted rightly in refusing to assist the Consul in the prosecution of his inquiries.

In obedience to your Lordship's commands I have the honour to report—

That I am unable to understand precisely upon what grounds the North German Consul at Liverpool made his application to the Mayor of that town. The Consul in his letter to the Mayor speaks of Mr. John Earle, to whom he made his application, and whom he describes as the manager of the powder magazines, as being the servant of the Mayor, whilst the Mayor states that the magazines and their contents are the property of private owners who have the sole management of them. If the Mayor's account of the magazines is correct, I think he had no authority to call upon the owner's servant to make any declaration. At the same time I think it would be desirable for the Treasury to obtain further information as to the usual mode of proceeding in the matter of shipping from the magazines powder or cartridges on board outward bound vessels, and to make inquiry whether the Custom-house authorities have ground for believing that there have been any fraudulent shipments of ammunition ostensibly for Spain.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 210.

*The Queen's Advocate to Earl Granville.—(Received October* 14.)

*Temple, October* 13, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 10th instant, stating that on the 26th October, 1869, the Law Officers reported to the Secretary of State for Foreign Affairs their opinion that Her Majesty's Government could not properly reject the contributions towards a British Consular Church Fund, or decline to grant the equivalent of the sums subscribed by the children of natural born British subjects born and resident in foreign countries, although such persons might be considered by the local authorities as subjects or citizens of the countries in which they resided; that in transmitting a despatch from Her Majesty's Consul at Hamburgh bearing on this subject, he was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion as to what effect the new Naturalization Law may have in regard to the right of persons belonging to the above-mentioned category to contribute to the British funds at places where Consular chaplains are maintained.

For facility of reference, the report of the Law Officers above referred to, and the draft of a despatch which was thereupon addressed to Her Majesty's Minister at Hamburgh, were also inclosed.

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In obedience to your Lordship's commands I have the honour to report—

That the status of persons who may have been born abroad of fathers being British subjects continues to be privileged under British Statute Law, and any such person is entitled to be regarded as a British subject for British purposes, unless, in conformity with the provisions of the Naturalization Act (33 Vic., c 14, s. 4), he shall have made a declaration of alienage, after which he will have ceased to be a British subject.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 211.

*The Law Officers of the Crown to Earl Granville.*—(*Received October* 15,)

*Temple, October* 14, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 10th instant, stating that he was directed by your Lordship to request that we would favour your Lordship, at our earliest convenience, with any observations which we might have to make upon the inclosed note, in which Count Bernstorff replied to the observations made by your Lordship in your note of the 15th ultimo upon the position of England as a neutral in the present war.

Inclosed was a copy of that note and of the Memorandum communicated on the 1st ultimo by Count Bernstorff, to which it was a reply.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we have in the first place to observe that Count Bernstorff refers to the cases of the "Hypatia" and "Norseman," which he had not included in the catalogue of grievances set forth in his former despatch, and alleges that "a twofold violation of the international law and the English law had been clearly established."

This statement is based on a complete misapprehension of both international and English law. The former Foreign Enlistment Act of England and that of America were based upon the principle that a belligerent should not be allowed to use neutral territory for hostile operations, and they accordingly prohibited the arming or equipping ships of war, transports, or store-ships for belligerent purposes on neutral ground. As far as we are aware, no other country has given effect to this principle by similar legislation.

The Foreign Enlistment Act of the last Session went further, and prohibited the mere dispatching of a vessel with intent that she should be used in the service of a belligerent, but Her Majesty's Government expressly stated that in proposing this provision they were going beyond any duty cast upon neutrals by international law. This statement was supported by the opinion of the highest authorities in both Houses of Parliament, as it is by all text writers of mark on international law, and was controverted by nobody. There is no pretence that either of these vessels was "equipped" for belligerent service in this country, and, therefore, no obligation by international law or by the former Foreign Enlistment Act to detain them; the allegations of their sale to French owners are wholly immaterial.

Count Bernstorff's complaint, therefore, as to the matter itself, and his apparent imputation of something like breach of faith on the part of your Lordship and of Her Majesty's Government, admit of the same answer. The communication from your Lordship, whatever it amounted to, took place after the new Foreign Enlistment Act came into operation, and must be interpreted with reference to that Act. Now that Act, as we have already explained, had no application to the "Hypatia" or the "Norseman." It became law on the 9th August, and neither it, nor anything said in respect of what the Government would do under it, could by possibility have any reference to vessels which had left England in July, and which, therefore, would not be affected by that Act.

The observation that both vessels had sailed under the British flag after the conclusion of the sale has not been established by evidence. Her Majesty's Government has reason to suppose that the sale took place after the vessels' arrival at Cherbourg, and if the transfer to French owners had not been entered in the ship's books up to 8th August, the presumption from that fact would be that the sale had not at that time been completed. With regard to Count Bernstorff's remark that

remonstrances about coal, &c., had remained without any practical result, Her Majesty's Government has reason to believe that no British vessels have supplied coals directly from British ports to French vessels. Count Bernstorff in one paragraph of his despatch states that difference between himself and your Lordship is one of "policy," if that be so, the matter would seem one solely for the consideration of Her Majesty's Government. But he subsequently rests his case on strict right, on which he is entitled to insist by what he calls the rules of international law, and this right is to require a neutral to prevent the exportation of contraband of war. He observes "the present controversy simply centres in the question whether the refusal of Her Majesty's Government to prohibit the export of arms is not at variance with the still unaltered general rules of international law regarding the duties of neutrals towards belligerents and with the laws of this country not yet repealed by the Legislature for the better fulfilment of those duties." No such general rule is laid down by any writer of authority on international law; but the contrary is asserted by all those to whom reference is usually made; and so far from its being true that such a provision is to be found in the laws passed by the Parliament of this country for the better fulfilment of our duty as neutrals, Count Bernstorff must be well aware that during the progress of the Act of last session, passed with this object, such a provision was proposed in the House of Commons, and negatived by an overwhelming majority.

Your Lordship will have no difficulty in dealing with the Minute of Mr. Trevelyan in 1848, whereby an exceptional course was taken in consequence of Treaties between ourselves and Denmark, nor with the Memorandum—not the letter as Count Bernstorff calls it—of the Duke of Wellington in 1825, which was not acted upon. We observe that Count Bernstorff makes no reference to the Treaties between Prussia and America whereby the rule of international law insisted upon by Her Majesty's Government is recognized, to the provisions of which your Lordship may think it right pointedly to call his attention. The provisions to which we refer will be found in Article XIII of the Treaty of 1785, and were renewed in 1799, and again in 1828.

We have suggested before that it may deserve consideration whether an agreement may hereafter be come to among the most powerful nations to extend the duty of neutrals to the prohibition of the export of arms; but we observe that Count Bernstorff expressly "abstains from entering upon that question," and prefers to rest his case solely on what he asserts to be the existing rule of international law.

It occurs to us further to observe that the clause in the Customs Consolidation Act to which he refers does not empower the Queen in Council to prohibit the export of contraband of war, at least *eo nomine*; but your Lordship will judge whether it is worth while to refer to this distinction. This clause in the statute was not, as Count Bernstorff assumes, passed for the purpose of enabling us to preserve our neutrality, but simply for our own protection in the case of being ourselves at war, or threatened with war, and it seems upon the whole to be the better opinion that if Her Majesty's Government desired to enforce the clause by Order in Council the prohibition must be general and not limited to belligerent countries only.

In our view the real purport of Count Bernstorff's despatch, stripped of all disguise, is an attempt to induce this country to adopt a new rule of conduct, because the rule prescribed by all writers of authority, and by the practice of nations, including that of Prussia herself, happens in the circumstances of this war to be more favourable to France than to Prussia. He requires us to neutralize as far as in us lies the advantages which France possesses by her superiority at sea. This would not be neutrality, but co-operation with Prussia.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 212.

*The Queen's Advocate to Earl Granville.*—(*Received November* 9.)

*Temple, November* 9, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 8th instant, stating that he was directed to transmit to me therewith a translation of a note from the Prussian Ambassador at this Court, requesting that Her Majesty's Government will take steps to procure restitution of the German vessel

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"Frei," which, according to the declaration of the British pilot, William Denniss, inclosed by Count Bernstorff, was captured on the 28th ultimo by the French vessel of war "Dessaix" while in British waters; and Mr. Odo Russell was pleased to request that I would take these papers into my immediate consideration, and furnish your Lordship with my opinion as to the course to be pursued in the matter.

In obedience to your Lordship's commands I have the honour to report—

That it will be proper, under the circumstances stated in the affidavit of the pilot Denniss, for Her Majesty's Ambassador at Tours to direct a claim to be given in before the Prize Court at Tours for the restitution of the "Frei" and her cargo, as having been captured within neutral waters, and as it appears that the captors were warned by the pilot at the time of the capture, which took place at 5 P.M., of the locality being within neutral jurisdiction, and their attention was called to the bearing and distance of Dungeness Light in proof of his assertion, it is a case in which costs and damages may, in my opinion, be properly awarded by the Prize Court.

I have, &c.

(Signed) TRAVERS TWISS.

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## No. 213.

*The Queen's Advocate to Earl Granville.—(Received November 10.)*

*Temple, November* 10, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 9th instant, stating that he was directed to transmit to me the inclosed papers relating to the case of Mr. Worth, a British subject, who appears to have been captured at Verdun in an attempt to escape from Paris by a balloon, and to have been sent to Versailles, where it is believed that he is being tried by court martial; and Mr. Odo Russell was pleased to request that I would furnish your Lordship at my earliest convenience with my opinion whether Mr. Worth had, by his attempt to escape across the Prussian lines of investment, rendered himself liable to punishment according to military and international usage, and whether it is a case in which Her Majesty's Government can properly interfere to obtain his release.

In obedience to your Lordship's commands I have the honour to report—

That it would be, in my opinion, an abuse of belligerent right on the part of the German Military authorities if they were to send Mr. Worth for trial before a belligerent court martial. I assume, upon the representation of the friends of Mr. Worth, that he has not compromised his character as a non-combatant, and that he accompanied the French courier in the balloon for no other purpose than to effect his escape from the seat of war. Under such circumstances, bearing in mind that the balloon was captured far beyond the German lines of circumvallation round Paris, I do not consider that the German military authorities would be justified in treating Mr. Worth as a neutral subject captured in an attempt to break through the German lines.

If he had been so captured he might properly have been treated as a prisoner of war, but he had, in fact, accomplished his escape beyond the lines, and he was not taken in arms. It is possible that the German military authorities may have resolved to send the case before a Military Court, constituted on principles analogous to those of a Maritime Prize Court, for the purpose of holding an inquest upon the capture of the balloon, and as the French have adopted a novel use of balloons, and they are employed partly for purposes undoubtedly belligerent, it may be equally in the interest of the captured and the captors that there should be a judicial inquiry in every case of capture, with a view to ascertain whether all the parties captured can be justly regarded as engaged in promoting the objects of the war in the interest of the enemy. I think, therefore, that your Lordship could not reasonably object to Mr. Worth being sent before a Military Court of Inquiry for such a purpose. At the same time it appears to me that it would be both just and reasonable that neutral foreigners who have escaped in an enemy's balloon from a besieged city should not be in a worse position than neutral passengers on board of an enemy's ship which has broken a blockade by egress, and has been captured with enemy's despatches on board.

With regard to the question more immediately raised in Mr. Odo Russell's letter as to the military and international usage in cases where parties have escaped from a besieged city across the lines of investment, I believe that I am correct in advising your Lordship that in cases where an enemy's courier has succeeded in passing the belligerent lines with despatches in a carriage large enough to carry passengers, and where neutral subjects have accompanied him as passengers, with the single object of escaping from the besieged city, such passengers would not be treated as prisoners of war, however severe might be the penalty inflicted on the enemy's courier.

I had written the above when the public correspondence from Versailles, of a date later than the journal which Mr. Odo Russell had forwarded to me, announced that the captives were to be sent before a Council of War. This, I apprehend, would be a very different body from a court martial, and will, I presume, be effectively a Military Court of Inquiry. I do not think your Lordship can well object to Mr. Worth being sent before such a Council to satisfy the German military authorities that he is entitled to the immunity of a non-combatant, but your Lordship will, in my opinion, be justified in opening a diplomatic communication on the subject, and expressing a hope that Mr. Worth may be released as soon as the necessary inquiry is terminated.

I have, &c.

(Signed) TRAVERS TWISS.

P.S.—Mr. Odo Russell's letter of this day's date had arrived since I had prepared the above report. It announces that Mr. Worth is to be sent to Prussia with the other captives. It may be reasonable, indeed, that Mr. Worth should suffer some detention at the hands of the Prussian authorities, in order that he may not be able to disclose any discovery which he may have made in passing over the German lines. I think your Lordship may intercede so far with the Prussian authorities as to express a hope that they will be content to detain him in France if he is able to satisfy them that he was a *bonâ fide* passenger without any unneutral object in view.

T. T.

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## No. 214.

*The Queen's Advocate to Earl Granville.—(Received November 14.)*

*Temple, November* 14, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 12th instant, stating that, with reference to my letter of the 9th instant, relative to the alleged capture of the German vessel "Frei" by the French man-of-war "Dessaix," in British waters, he was directed to transmit to me a draft of a despatch which has been addressed to Lord Lyons in conformity with my recommendation. The draft of a further despatch which it is proposed to address to his Excellency instructing him to call the attention of the French Government to the facts of the case, was also inclosed, and Mr. Otway was pleased to request that I would furnish your Lordship with my opinion whether such a representation as is contemplated by the draft would, under the circumstances, be fit and proper. A copy of a telegram received from Lord Lyons on the subject, together with the substance of your Lordship's reply thereto, was also inclosed.

In obedience to your Lordship's commands, I have the honour to report—

That it would be premature, in my opinion, for your Lordship to direct Lord Lyons to make such a representation to the French Provisional Government as is contemplated in the draft despatch. Your Lordship is entitled, upon the affidavit of the pilot Denniss, to assume that there is a *primâ facie* case, warranting Her Majesty's Government in claiming the restitution of the "Frei" by Decree of the Prize Court, on the suggestion that the capture was made within British waters, and Lord Lyons has been accordingly instructed to prefer such a claim on the part of Her Majesty's Government. The question now awaits the judicial decision of the Prize Court upon the evidence which may be brought before it, whether to confirm or rebut the claim. I observe that a Provisional Prize Court has been constituted at Tours by the Provisional Government since I had the honour to report to your Lordship upon the question of procuring the release of British cargoes captured in German vessels, and I see no objection to Lords Lyons being instructed to draw the attention of the Provisional Government officiously to the fact that your Lordship has instructed him to prefer "a claim of territory" before the Provisional Prize Court in the case of the German vessel "Frei," captured by the French cruizer "Dessaix," and to express a hope that there will be as little delay as possible on the part of the Court in proceeding to hear the claim.

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I have used the term "officiously" inasmuch as I think it would not be proper for your Lordship to intervene officially pending the proceedings before the Prize Court, except your Lordship should be under the apprehension that the Prize Court would not do justice in the matter. Whether any official communication should be made by Lord Lyons after the decision of the Prize Court, if it should hold the claim of territory to be established, will be a matter of some delicacy, depending somewhat on the course which the Court itself may take on the question of costs and damages in connection with the suggestion that the captor erred wilfully and not through ignorance. Under the circumstances, I have refrained from making any special report on the contents of the proposed draft despatch.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 215.

*The Queen's Advocate to Earl Granville.—(Received November 21.)*

My Lord, *Temple, November* 19, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 17th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Consul at Hamburgh requesting to be informed what steps he should take with respect to protests noted by masters of British vessels, which have suffered detention owing to the stoppage of the Elbe navigation by the German authorities, and he was to request that I would take this despatch into my consideration, and furnish your Lordship with my opinion as to the instructions which should be addressed to Mr. Annesley on this subject.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Consul may properly be instructed to take no official steps as regards the protests noted by masters of British vessels which have been, or may be, detained in the Elbe, further than by recording them in the ordinary manner as documents which may be required in evidence for civil purposes.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 216.

*The Queen's Advocate to Earl Granville.—(Received November 21.)*

My Lord, *Temple, November* 19, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 17th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Consul at Hamburgh, reporting that the British steamer "Fulmar," of Middlesborough, was fired at by a Prussian gun-boat on the 10th instant on leaving Cuxhaven, and forced to return to that port. A letter with its inclosure from Messrs. Harris and Co., the owners of the above-mentioned steamer, containing details of the transaction, and putting forth a claim for compensation on account of losses occasioned by the delay was also inclosed; and Mr. Otway was pleased to request that I would take these papers into my consideration and furnish your Lordship, at my early convenience, with my opinion as to whether any, and what, steps should be taken by Her Majesty's Government in this matter.

In obedience to your Lordship's commands I have the honour to report—

That the "Fulmar" appears, from the protest of her master, to have been within the waters of the Elbe, and subject to the jurisdiction of the North German Confederation, when she was brought-to by the Prussian gun-boat, and compelled to return to Cuxhaven. It is not, therefore, a case of a belligerent Power interfering with the navigation of the high seas by a neutral vessel, but of a belligerent Power regulating the navigation of its own river with a view to its own security against the enemy, which Her Majesty's Consul asserts to be meditating a descent upon the German coast. I consider that this is not a case in which the owner of the "Fulmar" is entitled to claim any compensation from the Prussian Government for the detention of his vessel. The Prussian Government has a perfect right to close the navigation of its own rivers for its own security.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 217.

*The Attorney- and Solicitor-General to Earl Granville.—(Received November 22.)*

My Lord, *Temple, November* 22, 1870.

WE are honoured with your commands signified in Mr. Otway's letter of the 19th instant, stating that, by your Lordship's direction, he transmitted to us the correspondence marked in the margin, of such letter relative to the case of Mr. Worth, a British subject, who left Paris in a balloon and was captured at Verdun and sent to the Prussian head-quarters at Versailles; and further stating that, acting under the advice of the Queen's Advocate, Lord Granville instructed Her Majesty's Ambassador at Berlin on the 12th instant to express a hope that in case Mr. Worth could satisfy the Prussian authorities that he had no unneutral object in view the intention of sending him to Prussia might be abandoned, and that he would be set at liberty, if not at once, at all events after such reasonable detention as might be necessary on military considerations. That it appeared, however, from Colonel Walker's last reports, that Mr. Worth had been sent to Germany as a prisoner of war without having been subjected to any examination.

Mr. Otway requested that we would take the papers into our consideration, in communication with the Queen's Advocate, and inform your Lordship at our earliest convenience whether we concurred in the course hitherto pursued, and what further steps we would suggest.

In obedience to your Lordship's commands we have taken the papers into our consideration in communication with the Queen's Advocate, and have the honour to report—

That the Prussians have a right, by military law, to prohibit the departure of all persons from Paris, and any person violating this prohibition commits an offence against military law cognizable by a court martial.

The Prussians have, however, in accordance with usage, allowed egress to many Englishmen after making the inquiries necessary to ascertain that their departure covered no hostile purpose, indeed, we are not aware that they have refused any *bonâ fide* application on behalf of an Englishman for leave to depart.

We observed that Mr. Littlewood, in his letter of November 8, asserts that Mr. Worth was refused permission to depart from Paris. It appears, however, from Colonel Walker's letter of the same date, that Mr. Worth informed him "that he was in the first instance to have come out of Paris on the 27th with the party expected on that day, but that becoming impatient of delay he engaged a place in this balloon for which he paid 100*l*." From this we are disposed to infer that Mr. Worth, having paid for his place in the balloon, preferred going in it to leaving Paris as his fellow countrymen did. We certainly do not infer that if he had had a little patience his departure would have been prohibited.

We further observe that although in his letter to his mother he stated that none of the passengers "had a political mission," it appears by a letter dated Epernay, November 2, addressed to Colonel Lindsay by some person who conversed with Mr. Worth that Mr. Worth said "in his opinion one man was on a political mission in the balloon."

We further observe that papers were taken from Mr. Worth, which, indeed, he alleges to be private, and are in the hands of the German authorities. Under these circumstances we are unable to concur with the Queen's Advocate "that it would be an abuse of belligerent rights on the part of the German military authorities if they were to send Mr. Worth for trial before a 'belligerent court martial.'"

This immunity of Mr. Worth from trial by court martial we understand the Queen's Advocate to rest upon two assumptions.

1. That Mr. Worth was captured beyond the Prussian lines immediately surrounding Paris.

2. That "he had not compromised his character as a non-combatant, and that he accompanied the French courier in the balloon for no other purpose than to effect his escape."

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Even if the doctrine were admitted that a beseiging army may not try by court martial an escaping non-combatant if they capture him beyond their lines, whereas if they capture him within their lines they may (a doctrine which we fear it would be somewhat difficult to induce belligerents to apply to travellers by balloon), it does not appear to us that Her Majesty's Government are entitled to assume the entire accuracy of Mr. Worth's statements as against the Prussian authorities so far as to deny their right to try him by court martial.

His leaving Paris under such circumstances and in such company may, we think, reasonably be regarded by them as suspicious; the contents of the documents found upon him and upon his fellow travellers are known to them, not to us, and it appears very difficult to pronounce decidedly on the case without any acquaintance with those documents.

On the whole we do not advise that the right of the Prussians should be questioned to try Mr. Worth by court martial if they think fit as distinguished from a "Military Court of Inquiry," but we think that friendly representations such as those of Lord Augustus Loftus may be fairly made in his behalf.

We think it right to add that several of the papers now before us were not before the Queen's Advocate, and we think it not improbable that those papers might have modified his opinion.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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## No. 218.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 30.)

My Lord, *Temple, November* 29, 1870.

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 28th November instant, stating that he had the honour to transmit to us by the direction of your Lordship a translation of a note from the Prussian Ambassador at this Court, stating that the steam vessel "Vigilant" is regularly employed in weekly voyages from Poplar to Cherbourg laden with arms and munitions of war, and requesting that immediate proceedings may be taken against her, as coming within the character of a belligerent store-ship; and Mr. Otway was pleased to request that we would favour your Lordship with our early opinion whether Her Majesty's Government would be justified by the circumstances in taking any proceeding in the matter under the Foreign Enlistment Act.

Mr. Otway was pleased to add that the note to Count Bernstorff of the 26th July last, and our letter of the 25th of the same month, on which it was founded, were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That we think that, as the case now stands, there is not a sufficient case for a prosecution under the Foreign Enlistment Act. We suggest that Count Bernstorff may be informed that, if Her Majesty's Government can be furnished with any evidence tending to connect the exportation of the munitions of war with the French Government, Her Majesty's Government will readily do their best to put the law in force against the exporters. But that, so long as the trade is really between private individuals, the mere regularity of its occurrence does not turn the ship employed in it into a store-ship, nor change the operation of the law as expressed in our letter of the 20th July, 1870.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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I agree to the above report, but I think it would be safer for your Lordship, in communicating with Count Bernstorff, to guard yourself against too large a construction being put upon your words by introducing the word "directly" after "munitions of war," as an indirect connection might not be sufficient to warrant a conviction under the Foreign Enlistment Act.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 219.

*The Queen's Advocate to Earl Granville.*—(*Received December* 13.)

My Lord, *Temple, December* 12, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 8th ultimo, stating that he was directed to transmit to me a despatch from Her Majesty's Consul at Hamburgh, together with a memorandum drawn up in the Foreign Office, respecting the exemption from conscription claimed for his son by Mr. Renner, a British subject domiciled at Altona; and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the instructions which should be issued to Mr. Consul Annesley in this case, and also as to the course to be pursued with reference to the probable occurrence of similar cases.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that the Naturalization Act of 1870 will not warrant your Lordship in departing from the rule, laid down on various occasions by your Lordship's predecessors, that the obligations incident to the *status* of natural-born subjects must prevail in the case of the children of British subjects who may be born abroad and reside in the country of their birth, notwithstanding such children, in virtue of certain British Statutes, may be entitled to the privileges of British natural-born subjects within Her Majesty's dominions. It appears to me that instructions framed upon this rule may be properly given to Mr. Consul Annesley, as applicable to the present case and to similar cases.

With regard to the suggestion in Lord Tenterden's memorandum, that, in consequence of the change in our municipal law, international comity would warrant an application on your Lordship's part to foreign countries that the children of British subjects born in such countries should be allowed an option as to their nationality on their coming of age, I agree with Lord Tenterden that your Lordship will be justified in seeking to bring about a corresponding alteration in the laws of such countries, on the principle of reciprocity; but, until such alteration shall be made, I do not think your Lordship can properly ask, as a matter of comity, that the operation of the existing laws of such countries shall be suspended in the case of the children of British subjects.

Upon the further question of the Danish law of nationality being still enforced at Altona, although Sleswig-Holstein has been incorporated into the North German territory, I am unable, from want of information, to advise your Lordship whether this is an anomaly to which you would be justified in excepting. But, as regards Mr. Renner's case, the Danish law was in force when he took up his residence in Altona, and at the time when his children were born there, and he could not with any reason complain that the law of Altona has not yet been assimilated to the German law in a sense more favourable to his claim.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 220.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 15.)

*Temple, December* 14, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 9th instant, stating that, with reference to our report of the 29th ultimo on the subject of Count Bernstorff's request that proceedings might be taken against the British steam-vessel "Vigilant," as engaged in a regular traffic of arms and munitions of war from this country to France, and thus coming within the character of a belligerent storeship, he was directed to transmit to us a translation of a further note from Count Bernstorff, contesting the reasoning on which Her Majesty's Government have declined to take proceedings under the Foreign Enlistment Act in the present state of the case, and to request that we would furnish your Lordship with any observations which might occur to us on the arguments brought forward in Count Bernstorff's note.

In obedience to your Lordship's commands we have the honour to report—

That Count Bernstorff's despatch is in reality an argument for the interference by

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a neutral Power for the prevention of trade in contraband of war. For all contraband of war, if successfully carried into the belligerent ports, is intended to be, and in the vast majority of cases is, in fact, used for the benefit of the belligerent Government, into whose country the munitions of war are carried. Every merchant who freights a ship with contraband of war, knows that his goods, if they reach their destination, will be employed in all likelihood in the military or naval service of the Government, to the subjects of which he consigns them. But no proposition is better established, nor fortified by higher authority, or more varied as regards the countries of which the authorities were natives, than that there is no international obligation on a neutral Power to prohibit trade in contraband of war. Nor can it be contended seriously that a British or American merchant, who trades with French or Prussian traders in contraband of war at regular recurring intervals, becomes thereby the agent of the French or Prussian Governments, though he may be morally sure that the French or Prussian merchant would not trade with him, except for the purpose of re-selling to the French or Prussian Governments respectively; nor would the employment in this trade by a British or American merchant of the same ship at regular intervals make a ship to be a storeship either of France or of Prussia, as the case might be. This, indeed, we have already reported to your Lordship as our opinion.

The quotation of the language of the Foreign Enlistment Act is not to the point. This country has deliberately assumed, in respect of the building and dispatching of ships, responsibilities which, with equal deliberation, it has refused to assume in respect of trade in contraband of war.

If your Lordship thinks fit to inquire of our Consul at Cherbourg how and where these goods are landed and disposed of, so as to ascertain, if possible, whether the contracts with private French traders are purely colourable, and to inform Count Bernstorff that you will do so for the purpose indicated, we think your Lordship might very properly do so; but this is a matter for your Lordship's discretion rather than for us.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 221.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 20.)

My Lord, *Temple, December* 20, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit therewith the accompanying note which had been received from the North German Ambassador at this Court, relative to the intended departure from Greenhithe to-morrow of the British vessel "International," for the purpose, it is alleged by Count Bernstorff, of laying a cable for the French Government; and he was to request that we would take the Ambassador's note into consideration, and favour your Lordship with our opinion as to whether, supposing the facts to be correctly stated, the circumstance alluded to by Count Bernstorff would constitute a breach of neutrality; and, if so, what course Her Majesty's Government should adopt.

In obedience to your Lordship's commands, we have taken the said letter into consideration, and have the honour to report—

That we are of opinion that the employment of the "International" for the purpose mentioned in Count Bernstorff's despatch will be in violation of the Foreign Enlistment Act, 1870, and that your Lordship may properly issue a warrant to seize and detain that vessel.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 222.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 22.)

My Lord, *Temple, December* 21, 1870.

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 19th instant, stating that he transmitted to us, by your direction, a translation of a note from the North German Ambassador in London, complaining of the proceedings of the British steam-tug "Gauntlet," in towing the "Lord Brougham," a German vessel captured by a French man-of-war, from the Downs off Deal to Dunkirk; and, further, stating that he inclosed a report which had been furnished by the Board of Trade, substantiating the facts complained of, and that he was to request that we would favour your Lordship with our opinion whether a breach of the Foreign Enlistment Act had been committed, and what course should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands we have considered this matter, and have the honour to report—

That, upon the facts stated, it appears to us that the tug "Gauntlet," in conveying a prize captured by a French cruizer to a French port under an agreement with the French Consul or with French naval officers, was engaged for the time being in the French naval service; and that, if these facts admit of proof, Mr. Mumford may be prosecuted under the 8th section of the Foreign Enlistment Act, for dispatching a ship with knowledge that it would be employed in the naval service of a belligerent.

It would be desirable to institute inquiries forthwith by what legal proof the offence can be substantiated, and if reliable evidence can be obtained, we advise that a prosecution be instituted by Her Majesty's Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 223.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 24.)

My Lord, *Temple, December* 24, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of yesterday, stating that, with reference to our letter of the 20th instant, relative to the intended departure from Greenhithe of the British vessel "International," for the purpose of laying a telegraphic cable for the French Government, he was directed by your Lordship to transmit to us a note which had since been received from Count Bernstorff, furnishing further particulars with regard to the case; and, further, stating that he was to inclose a letter from Mr. J. Hughes, M.P., forwarding a Memorial from the India-rubber, Gutta-percha, and Telegraph Works Company (Limited), accompanied by their contract with the French Government for the laying of the cable in question, and protesting against the detention of the "International;" and, further, stating that he was to request that we would take the papers into our consideration, and favour your Lordship at our earliest convenience with our opinion as to the course to be adopted with regard to the said vessel, which, as would be perceived from the inclosed correspondence with the Treasury, was then detained by the Customs pending the preparation of a warrant.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That the further information furnished to us does not induce us to alter the opinion which we expressed in our former report. It is impossible seriously to doubt that the cable is to be used by the French Government for military purposes.

We advise that a warrant for the detention of the vessel be issued forthwith, and that the India-rubber, Gutta-percha, and Telegraph Works Company be informed that it is open to them to apply to the Court of Admiralty for the release of the vessel, but that Her Majesty's Government cannot undertake to release her unless the Court of Admiralty so direct.

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We suggest that, as the form of warrant will require to be carefully considered, it will be desirable that the draft of it should be submitted to us.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 224.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 27.)

My Lord, *Temple, December* 27, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of yesterday, stating:—

1. That by your Lordship's direction be transmitted to us therewith an accompanying communication from Mr. Matthew Gray, General Manager of the India-rubber, Gutta-percha, and Telegraph Works Company, in reply to the letter addressed to him from the Foreign Office, stating that the "International" could not be allowed to proceed on her voyage.

2. That Mr. Gray said that the Company had decided to submit to the view of Her Majesty's Government; that they were willing to tranship and reland the cable with all possible dispatch, and, at the same time, to bind themselves not to lay or assist in laying the cable for the French Government during the continuance of the war.

3. That under those circumstances the Company submitted that, upon the cable being relanded, Her Majesty's Government might authorize the release of the ship without the matter going before the Court of Admiralty; and that Mr. Hammond was to request that we would take Mr. Gray's letter into our consideration, and favour your Lordship with our opinion whether Her Majesty's Government would be justified in pursuing the course proposed by the Company.

We are also favoured with your Lordship's commands signified in Mr. Hammond's further letter of this day, stating that he was directed by your Lordship, with reference to his letter of yesterday, to transmit to us a further letter from the parties interested in the "International" and the cable that she has on board, and also a further letter from the Prussian Ambassador, and that he was to request that we would take the same into our consideration, together with the letter now before us, and report to your Lordship, at our earliest convenience, our opinion as to the course to be pursued in the matter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we are of opinion that the vessel may be released on a bond being given to the effect suggested by Mr. Gray, and further undertaking that the vessel shall not be employed in contravention of the Foreign Enlistment Act.

We think that the warrant should be issued, because until it be issued the right of the Secretary of State to require and take security is, to say the least, doubtful.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 225.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 28.)

My Lord, *Temple, December* 28, 1870.

WE are honoured with your commands signified in Mr. Hammond's letter of this day's date, stating that our report of yesterday in the case of the "International" was before your Lordship for your directions, but that he had received from your Lordship this morning a further Memorial from the Company, forwarded to you in the country, which he inclosed, together with the letters from Mr. Hughes, your Private Secretary, by which it was accompanied, and that he was to request that we would favour your Lordship, at our earliest convenience, with our opinion as to whether there was anything in this further Memorial to alter our view of the case as stated in our report of the 27th instant.

In obedience to your Lordship's commands we have taken the further Memorial, together with the letters, into our consideration, and have the honour to report—

That nothing contained in the further Memorial alters the view of the case which we had the honour to express to your Lordship yesterday. The further Memorial is not in strict accordance with Mr. Gray's former letters. We advise that no permission or countenance be given to the departure of the vessel with the cable on board, nor to the delivery of the cable (which would seem under the circumstances to be "contraband of war") to the French Government. We advise that the ship be detained until a bond in the form which we suggested be given, and perhaps it would be well that before the bond be accepted, it be submitted to us for consideration.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 226.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 28.)

My Lord, *Temple, December* 28, 1870.

WE are honoured with your commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at Havre, relative to the seizure by the Pussian troops of six British vessels in the River Seine, near Duclair, where they have been scuttled and sunk, the Prussian officers in command giving the several Captains an acknowledgment for their value; and that he was further directed to inclose a letter from the Admiralty, forwarding a report to the same effect from the Commander of Her Majesty's ship "Helicon" at Havre, and to request that we would inform your Lordship what steps should, in our opinion, be taken in the matter.

In obedience to your Lordship's commands we have taken the despatch, together with the letter from the Admiralty, into our consideration, and have the honour to report—

That, upon the facts stated, we are of opinion that the seizure and sinking of the vessels were altogether unwarrantable, and that the firing upon them, reported by Consul Herring, unless there be circumstances which do not appear to justify or explain it, was a wanton outrage. We think that enough at present appears to justify Her Majesty's Government in addressing a remonstrance to the Prussian Government. It will, however, be desirable to obtain without delay more detailed information.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 227.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 30.)

*Temple, December* 30, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of yesterday, stating that, with reference to our letters of the 10th and 22nd November relative to the case of Mr. Worth, which were therewith inclosed for convenience of reference, he was directed by your Lordship to inform us, that you had recevied a confidential despatch from Her Majesty's Chargé d'Affaires at Darmstadt, reporting, though without attaching much credit to the statement, that Count Bismarck had told the Darmstadt Foreign Minister in conversation, that all persons picked up out of French balloons that might chance to fall within German lines would be shot as

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spies; and requesting that we would favour your Lordship with our opinion how far such a proceeding could be considered as justified by the general practice of nations in time of war.

In obedience to your Lordship's commands we have considered this matter and have the honour to report—

That of strict right all persons found within the lines of a belligerent army without a safe conduct may be condemned to death by sentence of a court-martial, as spies, but the mitigated practice of modern warfare has sanctioned a distinction between persons who are found within the lines of a belligerent army in disguise or under false pretences and persons who have entered them without any treacherous intention.

This distinction appears to be recognized in writers of authority, and we think, therefore, that Her Majesty's Government would be justified in remonstrating in the strongest terms against the suggested intention of the Prussian Government altogether to disregard it, if it be ascertained that such intention is really entertained by them.

How far, however, the application of the strict right of warfare above defined is, or is not, justifiable in a particular case, must depend entirely upon the circumstances of that case, and it is impossible for us to make our answer more definite if it is to be general.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Rome.

### No. 228.

*The Queen's Advocate to the Earl of Clarendon.—(Received April 16.)*

*Temple, April* 16, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed to transmit to me the accompanying correspondence respecting the case of Miss Dawkins, who, together with her two friends Miss Cunliffe and Miss Greenstreet and a female servant, after having been for some time resident in Rome, had, after a domiciliary visit from the Pontifical police, received orders from the Roman authorities for their immediate departure from Rome; and Mr. Hammond was pleased to request that I would furnish your Lordship with my opinion whether the Pope can properly claim the right to require a British subject to quit his dominions without any reason being assigned for such a summary proceeding.

In obedience to your Lordship's commands I have the honour to report—

That the "policy" of each nation must determine whether it will permit an alien to reside within its territory, and what is called "comity" may enter into the question how such alien should be treated whilst so permitted to reside; but every Sovereign Power has a "right" to withdraw or suspend such permission without assigning any reason to the individual.

I am of opinion, therefore, that the Pope had the "right" to require the British subjects in question to quit his dominions without assigning to them any reason for such a summary proceeding.

I have, &c.
(Signed) TRAVERS TWISS.

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## Russia.

### No. 229.

*The Law Officers of the Crown to Earl Granville.—(Received August 29.)*

*Temple, August* 27, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Russell's letter of the 26th August instant, stating that he was directed by your Lordship to transmit to us a letter from the Board of Trade, inclosing copy of a despatch from Her Majesty's Consul at Riga, asking for instructions as to the course he should pursue in regard to the transfer to a British subject of the North German vessel "Evelina Schroeder;" and to request that we would report to your Lordship our opinion on the subject.

In obedience to your Lordship's commands we have the honour to report—

That without considering the question (which the words of the Act render somewhat an obscure one), what would be the duty of a Consul if either the parties to the transfer, or the ship, which is the subject of the transfer, were at the time of the transfer in the port where he is Consul, we are clearly of opinion that where neither the parties nor the ship are at the time of the transfer in the port, the Consul has no power to act under section 54 of 17 and 18 Vict., c. 104. The language of the 22nd instruction does not lead us in any way to qualify this opinion.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 230.

*The Law Officers of the Crown to Earl Granville.—(Received September 22.)*

*Temple, September* 21, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 9th instant, stating that, with reference to our report of the 27th ultimo, he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Damison and Sons relative to the case of the "Evelina Schroeder;" and he was to request that we would inform your Lordship whether the statements then made induced us to alter the opinion expressed in the above-mentioned report as to the course which Her Majesty's Consul should pursue with regard to the transfer of that vessel, and as to the answer which should be returned to the parties interested.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That the difficulty in this case, which arises upon the report made by Mr. Consul Grignon to the Board of Trade, is not removed by the letter of Messrs. Damison and Sons; we see no reason therefore to depart from or to vary our report of the 27th August.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 231.

*The Law Officers of the Crown to Earl Granville.—(Received September 22.)*

*Temple, September* 21, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 14th instant, stating that, with reference to his letter to us of the 9th

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instant respecting the case of the "Evelina Schroeder," he was directed by your Lordship to transmit therewith a further letter from the Lords of Trade, containing some remarks on the question of provisional certificates of registry; and that he was to request that we would take that paper into our consideration in connection with those on that subject already before us.

In obedience to your Lordship's commands we have taken this paper (in connection with former papers) into consideration and have the honour to report—

That we agree with the views of the Board of Trade on the second and third questions, but we are unable to agree with the Board upon the first question.

We are of opinion that under the words of the Statute the transfer must take place when the vessel is in some foreign port, otherwise there would be no elements in the case to found the jurisdiction of any of Her Majesty's Consuls to grant a provisional certificate, that jurisdiction being expressly vested in the British Consular Officer resident in the port where the vessel becomes the property of a person qualified to become the owner of a British ship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 232.

*The Queen's Advocate to Earl Granville.—(Received October* 13.)

My Lord, *Temple, October* 12, 1870.

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 10th instant, stating that he was directed to transmit to me two letters from the liquidator of the estate of Messrs. Borstelmann and Leib, requesting that the British Vice-Consul at Nicolaieff may be authorized to continue an embargo laid by him on a cargo of mahogany brought into the above port, pending the settlement of certain claims against a commercial house at St. Petersburgh; and to request that I would take these papers into my consideration, and furnish your Lordship at my earliest convenience with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That I am not aware of any British Statute whereby a British Consul is authorized to sequester the property of a British subject in a foreign country for a debt due from him to the estate of a creditor, whose affairs are under liquidation under the Bankruptcy Act (32 and 33 Vict., cap. 71, part vi.) If Her Majesty's Consul at Nicolaieff has any such power, it must, I conceive, be exercised under some provision of the local law with which I am not acquainted.

I venture to suggest that some inquiry may be properly made at the Board of Trade, if it is cognizant of any such practice on the part of Her Majesty's Consuls, and if so, upon what authority it rests.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 233.

*The Queen's Advocate to Earl Granville.—(Received December* 10.)

My Lord, *Temple, December* 9, 1870.

I AM honoured with your Lordship's commands signified in Mr Otway's letter of the 7th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Consul-General at Odessa, inclosing the explanation of the British Vice-Consul at Nicolaieff of his proceedings respecting a sequester, placed by him upon a certain cargo of mahogany, which has been already referred to me; and Mr. Otway was pleased to request that I would take these papers into my consideration and furnish your Lordship with any observations I might have to make upon the case, and more particularly upon the postcript of Mr. Vice-Consul Stevens' despatch, in which he requests to be furnished with instructions for his guidance in similar cases.

In obedience to your Lordship's commands I have the honour to report—

That the British Vice-Consul at Nicolaieff appears to have been misled by the telegrams from England, under which he was informed that the sequester in the case of the cargo of mahogany was required by British law. Before, however, your Lordship can safely give the Vice-Consul instructions for his future guidance in the class of cases mentioned in his postscript to his letter of November 15, as he states that such cases are "of no unfrequent occurrence, and the interference of the Consul is almost always claimed," it would be in my opinion advisable that he should be requested to explain more precisely on what grounds Consular interference in such cases has been claimed, and in what manner, and especially by what legal machinery, it has been afforded. It may be very right in itself that assistance should be given by Her Majesty's Consuls to British merchants in such cases, but there may be no legal authority at present for their giving such assistance officially, and the mode in which it has been given may be one of doubtful propriety.

I have, &c.
(Signed) TRAVERS TWISS.

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## Siam.

### No. 234.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received February* 24.)

My Lord, *Temple, February* 23, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 14th instant, stating,

1. That with reference to the Law Officers' report of the 27th August, 1868, he was directed by your Lordship to transmit to us a letter from Messrs. Shaen and Roscoe, forwarding a petition from Mr. R. S. Scott, praying for the restitution of certain books, papers, &c., belonging to him, which were handed over to the Governor of Singapore at the time of Mr. Scott's trial, as being accessory to the loss of the vessel "Erin," of which crime he was convicted, and sentenced to a term of imprisonment, but was subsequently pardoned by the Queen.

2. That he was also to transmit to us a correspondence which had passed with the Colonial Office and Messrs. Alabaster and Kennedy, belonging to Her Majesty's Consulate in Siam, and now in this country, in regard to that matter, as well as the previous papers connected with Mr. Scott's case; and he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the course which should be pursued as to the disposal of the papers in question, which, as we would perceive, were at present in the custody of Her Majesty's Consul-General at Bangkok, to whom they were consigned by the Governor of Singapore.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That the course suggested in Mr. Alabaster's letter of 3rd February, 1870, to Mr. Hammond, may be properly adopted by your Lordship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 235.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received May* 31.)

*Temple, May* 30, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed to transmit to us a letter from

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the Colonial Office with its inclosures respecting the question of the jurisdiction of the Supreme Court in certain cases in Siam, and to request that we would take those papers into our consideration, and furnish your Lordship with our opinion on the points raised in the Colonial Office letter.

In obedience to your Lordship's commands, we have the honour to report—

That the Supreme Court of Singapore, in which certain powers were vested by Her Majesty's Order in Council of the 28th July, 1856, and the Imperial Act 20 and 21 Vict., c. 75, was in our opinion the Court created by Letters Patent or Charter of the Queen, which was formally recognized by 18 and 19 Vict., ch. 93, and that it will be necessary, if it be thought desirable to transfer to the new Court created by the Legislature of the Straits Settlements the powers vested in the Supreme Court by the Order and Statute above-mentioned, to pass an Imperial Statute enacting that the said Order and Statute shall be construed to apply to the new Court. We would further observe, that if it is contemplated that the new Court shall exercise the Admiralty jurisdiction exercised under 18 and 19 Vict., ch. 93, by the Supreme Court, it will be necessary to provide by Act of Parliament for the transfer of such jurisdiction, as was done in the case of the Supreme Court itself by that Statute.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIFGE.
TRAVERS TWISS.

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### No. 236.

*The Law Officers of the Crown to Earl Granville.*—(*Reeeived October* 25.)

My Lord, *Temple, October* 24, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th October instant, stating that, with reference to our report of the 23rd February on Mr. Scott's case, he was directed by your Lordship to transmit to us, together with the previous correspondence, a further letter from Messrs. Shaen and Roscoe, his solicitors, requesting to be furnished with information as to the bankruptcy jurisdiction in the Straits Settlements; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the course which should be pursued in the matter.

In obedience to your Lordship's commands, we have taken the papers into our consideration, and have the honour to report—

That Messrs. Shaen and Roscoe should be informed that Her Majesty's Consul at Bangkok has dealt with the property of Mr. Scott as property forfeited to the Crown, and that Her Majesty's Consul has distributed such portions of the property as came into his hands, not as property belonging to Mr. Scott's estate and devisable of right amongst his creditors in virtue of a jurisdiction exercised by Her Majesty's Consular Court at Bangkok in matters of bankruptcy, but as property forfeited to Her Majesty's Crown and distributable of grace amongst Mr. Scott's creditors at the pleasure of Her Majesty and under the direction of Her Majesty's Secretary of State. That although the proceedings of the Consul may have had the appearance of proceedings in bankruptcy in consequence of Mr. Scott's agent having filed a declaration of insolvency in Her Majesty's Consular Court at Bangkok prior to the forfeiture of his estate, the distribution of the property amongst Mr. Scott's creditors was not in any way a judicial act on the part of Her Majesty's Consul, but an administrative proceeding, to authorize which no Act of Parliament or Order in Council was required, and in the investigation of which Mr. Scott has no legal interest.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Spain.

### No. 237.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 17.)

My Lord, *Temple, January* 15, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed to inform me that in accordance with the suggestion contained in my report of the 13th ultimo, Mr. Marcella has been called upon for explanations with regard to the passage which occurs in the second opinion of the Spanish Jurists on the case of the "Criticado," namely, "3rd. That the sentence which neither concedes nor desires the indemnity for damages claimed could not legally do so, such being foreign to the nature of the principles invoked," he was directed by your Lordship to transmit to me the accompanying letter which has been received from Mr. Marcella in reply, and to request that I would take the same into my consideration, and furnish your Lordship with my opinion on the case. The previous papers were also transmitted.

I am also honoured with Mr. Hammond's letter of the 31st ultimo, transmitting a letter and its inclosures from Mr. Marcella, which was accidentally omitted to be sent in his letter of the 30th ultimo.

In obedience to your Lordship's commands I have the honour to report—

That it would appear from the further opinion of the Spanish Jurists which Mr. Marcella has submitted to your Lordship, that it was not competent for the Court at Seville to entertain the prayer of the owners of the "Criticado" for damages. It would follow, if this opinion be correct, that the Spanish Minister of Finance was misinformed as to the powers of that Court, and did not rest his refusal in 1864 to entertain diplomatically the claim of Mr. Marcella upon solid grounds, when he asserted that the owners of the "Criticado" might have appealed to the Court of Cassation against the decision of the Court at Seville in not awarding him damages; and that as he had omitted to do so, he must be taken to have acquiesced in the decision of that Court. Whether your Lordship would think it proper to re-open the question after an interval of six years is for your Lordship's consideration. Your Lordship would, I think, in asking the Spanish Government to reconsider the grounds upon which Señor Pacheco, in 1864, declined to entertain any claim for damages, seeing that such eminent authorities on Spanish legal procedure have given so decided an opinion against the position taken up by the Spanish Minister of Finance on that occasion. I am not, however, prepared to advise your Lordship that the Spanish Government may not have other good reasons to allege for declining to entertain favourably Mr. Marcella's claim.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 238.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 18.)

My Lord, *Temple, January* 17, 1870.

WE are honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 31st ultimo, stating that he was directed to transmit to us the accompanying drafts of despatches which your Lordship proposes to address to Her Majesty's Consul at Fernando Po and to Her Majesty's Minister at Madrid, on a question which has arisen in the former place with regard to the administration of the estate of an intestate British subject. That these drafts, as we should perceive, are founded on a report from the Queen's Advocate, which, together with the papers submitted to him, were also inclosed, and Mr. Spring Rice was pleased to request that we would report to your Lordship whether we concur in the terms of these drafts.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the proposed drafts may properly be sent by your Lordship, with the slight alteration suggested in the margin of page 5 of the draft despatch to Consul Livingstone.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 239.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received January* 24.)

My Lord, *Temple, January* 24, 1870.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed to inform us that in accordance with the opinion expressed in our report of the 21st ultimo, the accompanying letter was addressed to Mr. Forbes Campbell, with reference to the offer made by the Spanish Government to place 1,500*l*. at the disposal of Her Majesty's Government for distribution amongst the crew of the steam-ship "Tornado;" he was further directed by your Lordship to transmit to us therewith two letters which have since been received from Mr. Forbes Campbell on the same subject, and to request that we would take the same into our consideration, and furnish your Lordship with our opinion as to the answer which should be returned to them. The previous correspondence was also inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Forbes Campbell should be informed that your Lordship considers that the sum of money proposed by the Government of Spain to be paid over, as pecuniary assistance to the crew of the "Tornado," should be distributed amongst the crew according to their wages, and that it is not intended by the Spanish Government that any portion of that pecuniary assistance should be distributed amongst the officers.

That Mr. Forbes Campbell, on referring to your Lordship's letter of December 23, 1869, will preceive that it was addressed to him as the representative of the crew of the "Tornado," and that he was requested in that character to state whether he is authorized on their behalf to accept or decline the proposed sum of money. That although the formal communication of the execution of a power of attorney to Mr. Forbes Campbell by the officers and crew of the "Tornado" was made to Her Majesty's Government on the 15th April, 1867, Her Majesty's Government cannot agree with him that no representation and no communication whatever was made by him before that date. On the contrary, as early as the 5th October, 1866, Mr. Forbes Campbell, in company with Mr. Isaac, one of the owners of the "Tornado," had by previous arrangement an interview with the Secretary of State for Foreign Affairs, that at this interview a complaint was made by Mr. Isaac and Mr. Forbes Campbell of the ill-treatment of the crew; that Lord Stanley had been already informed by the owners of the "Tornado" of the intention of Mr. Isaac and Mr. Forbes Cambpell to proceed together to Madrid on the "Tornado" business, and that both gentlemen were actually provided by Lord Stanley with a letter of introduction to the British Minister. The whole question of the date at which the representation and communication was made is further wholly collateral and irrelevant to the matters really in question.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 240.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received March* 12.)

My Lord, *Temple, March* 11, 1870.

WE are honoured with your Lordship's commands signified in Mr. Charles Spring Rice's letter of the 28th February last, stating that he was directed by your Lordship to transmit to us a despatch and its inclosures from Her Majesty's Minister at Madrid, relative to a claim which had been preferred by a Mr. Saccone, agent for Messrs Bibby and Co. of Liverpool, on the Spanish Government, and

That it appeared a claim was made on the Italian ship "Elvezia" by Mr. Saccone, as agent for the owners of the steam-ship "Tiber," for services in the form of salvage, the latter ship having been employed to tow the "Elvezia" into the port of Almeria when in an alleged sinking condition, and that a dispute having arisen as to the amount of the claim, the case was referred to the Court of Almeria, by whom a decree of arrest was issued against the "Elvezia," but at the request of the Italian Minister the Spanish Government ordered the removal of the sequester from the ship, which was allowed to proceed on her voyage.

Mr. Rice was pleased also to say that in consequence of the interference of the Spanish authorities with the legal proceedings in this case, Mr. Saccone had preferred a claim against the Spanish Government for 5,000*l*., and that he was to request that we would take the correspondence into our consideration and favour your Lordship with our opinion upon the merits of the claim, and as to the course which should be taken in the matter by Her Majesty's Minister at Madrid.

In obedience to your Lordship's commands we have taken the correspondence into our consideration, and have the honour to report—

That there is nothing to show on these papers that the Supreme Court of Granada has decreed the release of the ship "Elvezia" and her cargo, contrary to law and justice, and in consequence of improper pressure put upon the Court by the Executive Government. The Supreme Court may have been set in motion by the Executive Government, whose public officer had objected to the proceedings of the Inferior Court at Almeria, but if Mr. Layard has been correctly informed that the Superior Court made inquiry into the matter, and the result of this inquiry was that it made a judicial order overruling the decision of the Court of First Instance, your Lordship may, we think, properly decline to support the demand which Mr. Saccone has made against the Spanish Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 241.

Queen's Advocate, 17th March.—[Jencken case.]

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## No. 242.

**Queen's Advocate, 4th April.—[Jencken case.]**

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## No. 243.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 11.)

My Lord, *Temple, April* 10, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 2nd instant, stating—

1. That he was directed by your Lordship to transmit to us the accompanying correspondence as marked in the margin,* from which we would perceive that considerable embarrassment had been caused to Her Majesty's Government by the assumed necessity of selling on the spot and without delay vessels which had been seized and condemned at Nassau for breaches of the revenue laws of the colony, the result being that in the absence of competition such vessels are likely, in many instances, to be purchased by agents of the Cuban insurgents.

2. That he was to request that we would take those papers into our consideration, and that we would favour your Lordship with our opinion as to whether Her Majesty's Government have any power of preventing or delaying the sale of such vessels.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That it appears that the "Anna" was condemned by default at the instance of the Colonial Attorney-General, acting under the instructions of the Governor of Nassau. We are of opinion that the Court had ample discretion under the Colonial Revenue Act, 17 Vic., cap. 3, sec. 66, to comply with any prayer which the Attorney-General might have thought proper to make, with a view to defer or otherwise regulate the sale by auction of the vessel, so that she should not pass into the hands of the Cuban insurgents or their agents.

Under the peculiar circumstances of the presence of so many Cuban insurgents in the island and the frequent attempts on their part and on that of their agents to violate the Foreign Enlistment Act, we think it would be a reasonable exercise of the discretion of the Court for it to make an order, if prayed, in any similar case, that one of the conditions of the auction should be that the buyer should give security against the vessel being employed in any way contrary to the provisions of the Foreign Enlistment Act, failing which, security being given, the sale should be avoided and the further directions of the Court taken.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Colonial Office, March 9; 1 Inclosure to Colonial Office, March 12. Admiralty, March 25; 1 Inclosure from Colonial Office, March 31; 1 Inclosure from Colonial Office, March 31, 1870, 4 Inclosures.

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## No. 244.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received April* 20.)

My Lord, *Temple, April* 19, 1877.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed by your Lordship to transmit to me the accompanying correspondence relative to a claim preferred by Mr. J. C. Hill against the Government of Spain on account of the Spanish authorities in Cuba having refused to allow him to land in that island; and Mr. Hammond was pleased to request that I would take the case into my consideration and favour your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have taken this case into consideration and have the honour to report—

That the Spanish authorities in Cuba had a right to refuse permission to Mr. Hill, being an alien, to land in the island, and they have satisfied the requirements of international comity by stating to Her Majesty's Consul their reasons for such refusal, those reasons being that they had a *bonâ fide* belief that his presence would be prejudicial to the welfare of the island. As the grounds alleged by them for such belief are grounds upon which every State would be justified in acting under the circumstances in which the island was placed, I am of opinion that Her Majesty's Government cannot properly interfere to procure for Mr. Hill any compensation from the Spanish authorities.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 245.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received April* 29.)

My Lord, *Temple, April* 29, 1870.

WE are honoured with your commands signified to us in Mr. Hammond's letter of the 21st instant, stating:—

1st. That with reference to our report of January 24th and to previous reports upon the case of the "Tornado" he was directed by your Lordship to transmit to us the accompanying letter from Mr. Forbes Campbell, in which he endeavoured to prove that the pursuit of the "Tornado" was planned and commenced in the port of Funchal and her seizure effected within the territorial waters of Madeira.

2nd. That he was also to inclose the draft of an answer which your Lordship proposed to return to Mr. Forbes Campbell, and was to request that we would take the same into our consideration and favour your Lordship with our opinion as to whether there was any objection thereto.

3rd. That the previous correspondence respecting the "Tornado" was inclosed therewith.

In obedience to your Lordship's commands we have the honour to report—

That we should suggest the omission of the passage beginning "even supposing" and ending with "the Prize Court."

It is not quite certain that the passage would be correct, if the "Tornado" were taken as a neutral carrying contraband of war. It would be correct no doubt if she were taken as an enemy's ship; but this is a matter which is in dispute, which Mr. Forbes Campbell would certainly not admit, and to assert it would lead most

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probably to further letters on his part. For these reasons we suggest the omission of the passage. In other respects the despatch appears to us to be perfectly proper.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 246.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 14.)

My Lord, *Temple, May* 13, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Charles Spring Rice's letter of the 9th instant, stating—

1st. That he was directed by your Lordship to transmit to us the accompanying correspondence as marked in the margin* upon the subject of the proposed sale to the Spanish Government of the arms and other warlike stores seized on board the "Lilian," one of the vessels recently condemned at Nassau, Bahamas, for a breach of the revenue laws of the Colony; and he was to request that we would take these papers into our consideration and favour your Lordship with our opinion as to the course which it would be most advisable to pursue in the matter.

2nd. That the correspondence submitted to us on the 2nd ultimo, relative to the sale of the "Lilian" and other condemned vessels, together with our report thereon, and some further papers, were likewise inclosed for convenience of reference.

In obedience to your Lordship's commands we have taken these papers into our consideration and have the honour to report—

That the Receiver-General is in our opinion bound by the provisions of the Bahamas Customs Law of 1850 to sell the goods seized on board the "Lilian" by public auction to the highest bidder, and that he cannot sell them by private contract at their appraised value in the manner suggested. The Court, however, may make an order, having in view the results of previous sales, that the sale in each case shall be void if the highest bidder should prove to be an agent of the insurgent Cubans, and that the goods shall not be again put up to auction without a further order from the Court.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 247.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 19.)

My Lord, *Temple, May* 19, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Otway's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence respecting the departure from the Thames of the "Chieftain," an armed screw corvette, lately Her Majesty's ship "Mutine," which vessel was said to have been bought for the Japanese Government, but there appeared to be some suspicion of her being destined for the Cuban insurgents; and Mr. Otway was pleased to request that we would take that matter into our immediate consideration, and inform your Lordship whether any steps should be taken to detain her.

In obedience to your Lordship's commands we have the honour to report—

That we cannot advise your Lordship that the papers before us disclose sufficient facts to warrant the detention of the "Chieftain" for a breach of the Foreign Enlistment Act. As there seems to be nothing beyond mere suspicion that she is really destined for the Cuban insurgents, she may, we think, be allowed to proceed, if it should prove, on examination by the Custom-house authorities, that her papers are perfectly regular, and if some reasonable explanation is afforded of her flying English merchant colours after having been purchased, as alleged, by the Japanese Government, and being armed as a vessel of war. For this latter purpose we think that there may be good grounds for detaining her, so as to afford time for ascertaining her true ownership and the colours under which she should be navigated.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 248.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 30.)

My Lord, *Temple, May* 30, 1870.

WE are honoured with your Lordship's commands signified to us in Mr. Hammond's letter of the 25th instant, stating that, with reference to our report of the 24th January last, he was directed by your Lordsdip to transmit to us the accompanying letter from Mr. Forbes Campbell, stating the terms on which he was prepared, on behalf of the officers and crew of the "Tornado," to accept the sum of 1,500*l.* which the Spanish Government proposed to present to Her Majesty's Government for distribution among them, and looking to the offer of the Spanish Government as communicated by Señor Martos on the 29th October, 1869 (page 29 of the accompanying print), and to the correspondence with Mr. Forbes Campbell on the subject, Mr. Hammond was pleased to request that we would take that gentleman's present letter into our consideration, and inform your Lordship what answer should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That Mr. D. Forbes Campbell may be properly informed that your Lordship cannot view the answer which your Lordship has received from him in any other light than as an indirect refusal on his part to accept the sum proposed to be paid by the Spanish Government according to the terms of the Spanish note, and that your Lordship cannot undertake to represent to the Spanish Government that it should vary the terms of its proposal further than to allow the officers of the "Tornado" to participate with the men in the sum awarded as pecuniary assistance to the crew of that vessel.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 249.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received June* 3.)

*Temple, June* 2, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 27th ultimo, stating that he was directed to transmit to me the correspondence as marked in the accompanying list, relating to a claim preferred by Messrs. Irving, Elsworth, and Holmes, of London, for the intervention of Her Majesty's Government with the Government of Spain, under the following circumstances:—

Messrs. Irving and Co. have for some years past been engaged in business transactions with the firm of Morales and Co., of Cardenas in Cuba, which firm it is stated has become bankrupt and indebted to Irving and Co., in the amount of 1,920*l.* 16*s.* That one of the partners of the firm of Morales and Co. having lately become implicated in the political troubles in Cuba, his property has been seized by the Cuban authorities and is in danger of sequestration, and it is to prevent this sequestration, at any rate until the amount of their claim is settled, that Messrs. Irving request the intervention of Her Majesty's Government with the Government of Spain; and Mr. Otway was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion whether Her Majesty's Government would be justified in interfering further than they have already done in Messrs. Irving's behalf, and, if so, to what extent, and whether this is a case for pressing, on behalf of Messrs. Irving, a prior right over the claims of other creditors of the firm of Morales and Co.

In obedience to your Lordship's commands I have the honour to report—

That there does not appear to be any special reason why Messrs. Irving and Co.

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* Colonial Office, February 7; to Colonial Office, February 10; Colonial Office, February 26; Admiralty, April 14; Colonial Office, May 5; to Colonial Office, May 7, 1870.

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should not press forward their claim in the usual manner before the liquidator of the firm of Morales and Co., with a view to determine the extent of the responsibility of the estate of Messrs. José Maria Mora for the debts of the firm. If that question can be determined, then, as it appears that the firm became insolvent and its affairs passed into liquidation prior to any embargo being laid by the Spanish Government on the estate of M. José Maria Mora, it would be reasonable to hold that to the extent of the responsibility of M. José Maria Mora as partner in the firm, the lien of the creditors on his estate should not be prejudiced by the embargo, and to that extent I think Her Majesty's Government would be justified at the proper time in giving support to Messrs. Irving and Co. But the present request of Messrs. Irving and Co., namely, that their debt against the firm should forthwith be liquidated by the Spanish Government out of the proceeds of the embargoed estate of M. José Maria Mora is, I think, premature.

It does not appear from the papers submitted to your Lordship that any obstacle has been raised by the local Government at Havanah to the liquidation of the affairs of Morales and Co. proceeding in the usual manner, and it is stated by Mr. Graham Dunlop, in his letter of 24th March, 1870, to your Lordship, that the Embargo Committee of Cuba is not likely to proceed to deal with the estate of M. José Maria Mora for some time. Messrs. Irving and Co. ought, therefore, I think, to take advantage of this interval to obtain from the liquidator his report as to the extent of the liability of M. José Maria Mora's estate for the debts of Morales and Co., so as to be prepared with the proper evidence to be laid at the proper time before the Embargo Committee. I do not see any grounds to warrant your Lordship in asserting, on behalf of Messrs. Irving and Co., that they have any privilege over the other creditors of the firm of Morales and Co.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 250.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 14.)

*Temple, July* 14, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th July instant, stating that with reference to our reports of the 10th April and 13th May, relative to the sale at Nassau of the ship "Lilian" and her cargo, he was directed by your Lordship to transmit to us the further correspondence which had passed upon the subject,* from which we would perceive that the arms taken on board the "Lilian" had already been sold to Colonel Herrera, an agent of the Spanish Government, and taken out of the Colony; that the "Lilian" herself, however, was still in custody, and the Governor had issued an advertisement for tenders for her purchase.

Mr. Hammond was pleased to request that we would take the papers into our consideration, together with the previous correspondence which he inclosed; and that we would favour your Lordship with our opinion on the course proposed to be pursued by Governor Sir James Walker in regard to the vessel in question.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That the Secretary of the Colonies was under a misapprehension in supposing, as suggested in Mr. Herbert's letter of May 18th last, that the opinion of the Law Officers was based on the assumption that the "Lilian" had been seized and condemned at Nassau, under the authority of the local revenue laws. The Foreign Enlistment Act has provided that all vessels seized under the provisions of section 7 "may be prosecuted and condemned in the like manner, and in such Courts as ships or vessels may be prosecuted and condemned for any breach of the laws made for the protection of the Revenues of Customs and Excise, or of the laws of trade and navigation;" and it was in virtue of the Imperial Statute that we considered the manner of procedure in the matter of the condemnation of the "Lilian" was to be adapted to the provisions of the local revenue laws. If "the parties claiming as seizors," referred to in Governor Walker's letter of the 30th April, 1870, give their consent to the sale of the vessel in the manner proposed by his Excellency the Governor, we do not see

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* To Colonial Office, May 16; Colonial Office, May 18 and July 4, 1870.

any practical objection to it, as it must be presumed that the provision of the local Act requiring the vessel to be sold by public auction was intended to protect the interests of the seizors, and to secure to them that the vessel should not be sold below its fair value.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 251.

*The Queen's Advocate to Earl Granville.*—(*Received August* 3.)

*Temple, August* 2, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th ultimo, stating that, with reference to my report of the 17th November last, in the case of the "Eliza," he was directed by your Lordship to transmit to me further correspondence (as noted in the margin*), which had passed between the Foreign Office and Mr. Ellis on that subject; and he was to request that I would take those papers into my consideration, and favour your Lordship with my opinion as to any further steps which should be taken in the matter.

Mr. Hammond was pleased to inclose the previous correspondence for convenience of reference.

In obedience to your Lordship's commands I have taken this matter into consideration and have the honour to report—

That it appears that Mr. J. Ellis has been already informed by Mr. Otway that the result of an official investigation has satisfied the Spanish authorities at St. Domingo that there has been an illegal correspondence between the "Eliza" and parties on shore. Mr. J. Ellis suggests in his letter to your Lordship of 7th July last, that this allegation of the Spanish authorities is a mere afterthought, and in fact a fabrication concocted by the Spanish authorities at St. Domingo, for the purpose of misleading the Spanish Government. If Mr. J. Ellis had been prepared with evidence to show that the crew of the "Eliza" had falsely stated to the authorities at St. Domingo that there had been a communication between the "Eliza" and the shore, whilst the "Eliza" was at anchor off the port of Soufflé, such evidence might have been of importance, and your Lordship might have thought it proper to invite the candid attention of the Spanish Government to it; but the affidavit of the master of the "Eliza," to which Mr. J. Ellis has called your Lordship's attention and upon which he seems to rely, as disproving the allegation of the Spanish authorities, tends the other way, as the master admits the truth of the statement made by the crew, and excuses his own denial of the fact, when he was examined by the Spanish authorities at St. Domingo, on the ground that he had been personally kept in ignorance of it. I am of opinion that this admission of the master, so far from assisting the case of the owner, is calculated to confirm the conclusion at which the Spanish authorities have arrived.

After a careful consideration of the materials submitted to your Lordship's attention by Mr. J. Ellis in his letter of the 7th June last, and his comments on them in his letter of the 7th July last, I am unable to advise your Lordship that they supply any new view of the case of the "Eliza" which would warrant your Lordship in re-opening the discussion of it with the Spanish Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 252.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 9 )

*Temple, August* 8, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that, with reference to our report of the 14th ultimo, he was directed to transmit to us the accompanying letter from the Colonial Office,

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* Mr. Ellis, November 22, 1869; to Mr. Ellis, June 7; Mr. Ellis, June 11; to Mr. Ellis, June 14; Mr. Ellis, July 7, 1870.

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inclosing a copy of a despatch from the Governor of the Bahamas, reporting the condemnation by the Vice-Admiralty Court of the Colony of the vessels "Violin" and "Tweed" for breaches of the 7th Section of the Foreign Enlistment Act; and to request that we would take these papers into our consideration, and furnish your Lordship with our opinion as to how the forfeited property should be dealt with, having regard to the provisions of the local Act for the protection of the Customs revenues, 17 Vict., c. 3, a copy of which was inclosed for our information.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Governor may properly act under the 76th section of the Colonial Act 17 Vict., c. 3.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 253.

Queen's Advocate, 27th October.—[Jencken case.]

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### No. 254.

*The Queen's Advocate to Earl Granville.*—(*Received November* 12.)

My Lord, *Temple, November* 11, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed to transmit to me therewith the accompanying correspondence, which contains an account of the circumstances attending the seizure near the coast of Cuba of the British schooner "John Gray," and of the treatment the crew have received at the hands of the port authorities at Basacoa, and to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Messrs. Williams, of Inagua, the asserted owners of the "John Gray," have not at present made out a case which would warrant your Lordship in supporting a claim on their part against the Spanish Government for compensation on account of the detention of their vessel by the Spanish gun-boat. It appears from the report of the Commander of the gun-boat that the "John Gray" endeavoured to avoid his visit, and that she had no national flag on board nor any papers to prove her nationality.

Under these circumstances, considering the disturbed state of the island and the locality in which the "John Gray" was found, I am of opinion that there was probable cause for the Commander of the gun-boat taking her into port for inquiry.

It does not appear from the letter of Messrs. Williams of August 2, 1870, which is inclosed in Mr. Consul Dunlop's despatch No. 52, that they had taken the proper precaution after purchasing this vessel of having her registered before they sent her on her fishing excursion; and, as I am at present informed, I do not consider that a mere licence to fish granted by the authorities of Inagua can be regarded as a proper substitute for a British certificate of registry.

The case of the crew, on the other hand, divides itself into two parts; their detention was a consequence of the "John Gray" having been sent to sea without a national flag and without proper ship-papers, and they are not entitled, in my opinion, to any compensation from the Spanish Government on that account; but, on the other ground, of undue severity in the treatment to which they were exposed, they have *primâ facie* cause of complaint.

I think your Lordship may properly instruct Her Majesty's Consul to ask for some explanation at the hands of the proper authorities on the island as to the circumstances under which it was thought necessary by the port authorities at Basacoa to march the crew, bound with cords, through the streets, and to consign them to prison as common malefactors, there being no allegation of misconduct on their part from the Commander of the gun-boat.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 255.

*The Queen's Advocate to Earl Granville.*—(*Received November* 28.)

My Lord, *Temple, November* 26, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed to transmit to me the accompanying papers reporting the circumstances under which three British subjects from the Bahamas have been captured and executed near Cayo Romano, off the north coast of Cuba, by the Spanish authorities, on the ground of their having run the blockade with arms for the Cuban insurgents, and to request that I would take the case into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That it is not quite clear, from the papers in this case, that the "Margaret Jessie" was in Cuban waters when she was seized by the gun-boat.

It would appear from the statement of the Marquis San Rafael of October 20, 1870, that she was standing in shore, and had thrown oberboard her cargo, but it does not appear that she had landed any arms.

The "Guanahani," on the other hand, is stated to have landed arms and men. If the Marquis San Rafael intends to represent that the "Margaret Jessie" brought her cargo of arms, which were clearly intended for the use of the insurgents and not for sale as a mercantile speculation, into Cuban waters, and was seized in such waters by the Spanish gun-boat after having thrown them overboard, I think her crew had rendered themselves amenable to Cuban law, and that if military law then prevailed in that port of the island, your Lordship cannot impugn the right of the Cuban authorities to treat the crew of the "Margaret Jessie" as aiding the insurgents, in which case their national character would afford them no protection. The penalty of death may have been under the circumstances excessive, but the right of the authorities to inflict the penalty, if the parties were found guilty of aiding the insurgents, cannot be disputed.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 256.

*The Queen's Advocate to Earl Granville.*—(*Received November* 29.)

My Lord, *Temple, November* 28, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 24th instant, stating that he was directed to transmit to me a letter which your Lordship has received from the Secretary of the Liverpool Wreck Association, requesting information as to the powers of Spanish Consuls in this country with regard to wrecks of Spanish vessels. A memorandum drawn up at the Foreign Office upon the existing Treaties between England and Spain, bearing upon this subject, was also inclosed, and Mr. Otway was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to the Association.

In obedience to your Lordship's commands I have the honour to report:—

That your Lordship may properly direct an answer to be returned to the Secretary of the Liverpool Wreck Association, to the effect that there is no Treaty between Great Britain and Spain under which the Spanish Consul can claim a right to intervene officially, and, without the authority of the captain, to displace an agent put in charge of the wreck of a Spanish vessel in this country by the captain.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 257.

*The Queen's Advocate to Earl Granville.*—(*Received December* 21.)

My Lord, *Temple, December* 20, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed to transmit to me the accompanying despatch and its inclosures from Her Majesty's Consul-General in Cuba, reporting the circumstances attending the detention by the Spanish authorities of the master and crew of the vessel "Britannia," of Nassau, which was boarded by the Spanish gun-boat "Vigia" when driven by stress of weather off the coast of Cuba; and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion thereupon, and as to any claim which the master and crew may have to compensation on account of the treatment they have been subjected to.

In obedience to your Lordship's commands I have the honour to report:—

That it appears from the letter of the Marquis de San Rafael that the case of the detention of the "Britannia" was heard and determined before a Prize Committee. It may be presumed, therefore, that the "Britannia" was seized and detained for some *primâ facie* violation of belligerent right.

The sentence, however, of the Prize Committee throws no light on the cause of her detention, but is content with affirming that the master and crew were the originators of their own detention.

On the other hand, if full credence is to be given to the affidavit of the master and crew of the "Britannia" sworn before Mr. Consul Dunlop, the master and crew of that vessel were innocent of affording any reasonable grounds for their detention. I do not, however, think that your Lordship can safely instruct Mr. Consul Dunlop to act upon the assumed truth of all the statements in that affidavit, and Her Majesty's Consul may, in my opinion, be properly instructed to report further on the case, and to communicate in the manner which he may think most advisable with the Spanish authorities at Havana, with a view to ascertain more precisely the grounds upon which the Prize Committee has decreed the release of the vessel without damages, and also to report further what steps have been taken by the Spanish authorities as regards the restitution of the vessel itself, pursuant to the decree of the Prize Committee.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 258.

*The Queen's Advocate to Earl Granville.*—(*Received December* 24.)

My Lord, *Temple, December* 23, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 17th instant, stating that with reference to my letter of the 2nd June last, upon the claim of Messrs. Irving, Elsworth and Holmes, upon the property of Señor Mora, in Cuba, he was directed to transmit to me further correspondence which has passed upon this case, and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion, whether Messrs. Irving and Company are entitled under the present circumstances of the case to any, and if so, to what assistance from Her Majesty's Government for the recovery of their debt.

In obedience to your Lordship's commands I have the honour to report—

That it does not appear from the letter of Messrs. Morrison Brothers, inclosed in the despatch No. 38 of Her Majesty's Consul, that the liquidating firm of Morales and Company will be unable to settle the claims of Messrs. Irving, Elsworth and Holmes against the firm, without recourse being had to the property of Señor Mora, which has been sequestered. It further appears from the same letter, that the claims of Messrs. Irving, Elsworth and Holmes have no priority over those of other creditors. I am of opinion, therefore, that, as matters stand at present, Messrs. Irving, Elsworth and Holmes have not made out a case which will warrant your Lordship's interference on their behalf to obtain a settlement of their claims by the Spanish authorities out of the estate of Señor Mora.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 259.

*The Queen's Advocate to Earl Granville.*—(*Received December* 29.)

My Lord, *Temple, December* 28, 1870.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that, with reference to my report of the 11th ultimo, on the case of the vessel "John Gray," which was seized last June off the coast of Cuba by a Spanish gun-boat, he was directed to transmit to me the accompanying letter from the Board of Trade, inclosing a copy of a despatch from the British Vice-Consul at St. Jago de Cuba, reporting the circumstances under which expenses amounting to 69*l*. 7*s*. 7*d*. have been incurred on account of the crew of that vessel.

That the Board of Trade, as I should observe, consider that this expense cannot properly be defrayed out of the vote for the relief of distressed British seamen, and suggest the propriety of applying to the Spanish Government for repayment of the amount in question, and Mr. Hammond was pleased to request that I would take this matter into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That until the principal question is settled respecting the seizure of the "John Gray," which, as Mr. Ramsden reports, has still to be settled at Havana between the Captain-General and Her Majesty's Consul-General, your Lordship would not be justified, in my opinion, in directing any application to be made to the Spanish Government for the repayment of the expenses incurred in providing for the subsistence of the crew of that vessel.

I have, &c.
(Signed) TRAVERS TWISS.

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# Switzerland.

## No. 260.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received May* 11.)

*Temple, May* 11, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 10th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Chargé d'Affaires at Berne, requesting instructions in regard to an application which has been made to him by a British subject, to be married to a foreigner who it appears had contracted a former marriage in Prussia, which had been legally dissolved. That Mr. Gould states fully the grounds of his hesitation to perform the marriage ceremony in this case without previous authority from the Foreign Office, and that, as the case is an exceptional one, Mr. Otway was pleased to request that I would take it into my consideration, and furnish your Lordship with my opinion at my earliest convenience as to the instructions which should be sent to Mr. Gould.

In obedience to your Lordship's commands I have the honour to report:—

That it does not appear from Mr. Gould's report that the former husband of the foreign lady was a domiciled Prussian subject, but assuming such to have been the case, the Prussian Courts would be competent to declare the marriage of the parties to be null and void, so as to enable either party to contract marriage as if the other party were dead. But before the proposed marriage is permitted to be solemnized at the British Legation, it will be proper for Mr. Gould to require a copy of the sentence of divorce to be produced before him, and if the sentence should, in terms, declare the lady free to marry again, the marriage may be thereupon properly solemnized as if the previous husband of the lady were dead, but if the sentence is silent on this subject, Mr. Gould may properly require a certificate to be produced from some German lawyer conversant with the law of Prussia, certifying that after such a sentence the parties are, by Prussian law, free to contract marriage again. These documents should be filed at the Legation, and if it is the practice to require an affidavit from either of the parties that there is no lawful impediment to the marriage, &c., the affidavit in this case should be a special one, and the sentence and certificate should be annexed to it.

I have, &c
(Signed) TRAVERS TWISS.

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## No. 261.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received May* 24.)

*Temple, May* 23, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 14th instant, stating that, with reference to the Queen's Advocate's report of the 15th November, 1865, he was directed to transmit to me the papers relative to the refusal of the Cantonal Government of Tessin in Switzerland to recognize as the Official Liquidator of the European Central Railway Company, which has become bankrupt, a gentleman, Mr. Lovelock, who has been appointed to that post by the High Court of Chancery in this country; and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to any action which it may be proper that Her Majesty's Government should take in this matter.

In obedience to your Lordship's commands I have the honour to report:—

That the application of Mr. Lovelock for your Lordship's assistance to procure from the Cantonal Government of Tessin his recognition as the Official Liquidator of the European Central Railway Company, is, in my opinion, premature, his object being, as may be gathered from his letter of 5th May, 1870, to intervene in that

character in the disposal of the property belonging to the Company. The Cantonal Government is clearly entitled, under the 27th Article of the Company's Concession, to conduct the sale of the works of the Company upon the forfeiture of the Concession, and after the deductions contemplated in that Article have been made, to pay over the balance to the Company. Mr. Lovelock may be entitled, when the proper time arrives for the payment of that balance, to step forward and claim, under the Order of the High Court of Chancery, to receive it in his official character of Official Liquidator, but his right at the present moment under the Order of the Court is not different in kind or degree from that which the Company itself would possess, if its affairs were not under liquidation; and I am of opinion that under Article 27 of the Concession the Company could not claim to set the Civil Tribunals of the Canton in action, which appears to have been attempted by the agents of Mr. Lovelock, for the purpose of administering its property whilst it is in course of sale by the Cantonal Government.

I think your Lordship may properly instruct Mr. Bonar not to interfere at present in the question between Mr. Lovelock and the Cantonal Government, as there does not appear to be any intention on the part of the Cantonal Government to work any injustice against the Company in the conduct of the sale of its works.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 262.

*The Queen's Advocate to Earl Granville.*—(*Received August* 19.)

*Temple, August* 17, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 6th instant, stating that with reference to my report of the 23rd May last, he was directed by your Lordship to transmit to me an accompanying further letter from Mr. Lovelock, the official liquidator of the European Central Railway Company, representing that the decision of Her Majesty's Government not to interfere at present between him and the Cantonal Government of Tessin has been arrived at from a misapprehension of the object he had in view in soliciting assistance, and explaining the question at issue between him and the Cantonal Government; and Mr. Otway was pleased to transmit to me the former papers relating to this case, and to request that I would take the case again into consideration, and report to your Lordship whether there is anything stated in Mr. Lovelock's letter then inclosed which would induce me to alter the opinion already expressed by me relating to this matter.

In obedience to your Lordship's commands I have the honour to report—

That I see no reason to alter the opinion expressed to your Lordship in my former report.

I may add that it appears from Mr. Lovelock's letter of May 5, 1870, that the proper course for him to pursue is to take the necessary steps before the Tribunal of the Canton to have the question determined, whether the Edict of March 10, 1869, was regular or not. "The Government of the Canton," he says, "opposes that Edict, but, at the same time, allows the rights of his agents if the Edict should be held to be regular."

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 263.

*The Queen's Advocate to Earl Granville.*—(*Received September* 29.)

*Temple, September* 28, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed to transmit to me a despatch from Her Majesty's Chargé d'Affaires in Switzerland, wherein he states that the Canton of Vaud had recently abandoned in favour of Russian subjects the claim for probate duty, which it persistently makes on the personal property out of the country of foreigners domiciled in the Canton at the time of their death, on the Russian

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Minister giving in an official declaration that in this respect the personal estates of citizens of the Canton of Vaud dying in Russia would be treated on a footing of perfect reciprocity; and that Mr. Gould, therefore, suggests that, in order to obtain a similar exemption for the personal estates of British subjects dying in the Canton, Her Majesty's Legation at Berne should be authorized to make a declaration corresponding to that made by the Russian Minister. The draft of an answer, which your Lordship, with the concurrence of the Treasury, proposes to return to that despatch, was also inclosed; and Mr. Hammond was pleased to request that I would take the same into my consideration, and report to your Lordship my opinion thereon. Mr. Hammond was pleased to add that your Lordship suggested whether it might not be desirable that I should insert in the draft a definition of what constitutes a legal domicile.

In obedience to your Lordship's commands I have the honour to report—

That it is extremely difficult to define domicile, and no definition hitherto proposed has been pronounced by jurists to be completely satisfactory.

I think, however, that the object which your Lordship has in view may possibly be secured by explaining that your Lordship uses the phrase "legal domicile" in your despatch to denote "the principal domicile" of a deceased person in the sense in which European and American law make domicile to be the test for regulating the succession to personal estate. I would observe, however, that the difficulty which arose in Mr. Townshend's case, and which may occur again in the case of any other British subject who may have a residence in the Canton of Vaud, would not be met by a declaration of the kind suggested by Mr. Gould. Mr. Townshend was not "domiciled for testamentary purposes" in the Canton of Vaud at the time of his death, his "principal domicile" being in England, so that a declaration applicable to Russian subjects domiciled in the Canton of Vaud would not *mutatis mutandis* meet any new case analogous to that of Mr. Townshend. What is wanted would rather appear to be a declaration to the following effect:—

"No tax or duty shall be levied on the property of any British subject dying within the Canton of Vaud, who shall not at the time of his death have his principal domicile therein, except probate duty on such property as he may possess within the Canton; and in the same way no tax or duty shall be levied on the property of any Swiss citizen dying within the United Kingdom, who shall not at the time of his death have his principal domicile therein, except probate duty on such property as he may possess within the United Kingdom."

I have, &c.
(Signed) TRAVERS TWISS.

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# Tunis.

## No. 264.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 7.)

*Temple, February* 5, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Agent and Consul-General in Tunis,* reporting the particulars connected with a failure of justice in a most serious case. That it appears that in the month of October last an individual named Annunziato Bugeja, born in Tunis of Maltese parents, was sent under a warrant from the British Consular Court at Tunis for trial at Malta on a charge of murder committed on the person of a native of Malta, when the Judge before whom the case was to be tried discharged the prisoner, on the ground that the Tunis Consular Court had no legal power to send him to Malta, although, as Her Majesty's Consul-General observes in a perfect analogous case in 1867, no doubt was raised as to the validity of a similar warrant from the same Consular Court; and Mr. Spring Rice was to request that we would take these papers into our consideration and furnish your Lordship with an early opinion as to the decision come to by the Judge in this case, which has resulted in the release of the prisoner Bugeja. A confidential letter and its inclosures from the Colonial Office relating to this case, by which we should preceive that doubts are entertained by the authorities at Malta as to the legality of the detention in the prisons there of several persons who have been sent to that island for imprisonment under warrants from the Consular Courts in Alexandria and Tunis, was also inclosed, and Mr. Spring Rice was also to state that the Secretary of State for the Colonies suggests, therefore, that Her Majesty's Consuls in the Provincial Courts should be instructed not to send any more prisoners to Malta until further orders; and to request that we would also furnish your Lordship with an immediate opinion in regard to this suggestion.

In obedience to your Lordship's commands we have the honour to report—

That the decision of the Criminal Court of Malta is, in our opinion, correct, and that the only competent authority, under the Order in Council of 1864, to cause a person accused of a crime, committed within the jurisdiction of a Provincial Consular Court, to be conveyed for trial to Malta, is the Judge of the Supreme Consular Court. The same construction we consider must be given to Article 66, under which any offender convicted before a Provincial Consular Court may be sent by order of the Judge of the Supreme Consular Court to Malta for the purpose of undergoing his punishment.

We think it would be proper for your Lordship to instruct Her Majesty's Consuls in the Provincial Courts not to send any more prisoners to Malta under warrants from themselves, until further orders, in accordance with the suggestion to that effect made in Mr. Spring Rice's letter.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Mr. Wood, Nos. 2 and 3, Consular.

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## No. 265.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 15.)

*Temple, July* 14, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Otway's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a despatch from the Acting British Consul-General at Tunis, respecting a proposal of the Government of the Bey for the establishment of a mixed tribunal to try cases between foreigners and natives. Mr. Otway was pleased also to inclose a despatch from Sir P. Francis, Her Majesty's Judge at Constantinople, reporting his opinion on the subject; and he was to request that we would take those papers into consideration, and favour your Lordship with such observations as we might have to offer on the matter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report:—

That we concur with Sir Philip Francis in thinking that the proposal of the Tunisian Government should be favourably received by Her Majesty's Government, and that the scheme of the Decree of His Highness the Bey, subject to some modifications, may be approved by your Lordship.

The modifications which we would suggest are that it should be open to the other European Powers who may be disposed to appoint Consular Judges, who should be qualified to sit as members of the Tribunal of First Instance, which should always consist of not less than five judges as proposed, amongst whom there should always be, if possible, a representative of the nationality of the plaintiffs and the defendant.

With a Court so constituted we do not consider that the Presidency of a Tunisian Judge would be objectionable.

The Court of Appeal has, we think, an objectionable feature in its composition, so far as it is proposed that it should consist of three Tunisian and three European Judges, in which case, if the President is a Tunisian and has a casting vote, the

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administration of justice in both Courts will virtually be under Tunisian control. We think this Court should consist of seven judges at least, four of whom should be European, in which case we see no objection to the President being a Tunisian. If we mistake not, it is proposed that the Courts of Appeal in Egypt should consist of seven members.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Turkey.

### No. 266.

*The Queen's Advocate to the Earl of Clarendon.—(Received February* 16.)

*Temple, February* 16, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 10th instant, stating that, with reference to my report of the 26th August last, he was directed to state to me that in December last your Lordship received from Mr. White a further letter, also inclosed, adducing further facts in connection with his alleged contracts for the purchase of certain ores in Turkey, and that your Lordship considered it desirable to refer the subjects to Her Majesty's Chargé d'Affaires at Constantinople for investigation and report.

Mr. Spring Rice was pleased to inclose Mr. Barron's report, from which I should learn the grounds on which he considers that the case is one which should not be supported. But that, before your Lordship causes any further communication to be made to Mr. White in the matter, your Lordship would wish to learn whether I concur in the opinion which Mr. Barron has taken of the case, and, if so, as to the portions of Mr. Barron's report which should be communicated to Mr. White. The previous correspondence was also inclosed.

In obedience to your Lordship's commands I have the honour to report:—

That I concur in Mr. Barron's opinion that this is not a case which calls for any support from Her Majesty's Government. I would suggest that Mr. White should be informed that your Lordship has made very careful inquiry into his complaint, and that the result of such inquiry is to satisfy your Lordship that Mr. Paterson has no legal or equitable claim against the Turkish Government.

That with regard to any legal claim on his part, your Lordship has ascertained that Mr. Paterson has no claim under Turkish law to a renewal of the concession of the Dagarde mine, as the mine is the private property of the Sultan, and, as such, is not subject to the law or custom which governs the concession of mines which are the property of the State. That with regard to any equitable claim on the part of Mr. Paterson, Her Majesty's Chargé d'Affaires at Constantinople has been informed by the Turkish authorities that in January, 1868, Mr. Paterson declined to accept a renewal of the concession of the Dagarde mine upon the terms offered to him by Atta Effendi; that he received timely notice of the intended concession to which he now objects, and declined to bid for the mine. That under these circumstances your Lordship must decline to interfere any further in the matter of the Dagarde Concession, more especially as it appears that the grant was not made to Mr. Paterson himself, but to Ottoman subjects, under whom Mr. Paterson worked the ore.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 267.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received February* 22.)

*Temple, February* 21, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Charles Spring Rice's letter of the 14th instant, stating—

1. That he was directed by your Lordship to transmit to us a letter from Mr. Robert Sutherland, inquiring under what authority a discharge in bankruptcy was granted to him by Her Majesty's Consul at Salonica, and whether that discharge holds good in England—

2. That no report of that case appeared to have been received from Mr. Consul Wilkinson; but your Lordship presumed he acted under the authority conferred on him by the 40th section of the Order in Council of 30th November, 1864, copy of which was therewith inclosed—

3. That your Lordship, however, would be glad if we would take Mr. R. Sutherland's letter into consideration, and favour you with our opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That presuming that Mr. Sutherland was adjudicated a bankrupt by Her Majesty's Consul at Salonica under section 40 of Her Majesty's Order in Council of 30th November, 1864, we are of opinion that such adjudication would only be operative for and within the Consular district as respects the debtors and creditors of Mr. Sutherland, and his discharge consequent on such adjudication would not relieve him from the claims of creditors in England.

Your Lordship may, we think, properly direct that information to the above effect shall be communicated to Mr. Sutherland.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 268.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received February* 24.)

*Temple, February* 23, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Spring Rice's letter of the 19th instant, stating that he was directed by your Lordship to request that we would take into our consideration, together with the papers transmitted to us on the 14th instant, the accompanying further letter from Mr. Sutherland, relative to a discharge in bankruptcy granted to him by Her Majesty's Consul at Salonica.

In obedience to your Lordship's commands we have the honour to report—

That the further letter of Mr. Sutherland does not induce us to alter the opinion expressed in our report to your Lordship of the 21st instant.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 269.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received April* 20.)

*Temple, April* 20, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th April instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from the British Commissioner on the Danube, stating the course which the Danube Commissioners were desirous of taking in regard to investing their surplus money in the English funds, and to request that

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we would favour your Lordship with our opinion on the points raised by Colonel Stokes.

In obedience to your Lordship's commands we have the honour to report—

1, 2, and 3. That to the first, second, and third of the questions raised by the British Commissioner, our answer must be in the negative.

4. That assuming the stock required to be sold has been invested in the names of the Commissioners, we are of opinion that the Executive Committee of the Commissioners could not effectively issue powers of attorney for the sale of such stock.

5. We think that the difficulties may be removed by the appointment of trustees in England, in whose names the stock could be purchased, and by whom or by power of attorney from whom, the stock might be sold according to instructions from the Commissioners.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 270.

Law Officers, 27th August.—[Hospital Dues at Constantinople and Smyrna.]

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## No. 271.

*The Queen's Advocate to Earl Granville.—(Received November 30.)*

My Lord, *Temple, November* 29, 1870.

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 22nd instant, stating that he was directed to transmit to me a note which your Lordship has received from the Austrian Ambassador at this Court, together with the

## No. 270.

*The Law Officers of the Crown to Earl Granville.—(Received August 27.)*

My Lord, *Temple, August* 27, 1870.

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us the correspondence marked in the margin* relative to complaints in regard to the British Hospital dues levied at Constantinople and Smyrna under the authority of the Orders in Council of the 3rd July, 1854, and the 31st July, 1858, copies of which were inclosed.

That the hospital at Constantinople was erected by funds provided from the Exchequer, but there was some uncertainty whether that at Smyrna had been chargeable to the public.

That an inquiry was about to take place how far the statement was correct that revenue derived from the tonnage dues levied under the Order had been applied to other Consular purposes, and he was to request that we would favour your Lordship with our opinion whether the memorialists would have, under the terms of the above Order in Council, just ground for complaint if such revenue in excess, taking the average of the past twelve years of the cost of maintenance of the hospitals, had been applied to Consular expenses towards the liquidation of the cost originally incurred by Her Majesty's Government for their establishment.

And that should we be of opinion that if, when the matter was investigated, it should appear that money had been so applied, irregularity had been committed, he was to request that we would state whether such objection could be removed, if it was not judged expedient to lower the rate of tonnage dues by an explanatory instruction from the Secretary of State, or whether the issue of a fresh Order in Council would be necessary.

In a postscript appended to the said letter, Mr. Russell was pleased to state that he was to add, in consideration of the inquiry about to take place, your Lordship would be glad to receive our Report on the matter at our earliest convenience.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we are of opinion that there has been irregularity in the application of the surplus revenue from the hospital dues, and that the memorialists would have, under the terms of the Order in Council, just grounds of complaint, if the revenue in excess were applied to Consular expenses. With regard to the liquidation of the cost originally incurred by Her Majesty's Government for the establishment of hospitals, we are of opinion that where such hospitals have been established subsequently to the Order in Council of 1854 (10 Hertslet, p. 613), the moneys in excess may properly be applied towards the liquidation of the expenses of their establishment. With regard to the irregularity above mentioned, we consider that it is beyond the powers granted to the Secretary of State to remove it by any explanatory instruction, and if it should not be judged expedient to lower the rate of tonnage dues, the issue of a fresh Order in Council will be necessary to warrant their application to any other object than the "establishment, maintenance, and support of British hospitals."

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Sir P. Francis, No. 29, Consular, September 10; ditto, No. 34, Consular, September 18; ditto, Private, September 21, 1869; Mr. Paterson, August 17, 1870; Order of 1854, State Papers, vol. xliv, p. 909; Order of 1858, Separate Papers.

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other papers as noted in the margin,[*] respecting certain steamers constructed in England for the Hungarian Navigation Company now lying at Turn Severin in the Danube, and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to the Austrian Ambassador, and, generally, as to the course which should be pursued in this matter.

In obedience to your Lordship's commands I have the honour to report:—

That I am of opinion that the steamers in question are to be regarded as British vessels legally as regards their papers, and equitably as regards the contract, and they are entitled to all such protection from the local authorities as the latter are bound by Treaty or comity to afford to vessels of British nationality.

With regard to the Hungarian sailors taken on board the steamers at Sulina from motives of economy to replace British seamen, there is no information in the papers before me as to the terms upon which they were engaged, whether they were engaged to navigate the vessels to their ultimate destination at Pesth, or to what other place, as they may have been justified under their contract in refusing to leave the vessels. With regard to the later telegram inclosed in Mr. Otway's letter of 28th instant, announcing that the Hungarian sailors on board the vessels have attacked the English sailors, while the latter were attempting to get up steam, and maltreated two captains, I am not clear that the conduct of the Hungarians is piratical as suggested, in a sense to justify the interference of Her Majesty's gun-boat. Upon this point I should wish to be furnished with the Conventions regulating the navigation of the Danube and the jurisdiction to be exercised over its waters.

There can be no doubt that the captains of the steamers would be justified in appealing to the local authorities for protection against the violence of the Hungarian sailors, as such violence is a disturbance of the navigation of the river, but as regards the maintenance of discipline, the Roumanian authorities will probably decline to exercise jurisdiction on board a foreign ship where all the parties are of foreign nationality.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 272.

*The Law Officers of the Crown to Earl Granville.—(Received December 17.)*

*Temple, December* 16, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Arthur Otway's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul-General and Judge in the Consular Court at Constantinople, inclosing, for your Lordship's approval, the draft of a rule for the remuneration of jurors prepared by him in pursuance of one of the provisions of the "Juries Act, 1870," in consequence of the orders issued by the Courts of Westminster not being applicable to the procedure of the Consular Courts of the Levant; and he was to request that we would favour your Lordship with our opinion whether the rule in question should be approved.

In obedience to your Lordship's commands we have the honour to report—

That the rule as prepared by Sir P. Francis may be properly approved by your Lordship, subject to two verbal alterations which we have suggested in the margin of the rule.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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[*] Count Apponyi, October 25; Mr. Green, No. 37, November 11; Sir H. Elliot, No. 76, November 11; Sir H. Elliot (telegram), November 19, 1870.

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# United States.

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## No. 273.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received January* 13.)

*Temple, January* 12, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 15th ultimo, stating that, with reference to our Report of the 4th October, he was directed to transmit to us a letter from the Board of Trade, conveying the views of that Department, both as to the proposals of the Government of the United States in the matter of a Consular Convention, and on the suggestions contained in our Report.

The draft of a Treaty, which would embody the views thus arrived at, and which has been prepared as a basis for a counter-proposal to be made to the Government of the United States, if Her Majesty's Government should decide on dealing with the matter by proceeding forthwith with the negotiation of a Convention, was also inclosed. Mr. Spring Rice was also pleased to state to us that your Lordship would be glad to receive from us, at our earliest convenience, a Report on this subject, together with any suggestions we may have to offer.

That your Lordship desired him at the same time to observe that an alternative course of action is open for consideration, namely, an application in the first instance to the Legislature for such powers as will be necessary to carry out the arrangements which the proposed Convention has in view. That this course involves the disadvantage of the delay consequent on an appeal to Parliament, attended necessarily by much of uncertainty as to the result; that, on the other hand, if an Act of Parliament enabled Her Majesty to extend generally to foreign Tribunals and to foreign Consuls within the United Kingdom the privileges and obligations contemplated by the proposed Convention, such extension being conceded on the grounds of reciprocity, and effect being given to it by Order in Council in each case, an opportunity would present itself in case of necessity for placing the whole matter, as between Her Majesty's Government and the Governments of foreign countries in general, on a systematic and satisfactory footing. That such an Act of Parliament might also provide the powers necessary to give effect to the objects which the United States' Government have in view in their proposals as regards emigration, which form the subject of the inclosed note from Mr. Motley, referred to in our Report of the 15th ultimo. That, in order to consider the relative advantages of these two courses, it is desirable that your Lordship should be informed as to the nature of the legislation which would be necessary for the purposes in view, and that on this point your Lordship requests that we would furnish your Lordship with our views.

In obedience to your Lordship's commands we have the honour to report—

That we have perused the papers which your Lordship has communicated to us. We beg leave to refer to our Report of the 4th October, 1869, as containing our opinion upon the general scope and object of the various provisions of Mr. Motley's proposed Convention. We see no reason to change the general judgments there arrived at.

What we presume your Lordship now to desire is, our view as to the necessity of English legislation in order to effect many of the most important of the objects aimed at, and what, in consequence of that necessity, is the best method of proceeding to attain those objects.

Every provision alike in Mr. Motley's draft and in your Lordship's which affects existing laws, whether as to the jurisdiction of the Courts, the authority of executive officers, the nature of evidence, or the liability to local or Imperial burdens, will require an Act of Parliament to give it force in this country. To enter into a Convention on such matters unauthorized by Parliament would be merely delusive, and might possibly lead to serious international troubles. Legislation being necessary, it may take place in various forms, the choice between which is a matter for your Lordship and the Government.

The Act may be confined to the subjects discussed between this country and the United States, and the provisions of the Act may either go in detail through the various Articles which are hereafter to form the body of the Convention, or the Convention may be first negotiated and agreed upon, subject to the approval of Parliament, and then an

Act passed simply giving it legal effect, and annexing the Convention as a schedule, if the Government think that Parliament can be depended upon to pass it unaltered. Or a general Act may be passed, as suggested in Mr. Spring Rice's letter, empowering the Crown to give certain powers to foreign authorities, and to restrain English authorities on certain given foreign matters by Order in Council.

Looking at the matter from a purely legal point of view, the more proper and convenient course would seem to be to have a general Act, to be applied when necessary to the subjects of other countries by Order in Council.

This, however, is not a question merely of law, but (especially as regards America), of policy, and it is for your Lordship to determine whether it may not be worth while to incur some inconvenience, and run some Parliamentary risk, sooner than drop negotiations with the United States at this moment, or to include them as one only amongst foreign countries, the question between us being peculiar, and no doubt pressing. In any event, it will probably be convenient to submit the Convention to the Government draughtsman before it is finally settled, for his criticism on the wording, with reference to the undoubted need of future legislation of some kind.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 274.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 24.)

*Temple, January* 22, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 19th instant, stating that with reference to my report of the 18th ultimo, upon the draft of a Convention with the United States of America, making such modifications in the Treaty of April 7, 1862, for the suppression of the African Slave Trade, as are requisite in consequence of the contemplated suppression of the Mixed Courts of Justice established under that Treaty, he was directed by your Lordship to transmit, for my consideration, a draft of Convention revised in accordance with the suggestions contained in my report, and that your Lordship would be glad if I would favour you with my opinion thereupon.

Mr. Otway was pleased to state that your Lordship felt some doubt whether the draft is sufficient to keep alive Article III of the Treaty of 1862, or at least the concluding clause of it, which fixes the period for the payment of indemnification at one year from the date of the sentence of the Mixed Court of Justice, and that your Lordship would draw my attention to this point.

In obedience to your Lordship's commands I have the honour to report—

That I have suggested certain verbal and formal amendments in the margin of the draft. I have also thought it necessary to provide some additional instructions to meet the case where a detained vessel may have been handed over to a cruizer of her own nationality, which was not contemplated in the Treaty of 1862, and for which no provision was made in the instructions annexed to that Treaty. How far the proposed addition to Article 3 of the Instructions will sufficiently meet that case it will be for your Lordship to judge.

With regard to Article 5 of the Instructions, it may deserve your Lordship's consideration whether there ought not to be some corresponding addition made to Article III of the draft Convention, as it at present provides only for the action of the Courts where the vessel itself is sent in.

With regard to Mr. Otway's remarks upon Article III of the Treaty of 1862, as no question of indemnification for damages could have arisen under it except in consequence of the sentence of a Court, I consider that the payment of any such indemnification would fairly be within the scope of the words "the proceedings consequent on adjudication," which are found in Article II of the proposed draft.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 275.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received January* 28.)

*Temple, January* 27, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 22nd instant, stating that, with reference to my report of the 27th March last, respecting the claim of Mr. Machado, as represented by Messrs. Westhead, on account of the detention by Her Majesty's cruizers in 1857 of two of his vessels on suspicion of being engaged in the Slave Trade on the West Coast of Africa, he was directed to transmit to me a letter from Messrs. Rothery and Co., of Doctor's Commons, representing the supercargo and consignee of one of the vessels, asking on his behalf for permission for one of their clerks to inspect and take copies at the Foreign Office of any papers relating to the case. Mr. Spring Rice also inclosed, together with the correspondence, a short summary of the case, and stated that, as it is evident that the views of Her Majesty's Government upon the merits of these claims have been considerably modified since they first admitted their liability for the seizure of Mr. Machado's vessels, while the original admission might be made a pretext for heavy claims against Her Majesty's Government, he was to request that I would advise your Lordship at my earliest convenience as to the nature of the answer that should be returned to Messrs. Rothery's application.

I am also honoured with Mr. Spring Rice's letter of the 25th instant, transmitting further papers relative to this case.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. Rothery and Co. should be informed that Her Majesty's Government decline to entertain any application relative to the claim of Mr. Francisco José de Madeiros, as supercargo and consignee of the cargo lately laden on board the American vessel "Thomas Watson," through a private channel, and that if any question is to be reopened on his behalf, it must be reopened by him through the United States' Government.

With reference to the character in which Messrs. Rothery and Co. state that M. de Maderios claims compensation, namely, as supercargo and consignee of the cargo on board the "Thomas Watson," I may observe that the claim made on his behalf by the United States' Government was for personal compensation by reason of his alleged unjustifiable seizure and detention as being engaged in the Slave Trade, and that he is described in the copies of certain depositions made in New York as the agent of Mr. Machado. He is also stated in those depositions to have been on board the "Thomas Watson" in charge of the cargo, as such agent. I have not before me the original note of Mr. Dallas of 22nd March, 1858, addressed to Lord Malmesbury, to which Mr. Adams refers as entering fully into the particulars which gave rise to the claim; but the character in which M. de Madeiros is now apparently instructing Messrs. Rothery and Co. would imply that he had an interest in the cargo distinct from that of agent for the owner, which interest has not been hitherto alleged on his behalf, as I gather from the papers before me, by the United States' Government.

Messrs. Rothery and Co. may also be informed, if your Lordship thinks it would be advisable so far to notice the particulars of their application, that there are no original papers in the possession of Her Majesty's Government of the kind suggested in their letter.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 276.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received February* 5.)

*Temple, February* 4, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th January ultimo, stating that he was directed by your Lordship to transmit to us a note received by your Lordship from the United States' Minister at this Court, with a copy of a despatch from the United States' Secretary of State, inclosing a draft of a proposed Convention with the great Powers for the protection of submarine cables.

Mr. Hammond was pleased also to transmit to us a despatch from Her Majesty's Minister at Washington upon the subject, together with a letter which your Lordship had received from the Lords Commissioners of Her Majesty's Treasury, to whom the question was referred, and to request that we would take those papers into our consideration, and favour your Lordship with our opinion on the points raised by the Board of Treasury with reference to Articles III, V, VI, and VII of the proposed Convention.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report,—

That the view of the Lords Commissioners of the Treasury is in our opinion correct, that the engagements of Article III, as proposed, would be in conflict with the 52nd section of the Telegraph Act, 26 and 27 Vict., c. 112; and that if they are to take effect in time of war their maintenance would materially cripple the action of a belligerent State as regards despatches going to an enemy, and as regards the powers incidental to the right of blockade.

With regard to Articles V and VII, we see no good reason, if the destruction of submarine cables within, equally as beyond, a marine league from the shore of any of the States, parties to the Treaty, is to be deemed and taken to be an act of piracy under Article V, why the offence in either case should not be justifiable within the dominion of any of the States parties to the Convention, instead of being only justifiable in the former of the two cases, under Article VII, by the State within whose jurisdiction the act of piracy has been committed.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 277.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received February* 7.)

*Temple, February* 5, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 31st ultimo, stating that your Lordship had received my report of the 22nd ultimo, on the revised draft of a Convention with the United States of America, for making such modifications in the Treaty of 1862 for the suppression of the African Slave Trade as are requisite in consequence of the intended discontinuance of the Mixed Courts of Justice established under that Treaty; and that he was directed by your Lordship to acquaint me that you had adopted generally the corrections and suggestions which I had made in the draft, but that your Lordship desired him to remark, with regard to the following points:—

1st. That your Lordship had no objection to add to Article III of the Convention, and to Article 3 of the Instructions, the clause which I suggested in order to meet the case of a vessel handed over to a cruizer of her own nation; but that your Lordship was under the impression that such a case was sufficiently provided for by preceding stipulations of the Article, which were not limited to cases in which the vessel should be delivered to a Court of Justice.

2ndly. As to some provisions being inserted in the Convention to correspond with Article 5 of the Instructions, which contemplates the case of a vessel abandoned as unseaworthy, your Lordship thought that such a provision might be desirable if the matter were *res integra*. But that no provision of the kind is to be found in the Treaty of 1862, although the Instructions of that date contain the Article relative to the abandonment of an unseaworthy vessel. With a view to avoid unnecessary difficulties, your Lordship wished, as far as possible, to abstain from bringing forward points altogether new, and to confine the proposed Convention to such corrections of the Treaty of 1862 as are indispensably required by the abolition of the Mixed Courts of Justice. That your Lordship is the more desirous to follow this course, because, owing to the almost complete suppression of the Slave Trade, the proposed Convention will, in all probability, be a mere arrangement on paper, and never come into practical operation.

3rdly. That the same observations apply to my suggestion that, in Article 5 of the Instructions, the verification of a certain certificate on oath should be dispensed with. That your Lordship had not the least objection to the omission in itself, but

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that the requirement is in the Treaty of 1862, and its omission now would raise a new point for discussion, and so perhaps occasion difficulty. That your Lordship believes that all that is contemplated is, that the officer in signing the certificate should say that he does so upon his oath, as imparting additional solemnity, and not that he should be required to sign and swear to it in the presence of some magistrate or officer legally authorized to administer an oath, which, indeed, would be evidently impossible in most cases contemplated by the Article.

Mr. Otway was pleased to state that your Lordship requests that I will once more examine the draft Convention in connection with these remarks, and report to your Lordship my opinion upon it.

In obedience to your Lordship's commands I have examined the draft Convention in connection with the above remarks, and have the honour to report—

That as regards Article III of the proposed Convention, the preceding stipulations as to "witnesses and proofs" will be sufficient if it is not intended that an officer of the capturing ship should continue in charge of the captured vessel in all cases until she is brought in for adjudication. I consider that the words "handed over to a cruizer," without any provision that an officer of the capturing vessel shall continue in charge, would imply that the vessel was thenceforth to be in charge of the cruizer, and that the business of taking or sending her in for adjudication and the subsequent proceedings would be in the hands of the commander of the cruizer. If your Lordship sees no objection to this, and considers that the interests of the captors in the condemnation of the vessel will be sufficiently secured, it will be unnecessary to provide that an officer of the capturing vessel shall continue in charge. I may observe that the provision for handing over the vessel when at sea is entirely new.

With regard to Article V, the provision which was suggested for insertion in the Convention in correspondence with Article 5 of the Instructions, may be omitted if your Lordship pleases, as the absence of such a provision has not given rise to any difficulty under the Treaty of 1862.

With regard to the verification of the certificate of the commander of the capturing vessel by his oath, as a practical interpretation has been given to this provision as it stands in the Treaty of 1862, it may be retained if your Lordship pleases.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 278.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 9.)

*Temple, May* 7, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 4th instant, stating that he was directed to transmit to us a draft Convention on the subject of naturalization which it is your Lordship's intention to propose to the American Minister at this Court; that the draft is in conformity with the Protocol signed by the Earl of Derby with Mr. Reverdy Johnson on the 9th October, 1868, save as to certain points which are explained in the accompanying Memorandum; that it is intended to fill up the blank in Article II with the date on which the Bill now before Parliament shall receive the Royal assent; and Mr. Otway was pleased to request that we would take the draft Convention into our consideration, and report to your Lordship, at our earliest convenience, our opinion whether it will effect the object in view.

In obedience to your Lordship's commands I have the honour to report—

That the draft Convention appears to us to be properly expressed to effectuate what we understand to be the wishes of the two Governments, and what they are now respectively authorized to agree upon.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 279.

*The Law Officers of the Crown to the Earl of Clarendon.*—(*Received May* 18.)

*Temple, May* 18, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd ultimo, stating that he was directed to state to us that a proposal was made not long since by the Government of the United States to the Government of Her Majesty, as well as to those of other Powers, having for its object the negotiation of an international Convention for the protection of submarine cables. That, Her Majesty's Government having first communicated with some of the principal European Powers, and ascertained the view they took of the proposal, Her Majesty's Minister at Washington was instructed to make known to the American Secretary of State the views taken of it by this country, and that your Lordship has since received from Mr. Thornton a despatch which, together with the other papers to which Mr. Hammond alluded, namely, the original American proposal, the Circular addressed to Her Majesty's Ministers at foreign Courts, their answers, and the instruction to Mr. Thornton, he was to inclose for our more complete information as to what has passed. That we should perceive from Mr. Thornton's despatch of 4th April that he is under the impression that Mr. Fish has mainly in view to obtain an international declaration that the destruction of submarine telegraph cables shall be dealt with as an act of piracy. That so far your Lordship is inclined to think that Her Majesty's Government may safely go, and that your Lordship directed him to transmit to us the draft of a despatch to that effect, which, with our concurrence, your Lordship would be prepared to address to Mr. Thornton; and Mr. Hammond was pleased to request that we would take this draft into our early consideration, and report to your Lordship our opinion whether it may be properly and safely addressed to Her Majesty's Minister in the United States. Mr. Hammond was pleased to add that your Lordship would not be unwilling to authorize Mr. Thornton to go still further in his answer to Mr. Fish, and to express the readiness of Her Majesty's Government further to agree, at all events in substance, to Articles I, II, III, and IV of the American draft relating to monopoly, the consent of the territorial Sovereigns, privileged messages, and the subsistence of Convention in time of war; and also to Article VII, modified as we proposed in our report of the 4th February, in regard to the trial of offences, as well as to Article VIII. But that, before extending the instructions to Mr. Thornton, so as to embrace these points, your Lordship would wish to receive our opinion as to the expediency of doing so, and also as to any variation which we would suggest in the terms of the original draft.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to Article V (which we understand Mr. Fish chiefly to insist upon), in as far as it makes the wilful destruction of telegraph cables on the high seas piracy. This Convention could, of course, only bind the subjects of the two Contracting Parties, and would have to be confirmed on the part of both by legislation.

The term "piracy" does not seem properly applicable to offences committed within the territorial limits of either State, but there probably need be no difficulty in each country providing, by its criminal law, for the severe punishment of wilful injury to cables on their respective shores.

Article VI appears to us objectionable, as likely to interfere with, and possibly, in some cases, altogether to defeat military and naval operations in time of war, if it were observed (which it probably would not be), and we venture to recommend its omission. We somewhat question the expediency of Articles I, II, III, and IV, but we see no insuperable objection to them, if Her Majesty's Government think it convenient to undertake the obligations which they impose. We think it right, however, to point out that these Articles taken together, more especially Article III, may possibly be interpreted by the United States as a guarantee on our part for the maintenance of the cable under all circumstances, though we do not think that they constitute a direct engagement to that effect. In the event of a war between France and the United States, France might possibly claim, as a belligerent, the right to cut the cable, if information as to the movements of her fleets or armies were conveyed by it.

Assuming that she exercised this right (whether or not it properly appertained to her by the law of nations), we presume that Her Majesty's Government would not desire to be under an engagement with the United States to treat such exercise as a *casus belli* between ourselves and France. We merely suggest this possible state of

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things by way of illustration of the caution which it seems desirable to observe in framing the terms of the Convention.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 280.

*The Queen's Advocate to Earl Granville.*—(*Received August* 12.)

*Temple, August* 11, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 6th instant, stating that he was directed by your Lordship to transmit to me the accompanying papers relating to the conduct of the master of the British ship "William Wilson,"* who, while that vessel was in the custody of a United States' Deputy-Marshall at San Francisco, is reported to have ejected that officer and sailed away; and Mr. Otway was pleased to request that I would take this case into my consideration, and favour your Lordship with my opinion as to any action which it may be proper for Her Majesty's Government to take in the matter.

In obedience to the commands of your Lordship I have taken this case into consideration, and have the honour to report—

That it was clearly the duty of the master of the "William Wilson" to remain in the port of San Francisco to answer to the process of the Court in which the suit for wages against his ship had been instituted, but as no complaint has been made of his conduct by the United States' Government, I do not consider that Her Majesty's Government is called upon to take any action in this matter.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 281.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 28.)

*Temple, September* 27, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us a letter, and its inclosure, from Mr. Holderness, relative to the claim preferred by him against the Government of the United States on account of injury done to his vessel the "Duke of Edinburgh" in collision with the "General McPherson," and asking that Her Majesty's Minister at Washington might be instructed to make a representation on the subject to the American Government; and he was to request that we would take the case into our consideration, and favour your Lordship with our opinion thereon.

In obedience to your Lordship's commands we have taken the case into consideration, and have the honour to report—

That your Lordship may, in our opinion, properly instruct Her Majesty's Minister at Washington to make a representation to the United States' Government on the subject of the claim preferred by Mr. Holderness.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Consul Booker, No. 5; Mr. Thornton, No. 45, Commercial; Board of Trade, July 19, 1870.

### No. 282.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 22.)

*Temple, November* 21, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 11th instant, stating:—

1. That with reference to our Report of the 12th January last, relative to a draft of Consular Convention proposed to Her Majesty's Government by the Government of the United States, he was directed by your Lordship to acquaint us that your Lordship's predecessor, the Earl of Clarendon, communicated to the Minister of the United States, in two memoranda, of which copies were inclosed, marked A and B, the general ideas of Her Majesty's Government with regard to the Draft Convention proposed by him. Mr. Motley having, by order of his Government, intimated their willingness to enter into negotiations on the basis indicated in those memoranda, a Counter Draft of Convention had been prepared at the Department of the Foreign Office and the Board of Trade, a copy of which your Lordship desired Mr. Russell to transmit for our consideration.

2. That your Lordship was quite aware that a Convention in the terms even of the Counter Draft would require very considerable alterations in the law of this country on the subjects to which it relates. Still your Lordship thinks the difficulties on that ground are not insuperable, and there can hardly be two opinions as to the desirableness of some such arrangement being made with the United States in the first instance, and afterwards with other Maritime Powers.

3. That your Lordship would therefore be glad if we would have the goodness to examine the Draft and Counter Draft, which are printed in parallel columns in the inclosed copy, and favour your Lordship, at our earliest convenience, with any observations which might occur to us thereupon.

In obedience to you Lordship's commands, we have the honour to report as follows:—

Article I. We are unable altogether to approve of the first Article in the Draft, but we think the first Article on the Counter Draft is unobjectionable.

Art. II. We think Article II of the Draft inadmissible. We think it would lead to insuperable difficulties.

Art. III. We think Article III of the Draft might be agreed to; but we venture to suggest that a clause should be added giving power to the Secretary of State by warrant to cause the Consulate to be entered and searched, a power which of course never would be exercised except under circumstances of great urgency.

We are induced to make this suggestion from consideration of the state of some parts of Ireland, and of the possibility, however remote, of the necessity of instituting criminal proceedings against a Consul.

Art. IV. Subject to some alterations in phraseology, which will probably require to be made, we think Article IV of the Draft is in substance unobjectionable.

Art. V. We think Article V of the Draft inadmissible.

We are of the same opinion as to Articles IV and V of the Counter Draft on the ground, amongst others, that the Courts of this country cannot be called upon to administer the criminal law of any other country. We do not concur in the observations made in the papers before us that Article X of the original Draft (which in substance appears to us unobjectionable) is at all provided for by Articles IV and V of the Counter Draft, which we are now dealing.

Art. VI. We see no reason for dispensing with the oath of the Consular officer, as provided in this Article. A man's liberty ought not, we think, to be taken away except on oath. In other respects the Article appears to us in substance unobjectionable.

Art. VII. We concur in the objections made to this Article.

Art. VIII. We concur in the observations made in the memorandum of the Board of Trade upon this Article.

Art. IX. We see no substantial objection to Article IX of the Draft. We somewhat question whether Article VII of the Counter Draft is any improvement upon it.

Art. X. We have already observed upon this Article in what we have written upon Article V. We concur in the objection we understand to be entertained to its preamble. But the provisions of the Article itself do not appear to us open to objection, with this qualification, that the offences dealt with under this Article must be offences which, if committed within the country the Tribunals of which are invoked, would be offences against the law of that country.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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# Venezuela.

## No. 283.

*The Queen's Advocate to the Earl of Clarendon.*—(*Received February* 23.)

*Temple, February* 23, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Caracas, asking instructions as to the course he should pursue in regard to certain British claims on Venezuela, which were not adjudicated upon by the Mixed Commission which has lately concluded its labours at Caracas. The Report of that Commission, and the previous papers bearing on the claims still undecided, were also inclosed.

That I should perceive, on reference to the Report of Mr. Joel, the British Commissioner, that Mr. Middleton is under a misapprehension as to the grounds on which these claims were withdrawn from before the Commission, inasmuch as the question arising out of the retroactive effect sought to be given to the Law of June 16, 1865, was at the last moment settled, and the claims affected thereby adjudicated upon, with the exception of that of Mr. P. Award, to which Mr. Middleton alludes. Mr. Award's claim was 31,467 dollars on account of cattle alleged to have been taken during the War of Federation. That the Venezuelan Commission objected to adjudicate upon it, unless the additional proofs subsequent to the date of the Convention for the settlement of the claims were struck out. That the British Commissioner declined to adopt this course, and it was agreed that the claim should be withdrawn without prejudice to the claimant. That the other claims still left pending without prejudice to the claimants are those of Oliver Romberg,* J. P. K. Stevenson,† Felipe Désiré (2)‡, all of which were objected to on the same ground as that of Mr. Award; and that of Christian Christopher,§ J. Horne, and W. Thomas, on which the Venezuelan Commissioner declined to adjudicate, on the ground that his brother, the President of the Supreme Court of Cuidad Bolivar, was one of the officials implicated in the allegations of the claimants.

That this is a claim for a denial of justice. That I should therefore see that the ground on which the greater part of these claims have been left open is not the bearing of the Law of June 16, 1865, as supposed by Mr. Middleton, but the fact that the proofs adduced in support of those claims were formalized subsequently to the 21st September, 1868, the date of the Convention for the settlement of pending British claims on Venezuela. That it is nevertheless very desirable that Mr. Middleton should receive instructions in regard to these claims, and Mr. Hammond was accordingly to request that I would furnish your Lordship with my opinion as to the objections to them raised by the Venezuelan Commissioner. In addition to the above-mentioned claims, Mr. Hammond was also to request my opinion with regard to those of Messrs. Schloss and Co. and Michelsen, which, as I should observe from the correspondence (pages 19, 21, 159, and      of the Report) have been left pending, all the rights and privileges of which the claimants might have enjoyed had their claims been adjudicated on, being reserved for them by Mr. Joel.

In obedience to your Lordship's commands I have the honour to report:—

That it does not appear from the records of the Commission what was the nature of the documentary evidence tended in support of the claims of Mr. P. Award, Oliver Romberg, J. P. K. Stevenson, and Félipe Désiré, further than that it had been formalised posterior to the date of the Convention, and these claims were therefore held by the Venezuelan Commissioner not to be within the scope of the Convention. I am unable, therefore, to offer your Lordship any opinion as to the validity of the respective claims, but as they were withdrawn under an express understanding that all the rights which appertained to the claimants were reserved to them, I think Mr. Middleton may be properly instructed to bring them to the attention of the Venezuelan Government as claims "expressly reserved."

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* Report, pages 88, 89, 137, and 175.

† Ibid., pages 94, 101, 137, 180, and 185.

‡ Report, pages 117, 118, 137, 190, and 191

§ Ibid., pages 90, 153, 155, and 176.

With regard to the claims of Christian Christopher, J. Horne, and W. Thomas, I am of opinion that Mr. Middleton may be properly instructed to bring to the attention of the Venezuelan Government the promise of the Venezuelan Commissioner that he would request his Government to name another Commissioner to adjudicate upon them. As these claims involve a complaint of denial of justice against the Superior Court of Guayana, of which the brother of the Venezuelan Commissioner was President, it was reasonable that the Venezuelan Commissioner should excuse himself from entering upon their merits, and that the British Commissioner should acquiesce in his excuse on the understanding that another Commissioner should be specially appointed to adjudicate upon them.

With regard to the claim of Messrs. Schloss and Co. and Michelsen, the refusal of the Venezuelan Commissioner to entertain it seems to have been based upon a decision of the Venezuelan Chamber of Deputies, which had refused in 1861 to acknowledge it on the ground that it was not presented for recognition to the Plenipotentiaries of New Grenada, Equador, and Venezuela, who met in Bogota in the year 1837. It may be that the Venezuelan Commissioner rightly held himself to be debarred from considering this claim, without any prejudice thereby accruing to the claimants. As New Grenada appears to have paid her quota of 50 per cent. of this claim, subsequent to the meeting at Bogota, there is a fair presumption that the objection taken by the Venezuelan Chamber does not rest on any solid ground, and as the claim is advanced in respect of certain bonds of the old Republic of Columbia, and interest, and of certain bills of exchange and interest, I do not see any grounds why the claim should not be supported by your Lordship.

I have, &c.

(Signed) TRAVERS TWISS.

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## No. 284.

*The Queen's Advocate to Mr. Otway.*—(*Received July* 4.)

*Temple, July* 1, 1870.

Sir,

I AM favoured with your letter of the 30th ultimo, stating that you were directed by the Secretary of State to transmit to me the accompanying despatches from Her Majesty's Chargé d'Affaires in Venezuela, relating to the closing to foreign trade of the ports of Maracaibo, La Vela, and Puerto Cabello, by the Venezuelan Government.

That the Representatives of France, Spain, Italy, and the North German Confederation, had, it would be seen, joined Her Majesty's Chargé d'Affaires in protesting against the legality of the measure adopted by the Venezuelan Government, on the ground that no effective blockade of the ports in question has been established, and you were pleased to request that I would take the inclosed papers into my consideration, and report to the Secretary of State my opinion upon the proceedings of the Venezuelan Government in this case, and also as to the legality of the protest on the part of the foreign Representatives.

In obedience to the commands of the Secretary of State, I have taken these papers into consideration, and have the honour to report—

That I am not aware of the precise character of the insurrectionary movement in Venezuela, but I gather from the correspondence, that the contest between the insurgents and the Government hitherto recognized by Her Majesty, has not at present the attributes of a civil war, so as to impart to that Government as regards the intercourse of foreign nations with Venezuela the rights attaching to belligerency. The closing, therefore, by a decree of that Government of certain ports occupied by the insurgents against foreign commerce can only be regarded as a municipal regulation, which Venezuela would have the right to enforce as part of her revenue laws within a marine league from her coast by vessels stationed in the neighbourhood of the ports, but not by vessels cruizing on the high seas beyond that distance. It will be important for Her Majesty's Chargé d'Affaires to ascertain what orders the Venezuelan Government proposes to give to its armed vessels in pursuance of its decrees, as if it should order them to interrupt by force the navigation of foreign vessels on the ocean beyond the limits above-mentioned, under the plea either of intercepting all commercial communications with the specified ports, or of confiscating all vessels which have contravened its decrees, I should be of opinion that such an interference with the commerce of foreign nations might be rightfully resented by them, and would give

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just cause for reprisals, and that Her Majesty's Chargé d'Affaires may properly intimate to the Venezulan Minister of Foreign Affairs that Her Majesty's Government would not be disposed to acquiesce in any such vexatious interference with peaceable British merchant-vessels.

How far I may be in error in the limited view which I have taken of the insurrectionary movement in Venezuela, it is for Her Majesty's Government to decide. It may be that the laws of Venezuela are *de facto* suspended in the ports in question, and it is possible that the protest of the Diplomatic Body is grounded on the view that the revolutionary party is supreme over the ports of which it holds possession. If this be the view entertained by those who have joined in the protest, other considerations of public law will govern the question of right as regards foreign vessels frequenting such ports. It would be their duty upon entering such ports to obey the authorities there established in all questions of internal administration touching the public revenue, and their obedience to such authorities could justly work no forfeiture of the vessels on leaving the ports and passing into waters still under the control of the recognized Government of the Republic. Whether the events of the contest justify this view of the ascendancy of the insurrectionary forces in the ports in question must be determined by the facts which are presented in each case, respecting which there is very little light in the papers which have been forwarded to me, as the collective note of the Diplomatic Body, referred to in Mr. Middleton's despatch No. 7, Commercial, 4th June, 1870, does not accompany it. I infer, however, from Mr. Middleton's despatch to the Diplomatic Body laying stress upon there being "no effective blockade of the ports," that they consider the contest to have the attributes of a civil war, in which case foreign vessels would have a right to enter any port under the *de facto* Government of the insurgents which was not blockaded by the forces of the *de jure* Government, and it would be the duty of the masters of such vessels upon entering such ports to obey such authorities as they might find established there in all matters of fiscal or Custom-house regulations. Upon this latter supposition the protest might be justifiable.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 285.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 13.)

*Temple, August* 11, 1870.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us therewith the accompanying despatch and its inclosures from Her Majesty's Chargé d'Affaires at Caracas, detailing the circumstances under which the British schooner "Clemencia," which was employed as a packet between Puerto Cabello and St. Thomas, had been fired upon and damaged by the "Maparari," a war-vessel in the service of the party in hostility to the Government of the Republic of Venezuela, and reporting the steps he had taken to obtain compensation for that outrage; and he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the said papers into consideration, and have the honour to report—

That we are of opinion that the firing upon the British merchant-vessel "Clemencia" whilst peaceably at anchor in the seaport of Berburata, and subsequent plunder of her, if the "Maparari" had no "commission of war" or "letters of marque," was an act of piracy, the cognizance of which is within the Admiralty jurisdiction of nations; and as the Republic of Venezuela has declined to exercise her territorial jurisdiction, which is concurrent with that of the Admiralty of nations, Great Britain may properly exercise the latter, and direct the "Maparari" to be seized wherever she shall be found upon the seas by a British cruizer, and carried for adjudication on a charge of piracy before the most convenient British Court of Vice-Admiralty.

We assume that there has been no recognition on the part of Her Majesty of the insurgents who are in possession of Puerto Cabello as belligerents.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 286.

*The Queen's Advocate to Earl Granville.*—(*Received August* 13.)

*Temple, August* 12, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, inclosing a further report which had been received from Vice-Admiral Wellesley, respecting the attack made on the British schooner "Clemencia" by the war steamer "Maparari," belonging to the opponents of the present Government of Caracas; and Mr. Hammond was pleased to request that I would take this report into my consideration in connection with the papers inclosed in his letter of the 2nd instant.

In obedience to your Lordship's commands I have taken the said report into consideration, and have the honour to report—

That, as it contains no new matter which would affect the report already agreed upon by the Law Officers, I have not thought it necessary to forward it to them, and beg to return it, that it may be placed with the other papers.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 287.

*The Queen's Advocate to Earl Granville.*—(*Received August* 16.)

*Temple, August* 13, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 9th instant, stating that, with reference to my report of the 1st ultimo, he was directed to transmit to me, together with the previous papers, two despatches from Mr. Middleton relative to the course pursued by the Venezuelan Government in closing certain ports of the Republic; and to request that I would again take this matter into my consideration, and report to your Lordship any further observations I might have to offer thereupon.

In obedience to your Lordship's commands I have the honour to report—

That, assuming the Government established at the present time at Caracas to be recognized by Her Majesty's Government as the Government of the Republic of Venezuela, I am of opinion that Her Majesty's Government is bound in comity to respect its decrees for the regulation of the commerce of British subjects with any of the ports of Venezuela, unless those ports are not only not in the possession, but also not under the dominion of the Republic. Whether the three ports to which the Decree of the Venezuelan Government applies are or are not in the possession and under the dominion of the Republic, is a question partly of fact, partly of law. That they are not in the actual possession of the forces of the Republic is apparent, but the Government of the Republic asserts its right of dominion over them, and it appears from the Protocol of the Diplomatic Body, signed at Caracas on the 22nd June, 1870, to which the signature of Her Majesty's Chargé d'Affaires is attached, that the Powers whom they represent hold the so-called Government, in whose name General Hernandez claims to act within those ports, to have ceased to exist since 17th April last, and refuses to recognize any state of war between him and the Government of the Republic which would entitle him to establish a belligerent blockade of the three ports. Under these circumstances, I am of opinion that Her Majesty's Government will be consistent if it recognizes the right of the Government of the Republic to close for a time the three ports against foreign commerce on the alleged ground that it is unable to prevent the Customs on foreign commerce in those ports being wrongfully diverted from the Treasury of the Republic, to which they of right belong.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 288.

*The Queen's Advocate to Earl Granville.—(Received September 7.)*

*Temple, September* 6, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed to transmit to me the inclosed letter from the Colonial Office, containing copies of a correspondence which has passed between the Lieutenant-Governor of Trinidad and the Venezuelan Consul-General in that Colony relative to the proceedings of certain war-steamers which have been cruizing in those waters under Venezuelan colours, but which have been declared by the *de facto* Government of Venezuela to be pirates, and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion whether any and, if so, what instructions should be given to the Governors of Her Majesty's West India Possessions on this subject.

A letter from the Admiralty on the same subject was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That it is difficult to advise your Lordship as to any general instructions which should be given to the Governors of Her Majesty's West Indian Possessions on the subject of these vessels further than they should give every facility to the Venezuelan Consul-General if either of the vessels mentioned in his despatch should enter a British port, and he should wish to arrest it in the British Vice-Admiralty Court with a view to recover possession of it as the property of his Government.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 289.

*The Queen's Advocate to Earl Granville.—(Received December 13.)*

*Temple, December* 12, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed to transmit to me the accompanying letter from the Colonial Office, inclosing a despatch from the Governor of Trinidad, submitting a correspondence which has taken place between his Excellency and the leading merchants of that island with regard to the inconvenience arising from the continued presence in the harbour, of Venezuelan ships of war, and to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon and as to any steps which should be taken in the matter. Mr. Hammond was also pleased to add, for my information, that the civil war still continues in certain provinces of Venezuela, but that the Government of General Guzman Blanco, in whose service the vessels complained of are, is recognized by Her Majesty's Government as the legitimate Government of the Republic.

In obedience to your Lordship's commands I have the honour to report—

That Governor Longden should be instructed to report to the Earl of Kimberley if the "Guzman Blanco" should in fact interfere with any British vessel, and, if so, under what circumstances, and also to report whether the Government of General Guzman Blanco has issued any prohibition against foreign vessels trading with the ports of Guiria.

It does not appear that the merchants of Trinidad have any ground of complaint against the Commander of the "Guzman Blanco" on account of any act hitherto done by him, but they say that the presence of that vessel in British waters is a standing menace to all those who are desirous of trading with the neighbouring coasts, whereby the trade with those ports is at a standstill. I am of opinion that at present there is no case made out for the interference of Her Majesty's Government, but that your Lordship may properly request to be furnished with fuller information as to the conditions under which trade is permitted, if at all, with the coast in the hands of the insurgents.

I have, &c.
(Signed) TRAVERS TWISS.

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## Zanzibar.

### No. 290.

*The Queen's Advocate to the Earl of Clarendon.—(Received March 4.)*

*Temple, March* 3, 1870.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Spring Rice's letter of the 2nd instant, stating that he was directed to transmit to me a letter and its inclosure from the India Office upon the subject of two marriages performed at Zanzibar, the validity of which is questioned. That the first marriage was solemnized in 1865 at the British Consulate, in the presence of Dr. Seward, then Acting Consul, under the authority which he conceived was vested in him as Registrar of Marriages appointed under the Act of 1852 of the Indian Government. That at that time no marriage warrant had been supplied by the Secretary of State to Her Majesty's Consul at Zanzibar, and that the marriage, therefore, could not be celebrated under the Act 12 and 13 Vict., cap. 68. That the second marriage was solemnized in 1869 by Bishop Tozer in the "Bishop's Chapel, Zanzibar," and was certified to by Dr. Kirk, acting as British Consul, as "Registrar of Marriages" under the Government of India, and that although a marriage warrant had been supplied to Mr. Churchill, the Consul in 1868, Dr. Kirk appears to have thought that it was personal to the Consul, and did not give the necessary authority to anyone else. That as it has always been held that the warrant applies equally to the Consul and to any person duly authorized to act in his absence, your Lordship would have no doubt as to Dr. Kirk's powers, were it not that his appointment as Acting Consul was authorized by the Bombay Government, and not by the Secretary of State. Mr. Spring Rice was therefore to request that I would furnish your Lordship with my opinion, firstly, whether your Lordship is right in assuming that a marriage warrant applies to the person authorized to act for the Consul in his absence; secondly, whether the recognition of Dr. Kirk's appointment by the Bombay Government was sufficient for the purpose; and thirdly, whether the two marriages performed at Zanzibar, under the circumstances above stated, are legal, and, if not, what steps should be taken to render them so. Mr. Spring Rice also transmitted some volumes containing the Acts alluded to in the letter from the India Office bearing on the subject of the solemnization of marriages.

In obedience to your Lordship's commands I have the honour to report—

That (1) I am of opinion that the warrant of Her Majesty's Secretary of State to solemnize marriages would apply to the person *duly* authorized to act in the absence of any Consul to whom the warrant had been directed. What constitutes *due* authorization will depend upon the instructions issued by Her Majesty's Secretary of State.

(2.) I consider the recognition of Dr. Kirk's appointment by the Bombay Government would not be sufficient for the purposes of 11 and 12 Vict., cap 68.

(3.) The validity of the two marriages for English purposes is, in my opinion, questionable. Whether a special Act should be passed to declare the two marriages valid will depend very much upon the question whether your Lordship proposes to bring into Parliament this session a Statute to amend the Consular Marriage Act, in accordance with the recommendation of the Marriage Laws Commission. If your Lordship should so propose, these and other marriages elsewhere solemnized abroad, under circumstances which render their validity doubtful, might by a general provision be declared valid.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 291.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received April* 11.)

*Temple, April* 11, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Otway's letter of the 4th instant, stating:—

1. That your Lordship had desired him to consult us upon a question that had arisen as to whether Her Majesty's Government possess rights of jurisdiction in Zanzibar over certain natives of Kutch (an Indian State under the protection of the British Government), who, by neglecting to enroll themselves on the British Consular Register in accordance with the provisions of the Order in Council of the 9th of August, 1866, had waived their claim to British protection and sought instead to place themselves under the protection of the Sultan and under the laws of Zanzibar, which permit the acquiring and holding of slaves.

2. That the important point at issue is whether Her Majesty's Government could interfere to prevent those Kutchees from holding and trading in slaves (for which object they had sought the Sultan's protection), and he was therefore to request that we would favour your Lordship with our opinion on the following points:—

1. Whether Her Majesty's Government, acting under existing Treaties with Kutch and the Rao's Proclamations (contained in the accompanying papers) could exercise jurisdiction over Kutchees who had failed to enroll themselves on the British Consular Register; and, if not, what further steps could be taken to enable Her Majesty's Government to assume such rights of jurisdiction, which the Rao was willing that they should exercise.

2. How far would Her Majesty's Government be justified in the exercise of such jurisdiction, in interfering with the simple holding of domestic slaves by these Kutchees in a country where slavery is legal.

3. That he was to add that a Committee appointed for the consideration of those questions would meet on Tuesday, the 12th instant, and that your Lordship would be glad, if possible, to be favoured with our reply before that time.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that it is competent for Her Majesty's Government under the circumstances to prohibit Kutchees, whether residing in the territory of the Rao or in Zanzibar, carrying on the Slave Trade, or even holding domestic slaves; and that the prohibition can be enforced by proceeding criminally against all Kutchees contravening it who may be found in the territories of the Rao, or on the high seas, and by liberating without compensation all slaves belonging to them which may be found on British territories or on the high seas.

Such would be the limits of the interference of the Government if the question arose in the case of a civilized and independent nation. What powers, however, are to be dealt with on the footing of their being civilized and independent is a question of discretion and good sense and not of law; and whether the Sultan af Zanzibar is to be so dealt with is for the Government to decide. It may very well be that the despatch of the Governor-General set out at pp. 26 and 27 of the printed papers before us expresses the true view of the subject and the one on which Her Majesty's Government may be disposed to act. The case is hardly one for the application of strict principles of international law; and the evils to be interfered with appear from the papers before us to be of the most cruel and detestable description. Under these circumstances we are unable to advise Her Majesty's Government to place any impediment from this country in the way of the apparently salutary action of the Government of India.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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*Separate Report of the Queen's Advocate.*

That upon the information contained in the accompanying paper, I am of opinion that Her Majesty's Government has no title to exercise jurisdiction within the dominions of the Sultan of Zanzibar in matters of slave-holding or of the Slave Trade, over natives of Kutch who are not enrolled in the British Consular Register.

Assuming that jurisdiction in such matters over all Kutchees residing at Zanzibar may have been granted to Her Majesty by the Rao of Kutch under his Proclamation of 24th April, 1869, I do not find in the accompanying papers any Treaty or Capitulation with the Sultan of Zanzibar, authorizing Her Majesty's Government to exercise such jurisdiction within his dominions; and without the previous consent of the Sultan, I am of opinion that Her Majesty's Government cannot rightfully authorize Her Majesty's Consul at Zanzibar to exercise any such jurisdiction.

I agree with the Attorney-General and the Solictor-General in their opinion that all Kutchees may be prosecuted criminally within the territories of the Rao for holding slaves or dealing in slaves, whilst they were resident in Zanzibar, notwithstanding the possession of domestic slaves may be authorized by the territorial law of Zanzibar, and that all slaves belonging to Kutchees may be liberated by the British authorities if they should be found within British territory or on the high seas.

Upon the expediency of Her Majesty's Government dealing with the Sultan of Zanzibar upon different principles from those which govern its conduct towards a civilized and independent nation I offer no opinion, but I would remark that the questions raised by your Lordship, as I understand them, have regard to the exercise of jurisdiction, which presupposes right, by the British Consul at Zanzibar in the British Consular Court, which has been established there in virtue of a Convention with the Sultan of Zanzibar.

The rightful extent of the powers which Her Majesty's Government may delegate to that Court must therefore depend upon the terms of the Convention, and as regards that Convention its interpretation must be governed, in my opinion, by the same rules which apply to Conventions with civilized nations.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 292.

*The Law Officers of the Crown to the Earl of Clarendon.—(Received May* 5.)

*Temple, May* 4, 1870.

My Lord,

WE are honoured with your Lordship's commands signified to us in Mr. Charles Spring Rice's letter of the 6th ultimo, stating that a question having been raised as to the validity of two marriages performed at Zanzibar by clergymen of the Church of England, under the circumstances stated in the accompanying papers,* and the Queen's Advocate having stated his opinion in the accompanying report that their validity was questionable, he was directed by your Lordship to request that we would favour you with our opinion upon that point, as the present view of the Queen's Advocate did not coincide with that taken by the Law Officers in their report of December 14, 1866, who then stated that a marriage performed at Zanzibar by an ordained priest would be valid.

In obedience to your Lordship's commands we have the honour to report—

That we agree with the opinion of the Law Officers expressed in their report of December 14, 1866, that the two marriages are valid. We do not think that they fall within the operation of the 14 and 15 Vict., cap. 40, and the Indian Act No. 5 of 1852, passed in pursuance of it, nor of the 12 and 13 Vict., cap. 68; but we think them valid because they are in conformity with what was the law of England before Lord Hardwick's Act (26 Geo. II., cap. 33), and, inasmuch as that Act does not extend to British subjects in Zanzibar, with the law now applicable to British subjects in Zanzibar.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

I am not prepared to dissent from the opinion of the Attorney-General and the Solicitor-General, that these marriages are good marriages from the necessity of the case, as it was impossible for the parties to comply with the *lex loci*, owing to religious difficulties, and there seems to have been no statutory provision in force at Zanzibar to facilitate the marriages of British subjects. But I adhere to my opinion, that doubts may be raised as to the validity of these marriages, and the certificates would not be legal proof of the circumstances under which the marriages were solemnized. It would be necessary, in my opinion, in each case, to show that it was impossible for the parties to avail themselves of the *lex loci*, and as the provisions of the Indian Act had ceased to apply to the marriages of British subjects at Zanzibar, there was no Statute law which governed the celebration of the marriage of the parties.

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* India Office, February 14 and March 3, 1870.

I have, &c.

(Signed) TRAVERS TWISS.

*Printed for the use of the Foreign Office. June 1879.*

CONFIDENTIAL.

# REPORTS

BY THE

# LAW OFFICERS OF THE CROWN.

1871.

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# LIST OF REPORTS.

*(Arranged according to Countries.)*

## ARGENTINE CONFEDERATION.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 1 | Queen's Advocate | Feb. 21, 1871 | Losses of British subjects during civil war in the Province of Entre Rios. As to instructions to be given to Her Majesty's Minister on the documentary evidence required by the Argentine Government before claims can be compensated | 1 |
| 2 | Queen's Advocate | Aug. 7, | As to the course to be taken by Her Majesty's Government on refusal of the Argentine Government to compensate British subjects for losses during civil war in the Province of Entre Rios | 1 |
| 3 | Law Officers .. | Oct. 9, | On claim of Mr. Williams to recover the value of certain property seized by the Argentine Government, which formed the subject of a law-suit with the Municipality of Buenos Ayres. Her Majesty's Government would be justified in interference, the land having been held by the claimant for more than forty years before the Prescription Act of July 1867 | 2 |
| 4 | Queen's Advocate | 20, | As to disputes between the Argentine Government and the Central Argentine Railway Company. Concession to the Railway Company and the contract should be sent before opinion is given | 3 |
| 5 | Queen's Advocate | Dec. 13, | As to steps to be taken by Her Majesty's Government on the murder of Mr. Weguelin, of the Alexandra Colony, on the San Javier River. Cannot take measures to prevent recurrence of similar events | 3 |

## BELGIUM.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 6 | Queen's Advocate | Mar. 9, 1871 | Belgian mail-packets on entering port of Dover are exempt from harbour dues, except under a Postal Convention with Belgium. Distinction to be made between national vessels the property of either Government, and those of private Companies, which are liable to port dues | 4 |
| 7 | Law Officers .. | Dec. 20, | The arrest of the Belgian mail-steamer "Belgique" was illegal, and in contravention to VIIth Article of the Convention of the 19th October, 1844, and the general law of nations. Course to be pursued to obtain her release | 4 |

## BOLIVIA.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 8 | Queen's Advocate | Oct. 10, 1871 | As to the Decree issued by President of Bolivia on subject of diplomatic reclamations in that Republic. No objection to the rules laid down for foreign subjects in the prosecution of their claims | 5 |

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## BRAZIL.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 9 | Queen's Advocate | June 20, 1871 | As to the imprisonment of Mr. Fox, superintendent, and Mr. Fryer, traffic manager of the railway in the Province of San Paulo, on a charge of homicide in connection with an accident. Her Majesty's Chargé d'Affaires at Rio de Janeiro should be instructed to see that these parties should have a fair trial | 6 |
| 10 | Law Officers | 29, | On Project of Law for abolition of slavery in Brazil. It would be legal for British subjects to enter into contracts with slaves for the purpose of purchasing their freedom under certain conditions | 6 |
| 11 | Queen's Advocate | Aug. 7, | As to the claim on Brazilian Government by the North Brazilian Road Steamer Company, for indemnity for losses on being prevented from working their vessels. Her Majesty's Government not justified in interfering in this case | 7 |
| 12 | Queen's Advocate | Oct. 25, | Her Majesty's Chargé d'Affaires at Rio de Janeiro should not be instructed, without further information, to interfere on the imprisonment of Mr. Lyde, the acting agent of the Queen Insurance Company, of Liverpool and London, in the action of Messrs. Figueredo and Brothers, furniture dealers, for damages on destruction of their property by fire. Cannot recommend general instructions on imprisonment of British subjects at Rio. Each case must depend on its own merits | 7 |
| 13 | Queen's Advocate | Nov. 2, | Her Majesty's Government cannot interfere at present with the judgment given by Brazilian Law Courts in the action brought against the Queen Insurance Company at Rio de Janeiro by Messrs. Figueredo and Brothers, whereby Mr. Lyde, the agent of the Company, was sentenced to a year's imprisonment | 8 |

## CENTRAL AMERICA.

### NICARAGUA.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 14 | Queen's Advocate | Jan. 30, 1871 | As to claim of Mr. H. Goussen on account of contributions levied on him by forced loans by Nicaraguan Government. Her Majesty's Government may demand reimbursement of sums levied on him, with interest, as well as expenses on obtaining legal documents, but cannot claim for damages on account of the detention of himself and family for refusing to submit to Decree. He ought to have paid the forced loan under protest | 8 |
| 15 | Queen's Advocate | Dec. 14, | Further on claim of Mr. H. Goussen. Her Majesty's Chargé d'Affaires in Guatemala to delay proceeding with the case until he has ascertained whether the claimant is a naturalized Nicaraguan subject by his alleged marriage with a Nicaraguan woman and his acquisition of landed property in that country | 9 |

### SALVADOR.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 16 | Queen's Advocate | Nov. 24, 1871 | On claim of Mr. Ch. E. Comyn for arrest and imprisonment by Salvadorian authorities on an alleged charge of conspiracy to assassinate the then President of that Republic; but, according to a letter from a Mr. Gregory, Mr. Comyn joined a political party in the State, and, if so, he would be little entitled to the protection of Her Majesty's Government, but, if not, he might have some claim to compensation | 10 |

## CHILE.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 17 | Queen's Advocate | Feb. 3, 1871 | As to the validity of the marriage between two British subjects at the British Vice-Consulate at Coronel. Vice-Consul Schwager's letter raises the doubt, as, by the law of Chile, the civil ceremony ought to have preceded or followed the religious ceremony | 11 |
| 18 | Queen's Advocate | Dec. 21, | As to instructions to be given to Her Majesty's Chargé d'Affaires to assist Messrs. Templeman and Co. with regard to their mining property endangered by proceedings of the Governor of Freisnia, in the Province of Altacama | 11 |

## CHINA.

| No. | | Date. | Subject. | Page |
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| 19 | Queen's Advocate | Mar. 22, 1871 | No reason to alter opinion of the 31st January last relative to the capture of the British ships "Sophia Rickmers" and "Robert Rickmers" by French vessels of war, and taken into port of Saigon | 11 |
| 20 | Queen's Advocate | 22, | Further respecting the capture of the British vessel "Robert Rickmers" in Chinese waters by the French naval squadron. Rule of French Prize Courts as to sale of an enemy's vessel to a neutral after commencement of war cannot be impugned. Her Majesty's Consul at Shanghae was wrong, therefore, in protesting against capture of the vessel | 12 |
| 21 | Queen's Advocate | 23, | As to amended Extradition Ordinance of Hong Kong and Macao of 1869; no objection to the confirmation by Her Majesty | 12 |
| 22 | Law Officers | 23, | The non-registration in Her Majesty's Consulate of Sister Louise, a native of Ireland, and one of the Sisters of Charity who was massacred at Tien-tsin, does not affect her international status as a British subject in any claim Her Majesty's Government wish to raise against the Chinese authorities | 12 |
| 23 | Law Officers | May 11, | As to the reversal by the Supreme Court at Shanghae of a case tried before the Consular Court at Taiwan. Approves conduct of Sir E. Hornby on the question. Expediency of compromising the difference with Mr. Wade by not questioning the propriety of his order to Mr. Hewlett not to publish Sir E. Hornby's decision in Island of Formosa, nor the wisdom of the principle on which Her Majesty's Minister desires to act | 13 |
| 24 | Law Officers | Nov. 30, | Instructions to Governor of Hong Kong respecting application of the Chinese Government for the rendition of a Chinese criminal after the expiration of his sentence at Hong Kong, are right and proper | 14 |

## FRANCE.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 25 | Queen's Advocate | Jan. 4, 1871 | The French Government is justified in denying the right of the Prussian Government to consider the officers and crews of captured merchant-vessels to be liable to be treated as prisoners of war | 14 |
| 26 | Law Officers | 9, | As to the proposed additional telegraph cable between coasts of England and France. Their former opinion was justified from the accuracy of the statements in letter from Post Office | 15 |
| 27 | Law Officers | 16, | As to complaint of Mr. Robert Wm. Kirby, established at La Torté Imbault, in Department of Loire-et-Cher, against the ill-treatment he and his family have received from German troops, by levying requisitions, and for acts of violence during the war. Instructions to Lord Lyons correct. Resident British subjects liable to the evils inseparable from war | 16 |

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| No. | | Date. | SUBJECT. | Page |
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| 28 | Law Officers .. | Jan. 20, 1871 | No objection to the French lighthouse authorities applying to the Trinity House to enable them to obtain materials, &c., for their lamps from English sources, as they cannot procure them, as usual, from Paris | 16 |
| 29 | Queen's Advocate | 31, | As to request of Mr. Peter A. Rickmers, a native of Heligoland, for interference to obtain release of the "Sophie Rickmers," which was captured and taken into port of Saigon by French cruizers. Not a case for intervention of Her Majesty's Government. French Prize Courts will not recognize the sale of an enemy's ship in a neutral port after commencement of war | 16 |
| 30 | Law Officers .. | Feb. 27, | On complaint of Messrs. Montgredien, Ellerby, and Co. against the breach of contract, by the French Government, which they had entered into for the supply of flour for revictualling of Paris. Refusal of French Government to pay before delivery of the flour is no breach of contract | 17 |
| 31 | Law Officers .. | 28, | No general rule can be laid down for guidance of Her Majesty's Ambassador in Paris on application of British subjects for indemnity for losses alleged to have been sustained by them during war | 18 |
| 32 | Queen's Advocate | Mar. 6, | As to the reply to be given to solicitor of the executors of the late Marquis of Hertford, who has requested that Her Majesty's Ambassador at Paris may receive Lord Hertford's will, and transmit it to the Court of Probate in England | 18 |
| 33 | Law Officers .. | 23, | On question to be asked in House of Commons, whether the French Government would be liable to compensate British subjects for losses and damage to their property during the late war. British subjects not entitled to claim any compensation from French authorities | 19 |
| 34 | Queen's Advocate | April 6, | On the application of certain Irishmen who had served in the French army to the Embassy in Paris, for pecuniary aid to return to their own country. Not expedient to lay down any rule against the repatriation of British subjects who had violated the Foreign Enlistment Act of 1870. Instructions may be given to assist them under certain conditions | 19 |
| 35 | Queen's Advocate | 6, | Her Majesty's Chargé d'Affaires will not have incurred any liability on account of Her Majesty's Government, in event of disregard being shown to a certificate of protection which he had granted to a Mr. Bartlett, a horse-dealer, on his own declaration that the horses which were required by the Central Committee of Paris were *bonâ fide* his own property | 19 |
| 36 | Law Officers .. | 10, | On claims of Mr. Charles Stewart for losses which he had sustained by the occupation of his houses in Paris by French troops during the war. Her Majesty's Government cannot interfere if he receives similar treatment to that of French subjects | 20 |
| 37 | Queen's Advocate | 15, | Reply to be sent to Rev. J. G. Orger, as to the validity in England of a marriage contracted before the Mayor of Dinan. The marriage will be valid, provided the formalities required by the law of France have been complied with | 21 |
| 38 | Queen's Advocate | 21, | Application of the engineering firm, Messrs. Varral, Elwell, and Middleton, to Her Majesty's Chargé d'Affaires in Paris, for protection in case the Commune called on them to manufacture arms. Should be granted as regards their persons, but not for their property, if seized | 21 |
| 39 | Law Officers .. | 29, | Messrs. E. W. Johnson and Co. have no claim of right to compensation against the Government at Versailles on account of the seizure by the insurgents in Paris of a cargo of coals shipped by them for delivery in that city. The good offices of Her Majesty's Government may be given to British subjects in case French Government should entertain a desire to compensate such losses | 21 |

| No. | | Date. | SUBJECT. | Page |
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| 40 | Queen's Advocate | May 3, 1871 | Claim of Mr. George J. Spelman, a British subject, for a pecuniary indemnity against the French Government for arrest by the Communist authorities in Paris cannot be properly made unless Her Majesty's Government recognized the insurgents as a *de facto* Government, which was not the case | 22 |
| 41 | Queen's Advocate | 16, | Application of Mr. J. R. Curtis, a British-born subject naturalized in Prussia, to Her Majesty's Ambassador at Versailles for his official intervention | 23 |
| 42 | Law Officers .. | June 10, | On claim of Messrs. Carver, Darbishire, and Co., on account of the destruction by fire of a quantity of provisions, which they were compelled by the Communist authorities to store in the Grenier d'Abondance. They have no privileges over French citizens, and they should ascertain and adopt the same course that French citizens pursue in like case | 23 |
| 43 | Law Officers .. | 10, | As to claim of Mr. Myers for compensation for loss of his merchandize burnt in the recent conflagration in the docks of La Villette. Before opinion is given on general instructions to be sent to Lord Lyons in cases of a like nature, wish to know on what conditions the goods were received in docks at La Villette | 24 |
| 44 | Queen's Advocate | 17, | The reply to the inquiry of Her Majesty's Consul at Bordeaux, whether service on board a British merchant ship should be considered as residence in the United Kingdom, under provisions of the Naturalization Act of 1870, should be, that it cannot be so considered | 24 |
| 45 | Law Officers .. | 20, | As to reply to be returned to Mr. George Hewitt, who wanted to know if he was entitled to compensation for the destruction of two houses, his property, at Asnières, burnt by shells during civil war | 25 |
| 46 | Law Officers .. | 20, | The French Government not entitled to renounce the Commercial Treaty with Great Britain without a year's notice, but may give notice any day they desire to do so. Want further information respecting paragraph on page 3 in Second Supplementary Convention on subject of "drawbacks," before giving opinion as to power of the Government to modify the Treaty | 25 |
| 47 | Law Officers .. | 21, | Instructions to be sent to Her Majesty's Ambassador at Paris, on claim of Mr. Alan Metcalfe, for intervention on seizure by the Commune of a quantity of compressed hay exported by him to Paris, and on similar claims. These claimants must follow the course adopted by loyal French citizens in bringing their respective losses before the French Government | 26 |
| 48 | Law Officers .. | 21, | Reply to be given to Messrs. Robert Von Glehn and Sons, on their request for assistance of Her Majesty's Government to obtain indemnity from French Government in consequence of the destruction by fire at Villette of a quantity of coffee belonging to them in the bonded warehouse of the Magasins Généraux | 26 |
| 49 | Law Officers .. | 24, | Cannot demand compensation from French Government for the imprisonment of Mr. Frederick John Apel in the fortress of Bitche, as he was domiciled in Germany at the time he set out from Neustadt, and was travelling under the protection of German papers, selling maps to the German army, and he was captured when sketching a French fortress, and that if he was a natural-born British subject he had forfeited that claim by being employed in a hostile act at the time of his arrest | 27 |
| 50 | Law Officers .. | 26, | Further opinion on subject of the application of Mr. Myers for intervention to obtain compensation for loss of his property which was bonded, and burnt in the docks of La Villette. The warehouse being under the surveillance of the French Douane did not constitute the French Government as bailee of the goods | 27 |

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| No. | | Date. | SUBJECT. | Page |
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| 51 | Law Officers .. | July 5, 1871 | As to claim of Mr. J. F. Boyd for loss which he alleged he had sustained in sending provisions to Paris during the raising of the siege, but which he forwarded on faith of the notification published in the London papers on behalf of the French Embassy. Proper course for him to pursue, but Her Majesty's Government should not present claim to French Government | 28 |
| 52 | Queen's Advocate | July 19, 1871 | Application of Mr. Stuart Mackenzie for interference of Her Majesty's Government to obtain compensation for losses on account of having to lodge French troops during the war, and the plunder of his store at Asnières by them, should not be granted with respect to billeting of French troops, but he has, *primâ facie*, a claim on account of the lax discipline of the troops; but he must give evidence of his losses | 28 |
| 53 | Law Officers .. | 28, | As to instructions to be given to Lord Lyons, on claims of British subjects resident in France, to compensation for losses of movable property by destruction or plunder, during the recent military operations, in houses hired by them, and specially on the case of Miss Galloway. Must wait to ascertain what course French Government intends to pursue with respect to similar claims of loyal French citizens | 29 |
| 54 | Queen's Advocate | Aug. 11, | Instructions to be given to Lord Lyons on claim of Messrs. Geipel and Co. for compensation for a cargo of coals and coke belonging to them on board the "Anna Wilhelmina," which was captured by a French cruizer, and condemned by a French Prize Court. They should apply to the Conseil d'Etat without delay | 30 |
| 55 | Queen's Advocate | 11, | Course that Mr. Stuart Mackenzie should follow, on his claim for compensation on account of goods stolen from his stores by French troops in service of French Government | 30 |
| 56 | Queen's Advocate | 14, | Instructions to be given to Her Majesty's Consul at Calais as to the validity of marriages between a British subject and a French subject, solemnized in France | 31 |
| 57 | Queen's Advocate | 28, | Lawsuit between Mr. Candwell and Mr. Cohen at Boulogne. Charges against the judicial authorities by the former. Instructions should be sent to Lord Lyons to inform him that there has not been such a denial of justice in his case as to warrant the interference of Her Majesty's Government, and he must have recourse to his legal adviser on the question | 31 |
| 58 | Law Officers .. | Sept. 15, | The French Government cannot, without notice, according to to Article XXI of Treaty of Commerce of the 23rd January, 1860, raise the *ad valorem* duty on British mineral oils beyond 25 per cent. specified in Article XVI | 31 |
| 59 | Queen's Advocate | 16, | Her Majesty's Government would not be justified in interfering diplomatically, on claim of owners of the British vessel "Dream" for damage through collision with the French vessel "Isère," as requested by Messrs. Lawless, Nelson, and Jones. The French Courts open to their clients to sue the commander of the "Isère" | 32 |
| 60 | Queen's Advocate | 18, | On complaint of Mr. Fairman on his arrest and imprisonment in Paris, and claim for compensation. His conduct was not free from blame, and therefore he is not entitled to compensation under present French Government | 32 |
| 61 | Law Officers .. | 20, | On the claim of Mr. John Hanson, a British subject resident at St. Malo, for compensation on account of his imprisonment on a charge of being an accomplice, with his son, in a robbery against the London and South Eastern Railway Company, but who was acquitted, though his son was found guilty and sentenced | 33 |

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| 62 | Queen's Advocate | Sept. 26, 1871 | Complaint of Messrs. Smith, Fleming, and Co., on the enforced duty at Havre on a cargo of coffee, shipped on board the "Anazi" in alleged contravention of Treaties of Commerce. Before giving decision as to instructions to Lord Lyons, want text of French Law of the 9th July last, under which new duties are imposed, Treaty between France and Portugal, and Decree of French Government of July 1867 | 33 |
| 63 | Queen's Advocate | 28, | Further as to complaint of Messrs. Smith, Fleming, and Co., on enforcement of duties levied on a cargo of coffee at Havre, on board the "Anazi." Before giving definite instructions to Lord Lyons, want more precise information as to the nature of the authority under which cargoes consigned to merchants domiciled in France, have over cargoes of merchants not so domiciled | 34 |
| 64 | Queen's Advocate | Oct. 7, | Further respecting the enforcement of duties on a cargo of coffee at Havre, on board the "Anazi." The Decree issued by French Government of the 12th July last does not alter views already expressed. Her Majesty's Government would not be entitled to remonstrate against it | 35 |
| 65 | Law Officers .. | 11, | Claim of Mr. Boyd against the French Government may be properly brought to the notice of that Government | 35 |
| 66 | Queen's Advocate | 16, | As to the claim of two persons named Bocchini, and Smart, implicated in the late revolutionary proceedings in Paris, to British protection. Inquiry respecting the former will be made by the Home Department. With respect to the latter, Mr. Eugène George Smart has no claim to be protected against the operation of the law of France when charged with a criminal offence, but may obtain for him a fair trial, and, if possible, a remission of sentence | 36 |
| 67 | Queen's Advocate | 21, | No grounds for altering opinion already given relative to the enforcement of duties levied on a cargo of coffee belonging to Messrs. Smith, Fleming, and Co., shipped on board the "Anazi" | 36 |
| 68 | Law Officers .. | 23, | Suggestion of Mr. West, Her Majesty's Minister at Paris, whether similar privileges conceded by French Government to Alsace and Lorraine could not be claimed by Her Majesty's Government under the XIXth Article of Treaty of Commerce of 1860 is open to doubt, and could be fairly contested by French Government as not within the spirit of the Treaty | 36 |
| 69 | Queen's Advocate | 27, | Further as to claim of Mr. Stuart McKenzie for losses by French troops being billeted upon him during the war. Has no special privileges over French subjects, and must adopt the same course as they do in prosecuting their claims on French Government | 37 |
| 70 | Queen's Advocate | 31, | Arrest and imprisonment of Mr. Fairman and his son in Paris was brought on by his own conduct, and former Report on his case was decided on the consideration of his own admissions, and he is not entitled to compensation | 37 |
| 71 | Queen's Advocate | Nov. 7, | Course that should be pursued by Messrs. Glehn and Co. on the destruction of a quantity of coffee belonging to them by fire at La Villette. Reluctance of French subjects to press their claims does not warrant the intervention of Her Majesty's Government in their case | 38 |
| 72 | Queen's Advocate | 9, | As to claims of Messrs. de Mattos and Greene against the French Government arising out of contracts made with French War Department during the war. They should be informed their claims should be sent in to the Committee appointed by the National Assembly to consider those claims | 38 |

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| No. | | Date. | Subject. | Page |
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| 73 | Queen's Advocate | Nov. 17, 1871 | As to claims of Messrs. Rossel, Fehr, and Fromm for compensation for losses sustained by the increased duties charged on mineral oils by the custom-house at Dunkirk, in violation of Treaty stipulations. They should be informed negotiations are pending on the subject of these duties, and in proper time their losses, as well as those of other British subjects, will be brought before the French Government .. .. .. .. .. | 39 |
| 74 | Queen's Advocate | 24, | Complaint of Messrs. Wade and Co., of Hull, against freight levied by the French Government on cargoes of two German ships, "Johanna" and "Stadt Frankfort," captured by French cruizers during late war, is not well founded .. | 40 |
| 75 | Law Officers .. | Dec. 5, | Messrs. Glehn and Sons should be informed that their claims for destruction of their property at Paris during the operations against the Commune must be brought by them before the ordinary Tribunals of France, before Her Majesty's Government can interfere in their favour .. .. | 40 |
| 76 | Queen's Advocate | 11, | Her Majesty's Government should decline official support to petition of Mr. Kennelly to the French Government on behalf of Young's Paraffin Light and Mineral Oil Company with reference to their losses from the increased duties on mineral oils imported into France. If the French Courts decree performance of contracts of the Company under altered system, may make further representation to Her Majesty's Government .. .. .. .. | 40 |
| 77 | Queen's Advocate | 14, | May use good offices with French Government in favour of the Coatbridge Oil Company requested by Mr. Wilson, so as to procure permission for that Company to fulfil its contracts, which the Court of Douai considers them bound to do under the same conditions as they were entered into, the altered import duties being ruinous to the Company . | 41 |
| 78 | Queen's Advocate | 20, | Further respecting claim of Messrs. Wade and Sons against French Government arising out of the seizure of the vessels "Johanna" and "Stadt Frankfort." Her Majesty's Government cannot interfere with the discretion of the Prize Courts in the present case .. .. .. .. | 42 |
| 79 | Law Officers .. | 21, | As to the claim of a British subject named Hetherington, for arrest and imprisonment on a charge of having taken part in the insurrection of Paris. Her Majesty's Government cannot claim for him, and other British subjects similarly situated, to be treated more favourably than loyal French citizens .. .. .. .. .. .. | 42 |
| 80 | Queen's Advocate | 30, | Before reply is sent to letter of Mr. Stuart McKenzie, renewing request for interference of Her Majesty's Government to obtain compensation for damage to his property by French troops, Decree of the 15th June, 1871, should be procured, as it may only refer to losses by billeting of troops, and not to plunder of property .. .. .. | 42 |
| 81 | Queen's Advocate | 30, | As to the destruction of property of British subjects at Mohilla by bombardment of the French gun-boats. If notice was given, and property could be removed to a place of safety, Her Majesty's Government cannot remonstrate .. | 43 |

## GENERAL.

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| 82 | Law Officers .. | Jan. 4, 1871 | As to reply to be given to the Indian Government, whether the interdict against the entrance of armed ships of belligerents into British ports with prizes is to be extended to cases of prizes of war in charge of prize crews. May only enter British ports under stress of weather, or want of necessaries .. .. .. .. .. | 43 |
| 83 | Queen's Advocate | 11, | As to the coaling of two belligerent vessels—the French vessel of war "Guyenne" and the North-German vessel "Augusta." The former was properly stopped by order of the Admiral of the station off Queenstown, having no need of coals, while the latter required them to carry her to Madeira .. .. .. .. .. | 44 |

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| 84 | Law Officers .. | Jan. 12, 1871 | As to former Report on subject of the vessels "Sharpshooter" and "Steady." Request of Mr. Cheetham, the owner, for immediate release of the latter without application to Court of Admiralty. Must register himself as owner, and give security to twice the value .. .. | 45 |
| 85 | Law Officers .. | 12, | Her Majesty's Government should not interfere on the proposed reception by a private person at Folkestone of a number of wounded French soldiers, who were sent over from Boulogne for medical treatment, as stated by Lord Robert Montague to the Admiralty .. .. .. | 45 |
| 86 | Law Officers .. | 18, | Her Majesty's Government should have further information before acceding to claim of Mr. Bates to compensation for detention of the "Sharpshooter" .. .. .. | 45 |
| 87 | Law Officers .. | Feb. 24, | As to instructions to be given to the Governor of New South Wales relative to the exemption of French vessels of war carrying mails from restrictions as to supply of coal under Circular of the 19th July last. The Commander of the French vessel of war "Belliqueuse" should be told he would lose the privileges of his ship if he even threatened hostilities .. .. .. .. .. | 46 |
| 88 | Law Officers .. | 28, | Further respecting the claim of Mr. Bates against Her Majesty's Government on the detention of the "Sharpshooter." Discrepancy in statement of Messrs. Lilley and Gardner. If the vessel was detained and the loading deferred, it would be better to accede to the claim .. | 47 |
| 89 | Law Officers .. | Mar. 18, | Further respecting the claim of Mr. Bates for detention of the "Sharpshooter." Reports from the Treasury render it doubtful whether it could be successfully resisted. Advisable to pay it. Queen's Advocate doubts as to claim of Mr. Bates being *bonâ fide* to extent advanced, but better not resist it for sake of reducing amount .. .. | 47 |
| 90 | Law Officers .. | 18, | As to the reply that should be sent to the Memorial of certain Scotch merchants relative to an alleged loss to them owing to a communication to the "Edinburgh Gazette" with respect to the blockade of Hamburgh. Her Majesty's Government not responsible for error in the communication to the Governor of Heligoland by the French Admiral as to date of commencement .. .. .. .. .. | 48 |
| 91 | Queen's Advocate | 31, | As to contribution to British Church Establishment abroad. The first paragraph of the 10th section of the Naturalization Act of 1870 precludes a woman, the natural-born subject of the Queen at the time of her marriage to a foreign subject, to privileges of British subjects as long as he is alive; and if she become a widow, she cannot be deemed a British subject unless the State to which her husband belonged allow her to renounce her allegiance to it .. .. .. .. .. .. | 48 |
| 92 | Queen's Advocate | Apr. 15, | As to the national status of an alien-born woman married to a British subject, and who may become a widow, and resident in her own or any foreign country. The privileges obtained under the Consular Act 6 Geo. IV, cap. 87, still hold good .. .. .. .. .. | 49 |
| 93 | Queen's Advocate | 17, | Suggesting substitution of certain words in form of despatch authorizing Acting Consuls to solemnize marriages abroad . | 49 |
| 94 | Queen's Advocate | 18, | Proceedings of Lord Canterbury, Governor of Victoria, on arrival of the French ship of war "Belliqueuse" at Melbourne, and departure after taking in stores and coal, should be approved .. .. .. .. | 50 |
| 95 | Queen's Advocate | May 6, | Should concur in view expressed by the Indian Government, that troop-ships should be considered as vessels of war within the meaning of the Neutrality Proclamation of the 19th July, 1870, they not being exempt from rules with respect to supply of coals .. .. .. .. | 50 |

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| 96 | Law Officers .. | June 12, 1871 | The Court of Divorce has no power to issue an attachment against Mr. Bonar, Her Majesty's Minister at Berne, as he is out of its jurisdiction; neither would such be issued without due notice. No facts stated to justify Mr. Yeatman's application for an attachment. Mr. Bonar should not proceed to England without special permission | 51 |
| 97 | Law Officers .. | 30, | As to draft Ordinance prepared at the Colonial Office for the suppression of gambling in Island of Heligoland, and specially sections applying to foreigners. Suggesting certain words in section 3 | 51 |
| 98 | Queen's Advocate | July 14, | As to the sale of the British vessels "Sophie" and "Robert Rickmers" at port of Saigon. Question for decision of the French Prize Court. Misapprehension as to right of having vessels restored when peace is declared between France and Prussia | 52 |
| 99 | Queen's Advocate | 18, | Further respecting the sale of the British vessels "Sophie" and "Robert Rickmers" at Saigon, and right of restoration of the vessels on the re-establishment of peace. Article XIII of Treaty of the 10th May, 1871, provides only for restitution of vessels condemned before the 2nd March, 1871. The Treaty limits the vessels to those of German nationality | 52 |

## GREECE.

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| 100 | Queen's Advocate | Feb. 16, 1871 | As to the instructions to be sent to Mr. Erskine, Her Majesty's Minister at Athens, on the application of a deserter from the British army named Snelling for a British passport for his sons to proceed to Constantinople. Should decline to grant it, as, by deserting from Her Majesty's forces abroad, he is not entitled to protection | 53 |
| 101 | Queen's Advocate | Mar. 31, | Her Majesty's Government would be justified in protesting against the proposal of the Greek Minister of Finance to extend the deductions made on all public salaries and allowances, and military, naval, and other pensions, to the pensions of the Ionian Government, received under the Convention of March 1864 | 53 |
| 102 | Queen's Advocate | May 18, | As to the dispute between Mr. J. M. Evans and the Greek Government relative to a contract for emery. Her Majesty's Government should not interfere in this case until Mr. Evans has exhausted all legal means in the Greck Courts | 54 |
| 103 | Queen's Advocate | June 30, | As to the instructions to be sent to Her Majesty's Minister at Athens, and in reply to the representations of Mr. Naegeley, relative to the proceedings of the Greek Government towards a Company who are working a lead mine at Ergasteria. Her Majesty's Government cannot properly interfere officially on account of the contract entered into by M. Sarpieri with the Greek Government, being a different Company from that of Hilarion, Roux, and Co., in which Mr. Naegeley is interested | 54 |
| 104 | Queen's Advocate | Aug. 10, | Further respecting the proceedings of the Greek Government towards the Smelting Company at Lauriam. Her Majesty's Government cannot remonstrate officially against the interpretation the Greek Government put on the concession granted to Messrs. Sarpieri and Co., although the latter are prevented from fulfilling their contracts | 55 |

## GUATEMALA.

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| 105 | Queen's Advocate | Mar. 29, 1871 | Approves proposed reply to Captain Harris, who demurs to the decision of the Commission appointed to examine the claim of the owners of the San Geronimo estate for damage to their property in 1838 | 55 |
| 106 | Queen's Advocate | May 3, 1871 | Further respecting the claim of the owners of the San Geronimo estate on Guatemalan Government. Her Majesty's Government cannot properly accede to the request of Captain Harris that Her Majesty's Chargé d'Affaires be instructed to call on that Government to pay the expenses incurred in the arbitration of the case | 56 |
| 107 | Queen's Advocate | June 20, | Further respecting the claim of the owners of the San Geronimo estate on the Guatemalan Government. As to the proper mode of distributing the amount of 7,000 dollars awarded to the claimants, and then held by a Mr. Peatfield, who belongs to a commercial house in Guatemala. Offer of Captain Harris to enter into a joint bond of indemnity with Mr. John Owen to Her Majesty's Government should be accepted | 56 |
| 108 | Queen's Advocate | July 8, | Further respecting claim of the owners of the San Geronimo estate on Guatemalan Government. Instruction should be sent to Her Majesty's Chargé d'Affaires to deduct from the award, before it is paid to the claimants, the expenses incurred for legal assistance and witnesses, but not the per-centage on the whole sum which was arranged privately to pay the arbitrator | 57 |

## HAYTI.

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| 109 | Queen's Advocate | May 6, 1871 | Further as to the claim of Messrs. Williams and Knowles, of Nassau, to compensation for the seizure on two occasions, and condemnation and sale, of their vessel the "Belinda W." Her Majesty's Acting Consul-General at Port-au-Prince should be informed Her Majesty's Government decline to support their claim, as the vessel was engaged in a trade forbidden by the laws of Hayti | 57 |
| 110 | Queen's Advocate | June 8, | On claim on the Haytian Government by Mr. Charles Smith, a British merchant, on account of certain duties levied on goods belonging to him. He has no claim of right to be reimbursed by the actual Government of Hayti for custom duties paid to the revolutionary authorities at St. Marc, as his goods were reimported from a foreign port; but he has an equitable claim, as French and German merchants were permitted to reimport goods into that port under similar circumstanees free of duty, and it was done for the benefit of the revolutionary authorities, who are now the actual Government of Hayti | 58 |

## ITALY.

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| 111 | Queen's Advocate | Feb. 23, 1871 | As to the claim put forward by the Governors of the Dominican College of St. Thomas Aquinas, at Rome, to British protection. No sufficient grounds to warrant the claim | 58 |
| 112 | Queen's Advocate | Mar. 2, | Further relative to the claim of the Governors of the Dominican College of St. Thomas Aquinas, at Rome, for British protection, and if the Convent of the Minerva, at Rome, is also not entitled to British protection. Neither are entitled to British protection, unless evidence can be shown that British subjects have proprietary rights in the convent; and even then it would be only of a qualified character, rather in the form of good offices | 59 |
| 113 | Law Officers .. | July 5, | As to the instructions to be given to Her Majesty's Consul-General at Venice, on subject of the disputed will executed by Mr. Foliot Nash, a British subject lately deceased at Venice, after his marriage with an Italian lady. The alleged previous marriage of Mr. Nash would not invalidate the will | 59 |
| 114 | Law Officers .. | Sept. 8, | On refusal of two Irish religious communities at Rome to make a declaration of their property for purposes of the mortmain duty, on account of their being foreigners. The tax is levied on all corporate bodies, and the Irish religious communities in Rome, therefore, cannot be exempt from the tax. Reply that should be returned to the Italian Minister in England | 60 |

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| 115 | Law Officers .. | Nov. 29, 1871 | As to reply to be sent to the Colonial Office to the suggestion that the Governor of Malta should be authorized to pass a local enactment extending the provisions of the 24th section of the Extradition Act of 1870 to that Colony .. .. | 60 |

## JAPAN.

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| 116 | Law Officers .. | Mar. 14, 1871 | As to the reply to be sent to Messrs. Murray and Hutchins relative to the estate of the late William Kemptuer, of Yokohama. Not a case for Her Majesty's Government to act diplomatically, as reported in 1869. The parties should apply to the German Courts.. .. .. .. | 61 |
| 117 | Law Officers .. | May 27, | Approving Regulations proposed to be issued by Sir H. Parkes for guidance of British subjects who desire to undertake shooting excursions in the interior of Japan. Suggests some alterations in the wording of the China Order in Council to be applicable to Japan .. .. .. | 61 |
| 11[illegible] | Law Officers .. | July 29, | The appointment of an Austrian Consul-General for China, Japan, and Siam, to reside at Shanghae, does not affect the arrangement for Her Majesty's Consuls acting in that capacity temporarily for Austria .. .. .. | 62 |

## MEXICO.

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| 118 | Law Officers .. | Oct. 5, 1871 | As to the repudiation of the Republican Government of Mexico of all international engagements with foreign Powers. This is not warranted by international law, and Her Majesty's Government would be justified in adopting reprisals after a due summons for them to fulfil their Treaty engagements; but to follow this course would be a matter of policy for Her Majesty's Government to consider .. .. | 62 |

## MONTE VIDEO.

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| 119 | Queen's Advocate | Aug. 19, 1871 | As to the claim of the River Plate Telegraph Company to protection of Her Majesty's Government, on the alleged proceedings of the Uruguay Government towards them, and their property, during the civil war. Her Majesty's Government could not properly interfere to control the action of the Blanco (rebel) party, if they believed it necessary to interrupt the telegraph wire which was used by the Monte Videan Government for political purposes .. | 63 |
| 120 | Queen's Advocate | Oct. 9, | As to reply to be given to further letter of River Plate Telegraph Company on their claim against the Uruguay Government. A copy of the Concessions referred to by Mr. Oldham, the Secretary to that Company, should be obtained before a definitive answer can be given.. .. | 64 |
| 121 | Law Officers .. | Dec. 5, | As to the course to be taken by Her Majesty's Government to obtain redress for the pecuniary and other injuries inflicted by the Uruguayan Government on Her Majesty's Government and subjects, as set forth in a Memorandum and correspondence sent to them. The adoption of reprisals might be resorted to, but Her Majesty's Government must be then prepared to declare war against Uruguay, if that Government laid an embargo on British vessels, or sequestrated the property of British subjects.. .. .. | 64 |

## MOROCCO.

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| 122 | Queen's Advocate | Aug. 4, 1871 | In the action of trespass brought by Mr. John Haire against Mr. Stokes, British Vice-Consul at Mazagan, before the Supreme Court of Gibraltar, as to the reply to be sent to the Vice-Consul, who requires to know if he is liable to the jurisdiction of that Court for acts done by him in his official capacity under the Order of Council of 1857. Further information must be obtained from Vice-Consul Stokes as to the period when he was served with the process of the Court after the action of trespass .. .. .. | 66 |
| 123 | Law Officers .. | Sept. 23, | Further relative to the action of trespass against Vice-Consul Stokes and the question of jurisdiction of the Supreme Court of Gibraltar over British Consular Officers in Morocco. Concur in views expressed by the Queen's Advocate on the subject of the limitation of the clause of the Order in Council of August 1857. Vice-Consul Stokes ought not to have been served with a writ of summons, as he was not within the local jurisdiction of the Court. Steps should be taken to defend Vice-Consul Stokes, or any Consular Officers, where they are sued for acts done in the honest discharge of their duty .. .. .. .. | 66 |
| 124 | Law Officers .. | 25, | As to the dispute between the British and United States' Consulates at Tangier relative to the jurisdiction to be exercised over a British subject employed as an interpreter at the United States' Consulate. Mr. Scott, not having registered himself as prescribed by the Order in Council of 1857, is not entitled to British protection, but being still under the Naturalization Act of 1870, he remains under the criminal jurisdiction of the British Consul, notwithstanding his employment as interpreter to the American Consul .. | 67 |
| 125 | Queen's Advocate | Nov. 6, | As to the amount of support to be given by Her Majesty's Government to the claims of British subjects on the estates of Moorish subjects, whose property has been confiscated by the Sultan of Morocco .. .. .. .. | 68 |
| 126 | Queen's Advocate | Dec. 2, | Approval of the course taken by Her Majesty's Minister at Tangier, in demanding the punishment of the parties who assaulted and wounded Mr. Spinney, in the neighbourhood of Mazagan; but compensation for him should not be required, as he should not have attended the Moosem, or religious festival, without giving notice to the authorities, according to the notice issued by the Minister .. .. | 68 |
| 127 | Queen's Advocate | 8, | As to the dispute between Her Majesty's Minister and the Spanish Consul at Tangier on the question of the nationality of persons born in Gibraltar of Spanish parents. By birth these parties are British subjects, but Spanish subjects by origin, and Her Majesty's Consuls should not extend protection to such persons against the Consular authorities of Spain, as they owe allegiance to Spain, and the Spanish Consuls in Morocco are empowered by Treaty to exercise jurisdiction over Spanish subjects within that State .. | 69 |

## NETHERLANDS.

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| 128 | Law Officers .. | May 4, 1871 | As to the rumour alluded to in the Belgian paper "Echo du Parlement," that the Grand Duchy of Luxemburg was about to enter the German Confederation, and whether that proceeding would be a violation of the Treaty of 1867, to which Great Britain was a party. As the IInd Article of that Treaty imposes upon the Grand Duchy a perpetual neutrality towards all other States, the accession of the Grand Duke to the Germanic Confederation would be a violation of the Treaty .. .. .. | 69 |

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| 129 | Queen's Advocate | July 4, 1871 | Instructions that should be sent to Mr. Fraser, British Vice-Consul at Batavia, as to the solemnization of marriages in the British Consular Chapel there. If the parties who have been married before the Registrar desire the Chaplain to read the marriage service of the Church of England he may do so, but no entry is to be made in the register-book of such service, and the Chaplain has no authority to publish the banns of marriage or read the service except under similar circumstances .. .. .. .. | 70 |
| 130 | Law Officers .. | Dec. 6, | Claims of Messrs. Swanzy against Netherlands Government for compensation for losses on occasion of the attack on Dixcove by the Ahanta tribes in 1869. The charge against the Dutch Governor of collision is not made out, but as the losses are occasioned by the operations of war, the mutual owner is not entitled to compensation .. .. .. | 70 |
| 131 | Law Officers .. | 15, | Further relative to the claim of Messrs. Swanzy against the Netherlands Government. If the Dutch soldiers joined in the destruction of their property at Dixcove, they might properly claim compensation to that extent from the Government .. .. .. .. .. | 71 |

## NEW GRANADA.

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| 132 | Queen's Advocate | Apr. 17, 1871 | On a dispute which had arisen between the municipal and ecclesiastical authorities of the town of Honda and certain foreigners there relative to the use of the cemetery of the district, and whether the Protocol of Conference between Her Majesty's Minister at Bogota and the Colombian Minister for Foreign Affairs, settling the question as regards the interment of Venezuelan citizens, is affected by the Burial Acts Amendment Bill now before Parliament .. | 71 |
| 133 | Law Officers .. | 20, | As to the claim of Mr. Percy Brandon against the Colombian Government, on account of certain bonds issued by the former Government of New Granada. Her Majesty's Government should approve course taken by Mr. Bunch, and instruct him in remonstrating against the further delay in settlement of the claim .. .. .. .. | 72 |
| 134 | Queen's Advocate | Oct. 10, | Further relative to the claims of Messrs. Robinson and Fleming against the Colombian Government. Her Majesty's Government might agree to the suggestion of Senor Zjapata, that the further discussion of the question should be carried on through the Colombian Minister in London .. | 72 |

## PACIFIC ISLANDS.

| No. | | Date. | Subject. | Page |
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| 135 | Law Officers .. | Feb. 17, 1871 | On subject of the suggestion of the Attorney-General of New South Wales for the extension to the Fiji Islands of the provisions of the proposed law for the extradition of criminals. Cannot concur in suggestion so long as no Government is recognized at Fiji .. .. .. .. | 73 |
| 136 | Law Officers .. | 17, | As to the question of enacting legislative measures for the suppression of abuses in connection with the introduction of natives from the South Sea Islands to the Australian Colonies and the Fiji Islands, and conferring powers on Her Majesty's Consul in the Fiji Islands under the Foreign Jurisdiction Act. Draft Order in Council, with proposed amendments in the Articles, to meet the case .. .. | 73 |
| 137 | Law Officers .. | 21, | As to Report of Treasury Counsel relative to claim of owners of the "Daphne" for payment of passages of certain natives whom they had imported as labourers into the Fiji Islands from other islands in the Pacific. Concur with Mr. Rothery they have no just claim .. .. .. | 75 |

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| 138 | Law Officers .. | Mar. 15, 1871 | As to the proposed Order in Council for the regulation of Consular jurisdiction in the Fiji Islands, and the grounds of their omitting Article 25, which granted to the Court at Sydney the same powers in civil as in criminal suits. Terms of imprisonment under Article 34 .. .. | 76 |
| 139 | Queen's Advocate | May 4, | As to the course that should be pursued by Her Majesty's Consul in the Fiji Islands on the boarding of the British ship "Oriti" in the port of Levuka by certain parties, some of whom were British subjects. Would wish to confer with the other Law Officers on the subject .. .. .. | 77 |
| 140 | Law Officers .. | 18, | Further relative to the proposed Order in Council for the regulation of Consular jurisdiction in the Fiji Islands, and the powers it confers on the Supreme Court of New South Wales, and that criminals in the Fiji Islands should be deported for punishment to a British Colony. Proposed additional Articles to the Order in Council .. .. | 77 |
| 141 | Law Officers .. | 18, | Further relative to the case of boarding of the British vessel "Oriti" in the port of Levuka by certain parties, some of whom were British subjects. Approval of the action of the British Consul in the Fiji Islands; but he can only act under Order in Council under the Foreign Jurisdiction Act, of which at present there is none. Can only now act from his personal authority .. .. .. .. | 78 |
| 142 | Law Officers .. | June 30, | Verbal alterations in the proposed Order in Council conferring Consular jurisdiction in the Fiji Islands on Her Majesty's Consul .. .. .. .. .. .. | 78 |
| 143 | Law Officers .. | July 22, | As to the validity of the Charter granted by the Chief Thakobau to the European residents at Levuka, and authorizing the formation of a Body Corporate to frame and pass police, municipal, and other regulations. If the Fijian Chieftain's authority can be recognized by Her Majesty's Government, there is no reason why the Charter in question should not have a binding force within the area of its operation .. .. .. .. .. | 78 |
| 144 | Queen's Advocate | Aug. 28, | Further relative to the claims of certain parties arising out of the release of the "Daphne" by the Admiralty Court of New South Wales. Mr. Smith has not made out his case on behalf of the owners for payment of passage money of the islanders to Fiji; and Mr. Ross Lewin, to whom they were chartered, has forfeited his right to the service of the natives by violating the terms of his licence .. .. | 80 |
| 145 | Attorney- and Solicitor-General | Sept. 9, | As to the reply to be sent to Mr. Smith relative to the claim of owners of the "Daphne" on account of the natives of the South Sea Islands imported into Fiji. Want to see Report of Queen's Advocate of the 28th August .. | 81 |
| 146 | Queen's Advocate | 16 | Concur in proposed reply to Mr. Smith relative to the claim of the owners of the "Daphne," released by Her Majesty's Consul in the Fiji Islands .. .. .. .. | 81 |
| 147 | Law Officers .. | Oct. 31, | On the seizure by Consul March of the British vessel "Challenge," sent to Sydney for trial for breach of laws relating to Slave Trade, and refusal of the Governor of New South Wales to proceed against this vessel in the Vice-Admiralty Court, and restoration of the vessel to the owners, who hold the captors responsible for loss and damage by her detention. Consul March was correct in seizing the vessel and endeavouring to obtain her condemnation; and the conduct of the officers and crew of Her Majesty's ship "Blanche" should be approved and held harmless if the action is successfully prosecuted against them. Suggestions with respect to Slave Trade legislation .. .. .. | 82 |
| 148 | Law Officers .. | Nov. 23, | Further respecting the case of the British vessel "Challenge," and the master of that vessel being sentenced to three years' imprisonment in the Supreme Court of New South Wales, and claim of the owners on Captain Montgomerie, of Her Majesty's ship "Blanche," for damages and loss of profits. If any action is brought against him he should be defended by the Crown .. .. .. .. | 82 |

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## PARAGUAY.

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| 149 | Queen's Advocate | Feb. 20, 1871 | As to steps to be taken by Her Majesty's Government on behalf of Mr. G. F. Masterman for sufferings inflicted on him by the late President Lopez. No case made out to justify the interference of Her Majesty's Government .. | 83 |
| 150 | Law Officers .. | Nov. 30, | As to claim of Messrs. Valpy and Chaplin, on behalf of Messrs. Percy Burrell and Henry Valpy, against Government of Paraguay, for unpaid services and for injuries sustained while in service of the late President Lopez. Her Majesty's Government might properly support these claims for service under contracts, but not for compensation for ill-treatment which they received in common with other subjects of Paraguay .. .. .. .. .. .. | 83 |

## PERSIA.

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| 151 | Queen's Advocate | June 3, 1871 | As to claim of the gunner of British steamer "Nada" on the Persian Government for compensation for an accident which happened to him when firing a salute in honour of a Persian passenger. No sufficient ground for pressing for compensation from the Government, but the Persian subjects interested in the vessel should be made to fulfil the engagement to compensate the gunner .. .. .. | 84 |

## PERU.

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| 152 | Queen's Advocate | Oct. 23, 1871 | No reason for Her Majesty's Government to object to the Decree of the Peruvian Government restraining the Peruvian Commission of Fiscal Delegates from bringing actions in the Courts of England against the guano consignees of Great Britain. The question may be left to the discretion of Her Majesty's Government .. .. .. | 85 |

## PORTUGAL.

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| 153 | Law Officers .. | Apr. 17, 1871 | As to the proposed alteration in the draft Convention for the abolition of the Slave Trade Commission Courts providing for the procedure in cases of maritime prize with regard to the *onus probandi*. Explanation of the words proposed in the IInd Article of the amended Treaty, "and the rules of evidence to be applied," and the burden of proof, will fall on the captors, as heretofore .. .. .. .. | 85 |
| 154 | Queen's Advocate | 22 | On claim of Mr. F. Andrews to compensation from Portuguese Government for losses during civil war in 1833–34. Her Majesty's Government would not be justified in urging any further consideration of this claim.. | 86 |
| 155 | Queen's Advocate | June 30, | Further relative to the claim of Mr. F. Andrews on the Portuguese Government. Nothing to alter decision already given on this claim. Nothing in the conversation of Her Majesty's Minister at Lisbon to warrant an expectation that the claim could be satisfied .. .. | 86 |

## PRUSSIA.

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| 156 | Law Officers .. | Jan. 5, 1871 | As to complaint of the Prussian Government against the Government of Luxemburg for violations of neutrality, and that they could no longer consider they were bound to respect the neutrality, but reserved to themselves the right to prosecute their claims for damages done through the non-maintenance of neutrality. The explanation of M. de Servais in defence of the Luxemburg Government, if to be relied on by Her Majesty's Government, would make the threatened proceedings of the Prussian Government unjustifiable .. .. .. .. .. .. | 87 |
| 157 | Law Officers .. | 11, | As to claim of Messrs. Digby and Son, on behalf of the owners of the British vessel "Chamois," for detention at Rouen by ships that had been sunk in the River Seine. Her Majesty's Government not justified in demanding compensation for the owners, as the River Seine was closed in consequence of the exigencies of war .. .. .. | 88 |
| 158 | Law Officers .. | 11, | As to steps to be taken by Her Majesty's Government on complaint of the Prussian Government that a Company had been formed under British auspices for establishing a regular postal service between Calais and Cherbourg; and that British steamers, fitted out and employed under the French flag, was a breach of the Foreign Enlistment Act. The German Ambassador might be told that the mails being carried by vessels between Calais and Cherbourg does not amount to a violation of the Foreign Enlistment Act of 1870; and if French Generals exchange letters through the post, this does not make the carrying of mail bags between two French ports an employment in the military service of the French Government .. .. .. .. | 88 |
| 159 | Queen's Advocate | 14, | As to the intention of the North German Government to revoke their decision not to capture French merchant-vessels during the present war, but will give time for neutrals who may have shipped cargoes in French bottoms; and the effect this has on the Royal Ordinance of the 18th July last, and the Declaration of Paris 1856; and whether an announcement should appear in the "London Gazette." Course that Her Majesty's Government should pursue on the occasion .. .. .. .. | 89 |
| 160 | Law Officers .. | 16, | Her Majesty's Government would not be justified in making a representation to the French Government respecting the condemnation by a French Prize Court of a cargo captured on board a German vessel bound from Rangoon to Europe, belonging to the firm of which Mr. Barckhausen, a naturalized British-Indian subject, is a representative. The claimant must have entirely divested himself of his native German character before Her Majesty's Government could interfere .. .. .. .. .. | 90 |
| 161 | Law Officers .. | 18, | As to the non-efficiency of the blockade of the German Baltic ports according to the Declaration of Paris of 1856, and the assertion of the North-German Government that if one belligerent should break any one of the conditions of the Declaration that would release the other from observing its conditions. The inefficiency of the blockade renders the French Prize Courts unable to enforce the blockade against neutral vessels, but does not release the other belligerent from the obligations of the Declaration of 1856 .. .. | 90 |
| 162 | Law Officers .. | 19, | As to whether Her Majesty's Commissioners of Customs would be justified in permitting the trans-shipment of cargoes from German into neutral bottoms at certain British ports on certain conditions—they having in two cases granted this where the cargoes were the property of neutrals and not contraband of war. There are no reasons, on grounds of international law, why the permission should not be granted for the trans-shipment of all goods, but would except goods as are clearly contraband, as that would be scarcely consistent with the Queen's Neutrality Proclamation .. .. .. .. | 90 |

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| 163 | Law Officers .. | Jan. 21, 1871 | Further respecting the case of the German vessel "Frei," captured in British waters off Dungeness by the French vessel of war "Dessaix." Still think that diplomatic intervention is the right course to pursue, instead of leaving the case to the French Prize Court. Queen's Advocate alters former opinion on this case, and now agrees with the Attorney- and Solicitor-General that diplomatic intervention should be adopted by Her Majesty's Government .. | 92 |
| 164 | Queen's Advocate | 23, | With respect to claim of Mr. Renner, a British subject resident at Altona, to have his sons, who were born there, exempted from military conscription. Cannot properly ask German Government to apply principles of German law to Mr. Renner's children .. .. .. .. .. | 94 |
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| 166 | Queen's Advocate | Feb. 6, | As to form of notice to be published in "London Gazette" announcing the German Imperial Order of the 19th January, revoking the Decree of the 18th July last announcing the determination not to capture French merchant-vessels not carrying contraband of war until the Decree was in the hands of Her Majesty's Government. Approving proposed notification .. .. .. .. .. | 96 |
| 167 | Law Officers .. | 11, | Further respecting the claim of Mr. Barckhausen to be a native-born British merchant resident in India, and that his Indian certificate of naturalization entitled him to trade anywhere. He should have laid his claim for his goods not to be condemned before the Prize Court at Saigon .. | 96 |
| 168 | Queen's Advocate | 16, | As to the destruction of the house and property of a British subject named Laurence Smith, at St. Ouen, near Rouen, by the Prussian troops, and his claim for compensation. If wantonly destroyed, is entitled to interference of Her Majesty's Government to obtain redress .. .. | 97 |
| 169 | Law Officers .. | 21, | Further on case of Mr. Worth. The German military authorities were justified in instituting a searching investigation as to whether he was an accomplice in transporting over the German lines a correspondence punishable by military law, and whether he was in the secret service of the enemy, and used his knowledge against the German positions .. | 97 |
| 170 | Queen's Advocate | Mar. 23, | As to Memorial of Mr. Kirkman Hodgson, M.P., requesting interference of Her Majesty's Government to procure compensation from the North-German Government for the loss of the British vessel "Gloucestershire," off the River Weser, by not being able to find a pilot and being wrongly directed by a German gun-boat. As the master of the British vessel acted upon his own responsibility after advice, he is not entitled to compensation .. .. .. .. | 98 |
| 171 | Queen's Advocate | 23, | On request of Mrs. Reid for intervention of Her Majesty's Government to obtain reparation for loss of property which fell into the hands of the German troops. Her Majesty's Government should not interfere .. .. .. | 98 |
| 172 | Queen's Advocate | 28, | Further respecting case of Mr. Worth. He has no right to claim indemnity for his imprisonment on account of being captured in a balloon by the German troops .. .. | 99 |
| 173 | Queen's Advocate | May 24, | An application of M. Debrunner, who claims to be a naturalized British subject of India, for advice and assistance on his imprisonment at Wiesbaden for debt. To be told he is not entitled to the privileges of a British subject out of India, and the fact of his having renounced his Swiss nationality is immaterial .. .. .. .. | 99 |
| 174 | Law Officers .. | June 27, | Bill submitted to the Reichstag, and passed, as to the mode in which the war indemnity is to be received by Germany from France, and how it should be apportioned. Not expedient to enter into a reciprocal engagement with the German Government to enable British subjects, not resident in German provinces, to receive compensation without an Act of Parliament .. .. .. .. | 100 |

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| 175 | Queen's Advocate | July 19, 1871 | Further as to the law which has passed the German Reichstag relative to the war indemnity and mode of paying compensation to foreigners who are resident in German provinces for their losses on a principle of reciprocity. Her Majesty's Government could not enter into this arrangement without the sanction of Parliament .. .. .. .. | 100 |

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| 176 | Law Officers .. | Aug. 10, 1871 | Expulsion of Mr. Cohen from Odessa. Inquiry should be made why he obtained a Foreign Office passport under the Naturalization Act of 1870, to enable him to return, after being deported at the request of the American Consul, and being prohibited from returning there. On the first deportation, if a grievance, must obtain redress from American Government. On the second, Her Majesty's Government should not interfere without further information.. .. | 101 |
| 177 | Law Officers .. | 23, | Expulsion of Mr. Cohen from Odessa. Her Majesty's Government cannot properly question proceedings of the police authorities as to the first visit under an United States' passport, nor to the second under a British passport, as, under the Treaty of the 12th January, 1859, British subjects are not exempt from Russian police regulations which are applicable to all foreigners .. .. .. | 102 |

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| 179 | Queen's Advocate | Jan. 7, 1871 | On claim of Messrs. Wright and Co. against the Spanish Government, on account of certain fines levied on their vessel, the "Evening Star," by Custom-house at Havana. Her Majesty's Government could only claim for demurrage and other expenses in their favour on account of the despatch of Señor Sagasta, the 20th June, 1870; but the Spanish Government have a good answer that the regulations require a third copy of the ship's manifest to be delivered by masters of foreign vessels .. .. | 103 |
| 180 | Queen's Advocate | 21, | As to the employment of the steam-vessel "Hercules" and other vessels registered at Gibraltar in towing out vessels engaged in contraband trade with Spain. The charge too vague for Her Majesty's Government to notice; but no legal offence is committed by the owners so employing the "Hercules," unless in contravention of British law .. | 104 |
| 181 | Queen's Advocate | Mar. 17, | As to the detention of the vessel "Britannia," of Nassau, at Cuba, and her subsequent release by the Prize Committee. The master and crew have no claim for detention on account of her ship's papers having been found informal. Masters of these small vessels should be warned against going to sea without proper papers and without a proper flag .. | 105 |
| 182 | Queen's Advocate | 20, | Further as to the seizure of the "John Gray" off the coast of Cuba by a Spanish gun-boat. The owners have only a claim for compensation on account of the unreasonable time she was detained in the Harbour of Baracoa after her papers were examined, but as she had no national flag, there was reason for first detention by the Spanish cruizer.. .. | 105 |

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| 183 | Law Officers .. | Apr. 4, 1871 | Case of the "Tornado." As to the distribution of 1,500*l.* awarded by the Spanish Government to the crew of the vessel, Mr. Forbes Campbell, who alleges he holds a power of attorney to receive the money, should show a correct copy, with the signatures appended, before the money is paid to him .. .. .. .. .. | 106 |
| 184 | Queen's Advocate | 5, | As to the treatment of the crew of the "John Gray" by the Spanish authorities at Baracoa, and the denial of the Spanish Admiral that they were ill-treated during their detention in Cuba. Their complaint of ill-treatment referred to their imprisonment at Santiago de Cuba, but they have only an equitable claim against Spanish Government for long detention and delay of local authorities on the inquiry which resulted in proving their innocence .. .. .. | 107 |
| 185 | Law Officers .. | 29, | Case of the "Tornado." As to the distribution of the award of 1,500*l.* to crew of the vessel. The Board of Trade ought to have the distribution of the shares, both to the representatives of those entitled to the shares who have died as well as to the survivors. Mr. Forbes Campbell's communication not such as to put implicit confidence in him .. | 108 |
| 186 | Law Officers .. | May 17, | As to protest of Mr. Forbes Campbell against the distribution of the 1,500*l.* to the crew of the "Tornado" by the Board of Trade. Cannot advise any portion of the money to be paid to him. Sufficient to tell him the Board of Trade will distribute it .. .. .. .. .. | 109 |
| 187 | Law Officers .. | 27, | Further on case of the "Tornado." Mr. Forbes Campbell has no right to insist on a distribution of the 1,500*l.* to officers and crew *pro ratâ*, or any other mode of distribution. Concur generally in Memorandum of Board of Trade as to their mode of allotting the amount to the survivors .. .. .. .. .. | 109 |
| 188 | Queen's Advocate | June 19, | No reason to alter opinion already given relative to the case of the "Eliza Walker" and other British vessels subjected to rigorous quarantine on arriving in Spanish ports from ports of the United Kingdom and certain ports of France and Africa .. .. .. .. .. | 110 |
| 189 | Queen's Advocate | 19, | As to the rigorous action of the Spanish Government in enforcing quarantine regulations on the arrival of British vessels in Spanish ports from the United Kingdom and certain ports of France and Africa. Cases of the "Eliza Walker," "Favourite," and "Janie" .. .. .. | 110 |
| 190 | Queen's Advocate | Aug. 28, | Further as to quarantine imposed upon British vessels on their arrival in Spanish ports. Although the treatment of the "Favourite" and "Janie" was a harsh administration of the law, it was not in excess of their own Municipal law; but in the case of the "Eliza Walker," Her Majesty's Government might bring it to the notice of the Spanish Government, as she was admitted to free pratique at port of Santander and allowed to discharge her cargo, and then was subject to quarantine at Bilbao .. .. .. | 113 |
| 191 | Queen's Advocate | Sept. 8, | On subject of free pratique being refused to the British vessel "Tyne Queen" at Huelva. The Spanish authorities there are responsible for the refusal; and the Spanish pilot who had charge of the vessel should be obliged to make a declaration that the Carabinero was an office of the Board of Health at Huelva. Compensation should be demanded for losses entailed on the vessel .. .. .. .. | 114 |
| 192 | Queen's Advocate | Oct. 19, | Her Majesty's Government entitled to demand from Spanish Government apology or expression of regret for conduct of Commander of Spanish ship-of-war towards the English vessel "E. Beckwith" within Haitian waters .. .. | 114 |
| 193 | Queen's Advocate | Nov. 8, | As to claim of Messrs. Baring Brothers and Co. against the estates of Don Miguel de Aldama, confiscated by Spanish Government. Her Majesty's Minister at Madrid may be instructed to urge an inquiry into legality of the claim without delay .. .. .. .. .. | 115 |

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| 194 | Queen's Advocate | Nov. 20, 1871 | Course that Her Majesty's Government should pursue relative to the salvage of the British vessel "Saxony" and its cargo at Garrucho. Instructions to be sent to Her Majesty's Minister at Madrid to concert with Spanish Minister of Foreign Affairs for an end to be put to the proceedings against Mr. Pecket, the British Vice-Consul, as the local Judge did not act towards him with that comity due to his official character. In the meantime, Mr. Pecket should hold proceeds of the sale of the hull or cargo, subject to the salvage award .. .. .. .. | 116 |
| 195 | Queen's Advocate | 24, | Claim of Messrs. Morrison Brothers for interest on a sum of money wrongfully levied on them by Spanish Custom authorities at Cuba, but which they subsequently returned. Her Majesty's Government may fairly press for payment .. | 116 |
| 196 | Solicitor- and Attorney-General | Dec. 10, | As to steps that should be taken to prevent a breach of the Foreign Enlistment Act by preventing the sailing of the "Francesco Calderon" from Dundee, suspected of being fitted out for the insurgents in Cuba. Should be detained by the local authorities, as present information is vague .. | 117 |
| 197 | Queen's Advocate | 12, | Her Majesty's Minister at Madrid may properly represent the case of the "Tyne Queen" to the Spanish Government, and to claim compensation for refusal to allow her to remain at port of Huelva, notwithstanding her having a clean bill of health .. .. .. .. .. | 117 |
| 198 | Queen's Advocate | 21, | Further respecting the "Tyne Queen," which vessel was ordered away by the health authorities at Huelva without inspecting the ship's papers. The pilot in charge of the vessel should give evidence before indemnity is claimed for the wrongful act of the officer who ordered the vessel out of the river.. .. .. .. .. .. | 118 |
| 199 | Attorney-General and Queen's Advocate | 24, | Suspected vessels lying in the Mersey fitted out, supposed to be for service of the Cuban insurgents. Not sufficient cause for the issue of a warrant for detention under the Foreign Enlistment Act .. .. .. .. .. | 118 |
| 200 | Law Officers .. | 24, | No objection for the Collector of Customs at Liverpool being instructed to inquire of the parties connected with the suspected vessels in the Mersey for what purpose or employment they were designed .. .. .. .. | 119 |
| 201 | Queen's Advocate | 27, | Further on subject of the seizure of the British vessel "John Gray" off the coast of Cuba, and treatment of the crew by Spanish authorities of Baracoa; and of the British vessel "Britannia," the owners of which have been compensated. Expenses of British Vice-Consul on account of detention of crew of the "John Gray" may be demanded, but not on account of the "Britannia." Must have further information respecting the "Star" .. .. .. .. | 119 |
| 202 | Law Officers .. | 29, | As to further information supplied by Customs authorities at Liverpool on the vessels being fitted out there, and suspected for the Cuban insurgents, "Scud" and "Francesco Calderon" not sufficient to warrant their detention .. .. | 120 |

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| 204 | Law Officers .. | Feb. 10, | No objection should be raised by Her Majesty's Government to the extradition of John Scott, claimed by the French Government on a charge of theft at Dijon .. . | 121 |

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| 205 | Queen's Advocate | Feb. 20, 1871 | As to the protection or interference to be afforded by Her Majesty's Legation at Berne, or the British Consul at Geneva, to British subjects applying for passports, who were among the officers and soldiers of the French army that escaped into Switzerland. Passports should not be granted to any such British subjects while the war lasts .. .. | 122 |
| 206 | Queen's Advocate | May 5, | As to claim made by the authorities of Canton de Vaud to succession duty on property of Miss England, deceased, at Lausanne, both in Switzerland and England, and referring to former Report, on application of Messrs. Dawes and Son, who stated that she never lost her original domicile as an Englishwoman, though she resided in the canton many years. Her Majesty's Government may properly represent the case to the Federal Government, on the ground of the double fact that the authorities of the Canton deferred to her protest, and made no further attempt to tax her down to her death .. .. .. .. .. | 122 |
| 207 | Queen's Advocate | Aug. 17, | Further on subject of the claim of Canton de Vaud to succession duty on property of the late Miss England. Draft of Convention or Declaration for consideration for the reciprocal regulations for levying succession or legacy duties .. | 123 |
| 208 | Queen's Advocate | 30, | As to the demand made by the authorities of the Canton of Geneva for a return of the property left by Mr. Reynolds, late British Vice-Consul there, to enable them to levy succession duties thereon. If he died at Geneva, his character as British Vice-Consul would not exempt his widow from making the required return .. .. .. .. | 125 |
| 209 | Law Officers .. | Sept. 20, | As to marriages solemnized by English clergymen in Switzerland. The interpretation which Mr. Bonar, Her Majesty's Minister at Berne, has put on the Marriage Law in England, is correct .. .. .. .. .. | 125 |
| 210 | Queen's Advocate | Oct. 9, | Further respecting demand of authorities of Canton of Geneva for a return of the property left by Mr. Reynolds, late British Vice-Consul there. As to the instructions to be sent to Mr. Bonar, Her Majesty's Minister in Berne, on the alleged intention of Mr. Reynolds to resume his residence in England. The English Courts regard the domicile according to the Law of Nations, and his personal property should not be withdrawn from jurisdiction of the English Courts, but must not claim immunity on the ground of the official character of the late British Vice-Consul .. .. | 125 |
| 211 | Queen's Advocate | Dec. 26, | No objection to the draft Declaration which the Federal Government are willing to sign with respect to the succession duties to be levied in the Cantons of Geneva aud Vaud. Suggesting verbal alterations .. .. .. | 126 |

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| 212 | Queen's Advocate | June 20, 1871 | As to the reply to be returned to Vice-Consul Mercer respecting the extension of British protection to his adopted son. Inquiry should be made as to the *lex loci* at Tripoli, and whether Mr. Mercer has complied with that law with respect to the adoption of children .. .. .. .. | 127 |

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| 215 | Queen's Advocate | Mar. 27, | On request of Mr. Joseph Williams for the assistance of Her Majesty's Government to procure the revision of a sentence of imprisonment for fifteen years, pronounced against him by a Turkish Tribunal, for the manslaughter of a watchman at Constantinople. As the trial was not conducted according to the Capitulations, and the preliminary inquiry in the Court of the Zaptieh, on which the sentence of the Supreme Council was founded, was not in accordance with the Firman of the Sultan of February 1854, it is invalid, and Her Majesty's Government would be justified in demanding a new trial .. .. .. .. .. | 129 |
| 216 | Queen's Advocate | May 16, | Further relative to the case of Mr. Joseph Williams. Course proposed to be adopted by Her Majesty's Ambassador at Constantinople in procuring his liberation, instead of requiring a new trial to be instituted, may properly be approved .. .. .. .. .. | 129 |
| 217 | Law Officers .. | 24, | As to the right of the Mixed Commission to levy dues for the improvement of the River Pruth on vessels frequenting that river, and whether Article XV of Treaty of 1856 was intended to include the Pruth in its allusion to the navigation of the Danube .. .. .. .. | 130 |
| 218 | Queen's Advocate | July 17, | As to the course that should be taken to obtain settlement of the claim of Messrs. Ward and Rivolta against the Roumanian Government. Articles 7 and 8 of the Concession to the claimants are in favour of the Roumanian Government, and Her Majesty's Government cannot claim on their behalf the refunding of the caution money to them .. | 130 |
| 219 | Queen's Advocate | Aug. 20, | Further relative to the application of Vice-Consul Mercer for the protection of his adopted son. Her Majesty's Government may properly extend to him the same degree of protection which would be granted to a natural son of a British subject born within the Ottoman dominions .. .. | 130 |
| 220 | Law Officers .. | Sept. 2, | On subject of the suggestions of Sir E. Hornby for the consolidation of the Orders in Council and rules for extraterritorial Courts .. .. .. .. .. | 131 |
| 221 | Law Officers .. | 7, | Information in the Foreign Office insufficient to enable them to deal satisfactorily with the questions relating to the alleged irregularities of judicial proceedings and charges on the part of British Vice-Consuls in Turkey, and complaints of the Consular Court system. Suggesting returns of suits they have been called on to exercise jurisdiction for the last three years .. .. .. .. | 132 |
| 222 | Law Officers .. | 23, | As to the merits of the existing controversy between the Roumanian Government and the holders of Roumanian railway bonds. According to the terms of the Concession the Roumanian Government must be held to have guaranteed the interest of 7½ per cent. .. .. .. .. | 133 |
| 223 | Law Officers .. | 25, | As to claims of Mr. Petherick against the Egyptian Government arising out of the proceedings of the Governor-General of the Soudan in 1863, which compelled him to break up his trading establishments on the White Nile .. .. | 134 |
| 224 | Queen's Advocate | Oct. 31, | Further respecting the claims of Messrs. Ward and Rivolta against the Roumanian Government relating to the Railway Concession granted in April 1864. Expediency of Her Majesty's Government having a copy of the Petition of Mr. Ward to the Prince of Roumania of the 4th June, 1868 | 135 |

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| 226 | Queen's Advocate | 11, | As to complaint of the Danube and Black Sea Railway and Kustendji Harbour Company against the proceedings of the Turkish Government and local authorities at Kustendji. Her Majesty's Ambassador at Constantinople might use his good offices to obtain, according to Mr. Price's request, a reference of the dispute to a Commission | 137 |
| 227 | Queen's Advocate | 30, | Further respecting Messrs. Ward and Rivolta's claim against the Roumanian Government. Her Majesty's Government might give their unofficial support to the claim | 138 |

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| 228 | Law Officers | Feb. 9, 1871 | As to the Reports of the Legal Adviser to the Treasury on Slave Trade matters:—1. On the Convention concluded with the United States for the abolition of the Mixed Commission Courts. 2. On the draft Convention with Portugal, also for the abolition of the Mixed Commission Courts | 138 |
| 229 | Law Officers | 24, | As to steps that should be taken on account of the death of Elizear Goulet, a citizen of the United States, by drowning in the Red River, in the Province of Manitoba, Canada. Proceedings should be taken against one of the parties concerned, according to the Report of Mr. McConville, to secure the administration of justice | 140 |
| 230 | Law Officers | Mar. 21, | As to the instructions to be given to Her Majesty's Commissioner with respect to the fourth point of the proposal of the American Government relative to the rules of international law for the detention of ships of war in neutral ports under the Foreign Enlistment Act | 140 |
| 231 | Law Officers | 27, | Returns original telegrams from Her Majesty's Commissioners on the subject of previous Report, and will be ready to wait on the Cabinet this day | 141 |
| 232 | Law Officers | Apr. 1, | On further telegrams from the High Commissioners on the amended propositions respecting the "Alabama" arbitration, and rules for detention of ships of war in neutral ports under the Foreign Enlistment Act | 141 |
| 233 | Law Officers | 3, | On Memorandum and papers prepared in Canada respecting a portion of the boundary between British and American territories in North America, under the VIth Article of the Treaty of Ghent, and objection raised to the authority of the maps prepared by the Commissioners under that Article. The Report of the Commissioners and the map illustrating it should be taken together, but if the latter should be found at variance with it, the Report of the boundary must prevail as evidence | 142 |
| 234 | Law Officers | 4, | Further respecting the boundary between the Dominion of Canada and the United States at the mouth of the River St. Clair. The Report of Mr. McMicken and tracings of the maps referred to in the Report of the Boundary Commission show the canal being constructed to be within Canadian waters, but from Mr. Forster's survey a portion only is within those waters, but the map referred to by the Commissioners must be looked to for its clear definition | 143 |
| 235 | Law Officers | Apr. 14, 1871 | As to the extradition of Richard Baker Caldwell, surrendered by the Canadian Government to the United States' Government on a charge of forgery and uttering forged paper, but who was subjected to legal proceedings for an offence under the laws of that country for which he was not surrendered. Her Majesty's Government would not be justified in reclaiming his surrender, as there is nothing in Convention of 1842 to preclude the United States' Government from indicting the prisoner for an additional offence so long as no fresh proceedings are adopted against him | 143 |
| 236 | Queen's Advocate | 28, | As to steps that should be taken on the imprisonment of Alfred S. Williams, a British subject, for desertion from the United States' army. No objection to instructions being sent to Her Majesty's Minister at Washington to bring the case before Mr. Fish; and the father, the Rev. Lewis Williams, should be recommended to forward a Memorial to Her Majesty's Government on behalf of his son | 144 |
| 237 | Law Officers | May 11, | As to the course to be pursued respecting the alleged murder by the master and crew of the American vessel "Montezuma" of Antoine Anthony, a British subject, at Portsmouth, Dominica. As there is little chance of the "Montezuma" coming into British jurisdiction, so that the parties might be taken into custody, the American Government might be requested to cause the accused to be apprehended when they might come within American jurisdiction | 144 |
| 238 | Law Officers | 30, | As to the reply that should be given to a question in the House of Commons, whether the existing law is sufficient to enable the Government to carry out the rules specified in Article VI of the Treaty of Washington of the 8th May, 1871, and, if not, will they introduce such a measure | 145 |
| 239 | Law Officers | June 17, | Proposed drafts of despatches to Sir E. Thornton for carrying out the provisions of the Treaty of Washington of the 8th May, and forms of notes to be submitted to the United States' Government relative to the appointment of Arbitrators on the "Alabama" claims and San Juan boundary, and as to the Rules under the VIth Article of the Treaty, are right and proper for the purpose | 145 |
| 240 | Law Officers | 17, | Approves draft notification to be published in the "London Gazette" respecting the Mixed Commission to be established under the XIIth and following Articles of the Treaty of Washington of the 8th May, 1871, for settlement of the outstanding claims of subjects and citizens of the respective countries therein described | 146 |
| 241 | Law Officers | 29, | As to further draft notification respecting the appointment of an Agent at Washington to receive and classify British claims; and draft instructions proposed to be given to Mr. Howard, who will attend the Commission under the XIIIth Article of the Treaty of Washington | 146 |
| 242 | Law Officers | Aug. 15, | As to the draft instructions to be given to Mr. Russell Gurney, Her Majesty's Claims' Commissioner under the XIIIth Article of the Treaty of Washington, and to Mr. Carlisle, appointed Counsel for the British claimants | 147 |
| 243 | Law Officers | 18, | On questions raised relative to the Canadian Fishery question. As to notice to be given to the Government of the United States of the termination of the fishery arrangement at such time after the period fixed by the Treaty | 148 |
| 244 | Law Officers | Sept. 16, | As to the reply to be sent to Mr. Heathcote, Secretary of the Association for the Protection of Commercial Interests, respecting the claims of British subjects on account of losses inflicted by the "Alabama" | 149 |
| 245 | Law Officers | 25, | Claim of Messrs. Goddard for compensation on account of the losses they sustained through the acts of the "Alabama." Not one to be admitted by Her Majesty's Government; but if within the scope of the Treaty of Washington, must be prosecuted before the Tribunal for the consideration of these claims | 149 |

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| 246 | Law Officers .. | Sept. 25, 1871 | Reply to Mr. Stewart as to evidence to be produced by him before the Claims Commission in support of his claim is right and proper | 150 |
| 247 | Law Officers .. | Oct. 6, | Claim of Mr. Tarrant against the United States' Government. Approves proposed reply to him on the subject | 150 |
| 248 | Queen's Advocate | 10, | As to the reply to be sent to Mr. Huntley, who forwarded a protest and claim of the Captain of his vessel, the "Grace," on account of an outrage committed on that vessel by negro officials at Doboy, in the United States | 150 |
| 249 | Law Officers .. | 20, | Instructions should be sent to Mr. Howard not to present to the Commissioners any document sent to him by the Foreign Office or Her Majesty's Legation at Washington on behalf of any claimant until the claimant shall have first filed in the Office of the Commission the statement of his claim under Rule 1 of the Commission | 151 |
| 250 | Law Officers .. | 21, | Approves draft notification for publication for the information of the claimants with respect to the presentation of claims of British subjects to the Commissioners at Washington | 151 |
| 251 | Law Officers .. | 23, | Further respecting claim of Mr. Tarrant against the United States' Government. To be told he ought to have preferred his claim before the Court of Claims, but as he has declined to do so, it cannot be made the subject of diplomatic intervention | 152 |
| 252 | Law Officers .. | 31, | As to the reply to be sent to Mr. Howard, British Agent for Claims' Commission at Washington, that all claims made by British subjects, notwithstanding their having declared their intention to obtain American naturalization, may be properly presented by Her Majesty's Political Agent; but that claims made by British subjects, who were such dnring the war, but since made American citizens, should not be presented | 152 |
| 253 | Law Officers .. | Nov. 6, | As to the replies that should be sent to Messrs. Leech, Harrison, and Forwoode, and to Messrs. Ellman, Raper, and Ellman, on their claims against the United States' Government—the latter firm who wrote on behalf of Mrs. Mary Cassin | 152 |
| 254 | Law Officers .. | 27, | Further respecting claims of Messrs. Leech, Harrison, and Forwoode against the United States' Government. Cannot lay them before the United States' Government, not being within the scope of the Treaty of Washington | 153 |
| 255 | Law Officers .. | 27, | Further respecting claim of Mr. Stewart against United States' Government. He should be informed that the residence of a claimant may be an important element in particular cases for deciding a question of domicile or identity, or even of *bona fides* of the claims, and that the Commissioners exercised a wise discretion in settling the rule which Mr. Stewart objects to | 153 |
| 256 | Queen's Advocate | Dec. 9, | Case drawn up, with the aid of Admiral Prevost, setting forth the claim on the part of Her Majesty's Government, with an Appendix accompanying it, to determine the water boundary under the Oregon Treaty of 1846. A French translation also prepared; but the case for the arbitration and award of the Emperor of Germany, to whom it is to be submitted, should be in the English language only | 154 |
| 257 | Queen's Advocate | 12, | As to the reply to be given to Mr. Ashworth on subject of the claims of his clients against the United States for the seizure and destruction of cotton, and the claim of Major Longley on account of his arrest. The latter should lose no time in presenting his claim, but the former claims do not come within the scope of the Washington Commission | 154 |

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| 258 | Queen's Advocate | Feb. 3, 1871 | As to the instructions which should be sent to Her Majesty's Chargé d'Affaires at Caracas relative to the establishment of a war tax upon houses there, and statement of Señor Guzman, that foreigners were not exempt from that tax by privilege or any Treaty stipulation. The question of exemption should not be raised by Her Majesty's Chargé d'Affaires | 155 |
| 259 | Queen's Advocate | May 25, | On subject of the Decree issued by present Government of Venezuela, instituting a blockade of that part of the coast which remains in the hands of the party opposed to the Government. Want further information as to the blockade of coasts of the States of Cumona and Maturin being considered an effective blockade before he can report | 155 |
| 260 | Queen's Advocate | June 1, | As to the instructions to be sent to Her Majesty's Chargé d'Affaires at Caracas relative to British subjects resident there having been deprived of their certificates of nationality | 156 |
| 261 | Queen's Advocate | 15, | Approves draft of despatch to Her Majesty's Chargé d'Affaires at Caracas relative to the proceedings of the Venezuelan authorities in forcibly depriving certain British subjects of their certificates of nationality—as the certificate of British nationality has not been restored to Volcan, said to have been born in Jamaica | 157 |
| 262 | Queen's Advocate | 28, | As to the course to be pursued relative to the blockade of coasts of Venezuela, and seizure of the British vessel "Unison" by Venezuelan Government for breach of blockade, and of the British vessels "Helen" and "Sophie" by the insurgent Government. As the blockade has been duly notified by the President of the Republic, and the insurgents are entitled to exercise belligerent rights against British commerce, Her Majesty's Government would not be justified in objecting to the capture of British vessels on the high seas by the blockading squadron, but should insist on these vessels being sent before a Prize Court for adjudication | 157 |
| 263 | Queen's Advocate | July 4, | Advisability of publishing in the "London Gazette" an announcement that Her Majesty's Chargé d'Affaires at Caracas has received a copy of a Decree of the Provisional President of the Republic of Venezuela, declaring the coasts of Cumona and Maturin to be in a state of blockade | 158 |
| 264 | Queen's Advocate | Aug. 8, | As to the instructions to be sent to Her Majesty's Chargé d'Affaires on the forcible seizure of a British subject named Peter R. Thorncroft, by Venezuelan authorities, to be recruited as a soldier in their army. If he owes no allegiance to the Venezuelan Government, and is by origin a British subject, his release may be demanded unconditionally, but inquiry must first be made | 159 |
| 265 | Queen's Advocate | 16, | Further opinion respecting the forcible enlistment of Peter Thorncroft, a British subject, in the Venezuelan army. As he is a native of Venezuela, although of British origin by his father's side, cannot claim any exemption of right from the obligation of military service unless under some special Treaty engagement | 159 |
| 266 | Queen's Advocate | 17, | If any further steps to be taken beyond those adopted by Her Majesty's Chargé d'Affaires at Caracas relative to the issue of a Decree by the President of the State of Bolivia, compelling foreigners resident there to serve in armed patrols, the members of the Diplomatic Corps having protested against it. It would depend on the execution of the Decree, and whether a military character were given to patrols, to constitute a breach of the Treaty engagements | 160 |

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| 267 | Queen's Advocate | Aug. 17, 1871 | As to the arrest and subsequent release of a British subject named Luciano Agostini by the Venezuelan authorities. Her Majesty's Government would be justified in remonstrating against British subjects being held guilty of disrespect by disregarding the requisition of the authorities for him to furnish a baggage horse for army purposes. British subjects are exempt from such requisitions under the Treaty of the 18th April, 1825 .. .. .. | 160 |
| 268 | Queen's Advocate | Oct. 9, | Further respecting British subjects being deprived of their certificates of nationality under the present law. British subjects, born within Venezuelan territory, of whatever origin, are entitled to the status of natural-born Venezuelan citizens, and British subjects, under such circumstances, cannot claim to be treated differently from natural-born Venezuelan subjects. Suggestions when certificates ought not to be cancelled, and when parties born of British parents should have the option of remaining foreigners .. .. | 161 |
| 269 | Queen's Advocate | 23, | As to steps that should be taken by Her Majesty's Chargé d'Affaires at Caracas relative to two outrages committed at the instigation of General Pulgar, President of the State of Zulia, and his brother, Don Rafael Pulgar, on Mr. Harris and Mr. O'Connor. The two cases dissimilar. Mr. O'Connor should obtain redress through the Venezuelan Courts, as the outrage was the act of one not in authority; but Mr. Harris was justified in seeking the protection of Her Majesty's Government, and instructions should be sent to Mr. Middleton to bring the case formally before the Venezuelan Government .. .. .. .. | 161 |
| 270 | Queen's Advocate | 27, | Not expedient for Her Majesty's Government to take any steps in the matter of the sale of the steam-tug "John Cumming" in the port of Trinidad, in the present state of Venezuelan affairs .. .. .. .. .. | 162 |
| 271 | Queen's Advocate | Nov. 13, | As to the issue of a Decree of the Provisional President of Venezuela, establishing a blockade of the coast embraced by the mouths of the Orinoco. Nothing to render it invalid, so long as it is effectively maintained according to the Declaration of Paris of 1856 .. .. . | 162 |
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| 273 | Queen's Advocate | Dec. 11, | Further relative to the Decree of the Venezuelan Government declaring the blockade of the mouth of the Orinoco. Approves publication of notification of the Decree in the "London Gazette" and of the prepared form .. .. | 163 |
| 274 | Queen's Advocate | 29, | As to the seizure and ill-treatment of the crews of certain fishing boats belonging to and manned by persons residing in Trinidad by an armed Venezuelan felucha. The fishing boats were liable to capture, as the indulgence granted in time of war is of ancient date and is now fallen into disuse. The ordinary fishing licences which they had would not warrant the crews pursuing their avocation within three miles of a coast under blockade .. .. .. | 164 |

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*May* 1879.

ARTHUR WALMISLEY.

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ARTHUR WALMISLEY.

*Foreign Office, July* 1879.

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**CONFIDENTIAL.**

# LAW OFFICERS' REPORTS: 1871.

## Argentine Confederation.

### No. 1.

*The Queen's Advocate to Earl Granville.*—(*Received February* 23.)

My Lord, *Temple, February* 21, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 17th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Buenos Ayres, relative to the losses inflicted on British subjects in Entre Rios owing to the civil war now raging in that province. Lord Enfield was also pleased to inclose a Memorandum, drawn up in the Foreign Office, showing the state of the province in question, and to state that, in view of the declaration of the Argentine Government that they will not entertain claims resulting from the war, unless substantiated by proper documentary evidence, your Lordship would be glad to be furnished with my opinion as to the course which Mr. Macdonell should be instructed to pursue towards that Government and towards those British subjects who have been the victims of the revolution.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Macdonell should be instructed to ascertain from the Government of Entre Rios what is the nature of the documentary evidence with which it will require to be furnished in support of any claims which Mr. Macdonell may feel it to be his duty to bring to the attention of that Government, and upon obtaining that information Mr. Macdonell may properly direct all British subjects who may apply to him to advocate claims on their part to be compensated by the Argentine Government for losses inflicted upon them in the course of the civil war, to furnish him with the necessary documents to support such claims. If the requirements of the Argentine Government should on inquiry appear to Mr. Macdonell to be unreasonable, and such as the sufferers cannot be expected to satisfy, Mr. Macdonell should be instructed to report further to your Lordship, unless he feels himself to be in a position to remonstrate at once with that Government before reporting to your Lordship; but upon this point your Lordship will be better able to decide as to the degree of discretion to be exercised by Mr. Macdonell.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 2.

*The Queen's Advocate to Earl Granville.*—(*Received August* 8.)

My Lord, *Temple, August* 7, 1871.

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 31st ultimo, stating that, with reference to my Report of the 21st

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February last, he was directed to transmit to me the accompanying further despatches, to and from Her Majesty's Chargé d'Affaires at Buenos Ayres, upon the subject of the refusal of the Argentine Government to grant compensation to British subjects who have settled in Entre Rios for losses sustained by them in consequence of the revolution which took place in that province. Mr. Odo Russell was pleased to request that I would take these despatches into my consideration, and furnish your Lordship with my opinion as to the proper course for Her Majesty's Government to pursue in this matter.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Government would not be justified, in my opinion, in the absence of any Treaty securing to British subjects established in the Argentine territory a privileged *status*, in claiming for them any greater measure of compensation for losses incurred by them during the civil war than is accorded by the Argentine Government to loyal Argentine citizens. Unless, therefore, the Argentine Government should determine to compensate its own loyal citizens for losses incurred by them from requisitions made on their property by the rebel armies, I am of opinion that the proper course for Her Majesty's Government to adopt would be to limit its interference on behalf of British subjects established in the Argentine territory to cases where the troops of the Government hitherto recognized by Her Majesty's Government have made requisitions on their property. It would appear, however, that the Argentine Government is not indisposed to listen favourably to claims of this latter description, subject, however, to certain conditions as to proofs, which it may be impossible for British subjects in many cases to comply with. Under such circumstances, Her Majesty's Government would be, in my opinion, justified in interfering to obtain more equitable conditions for British subjects as regards the production of proofs to establish the integrity of their claims. In what particular manner the rules laid down by the Argentine Government should be modified is rather a matter of detail, upon which I cannot venture to advise your Lordship, and which your Lordship may probably think fit to intrust to the discretion of Her Majesty's Chargé d'Affaires at Buenos Ayres.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 3.

*The Law Officers of the Crown to Earl Granville.*—(*Received October* 10.)

*Temple, October* 9, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th ultimo, stating that he was directed by your Lordship to transmit to us the inclosed documents as marked in margin,* with respect to the claim of Mr. Williams to recover the value of some property which he stated was unjustly seized from his father-in-law by the Argentine Government, and which had formed the subject of a lengthened law-suit between himself and the Municipality of Buenos Ayres; and he (Mr. Hammond) was to request that we would take the case into consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in interfering in the matter.

In obedience to your Lordship's commands we have taken this case into consideration, and have the honour to report—

That, on carefully considering these papers, we have come to the conclusion that the decision of the Argentine Courts, whether or not it were venal, as Mr. Williams suggests, was manifestly wrong. If the question depended entirely on documentary evidence of title, we should hesitate to express ourselves so decidedly, although the inclination of our opinion would be strongly in favour of Mr. Williams. But, if it be an uncontroverted fact, as would appear from these papers, that Mr. Williams and those under whom he claims have held uninterrupted and unquestioned possession of the land, the subject-matter of the suit, for more than forty years before the passing of the Prescription Act, 29th July, 1867, the case appears clear.

Although we subscribe to the general rule, that the judgments of the Tribunals of civilized countries ought to be respected, still, assuming always the facts we have stated, the judgments in question appear to us so manifestly wrong (so wrong, indeed, as to give some colour to the suspicion of their *bona fides*), that we think Her Majesty's Government would be justified in making a representation on the subject to the Argentine Government: the form of that representation is rather a matter of policy than of law.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 4.

*The Queen's Advocate to Earl Granville.*—(*Received October* 21.)

*Temple, October* 20, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Buenos Ayres, respecting difficulties which have arisen between the Argentine Government and the Central Argentine Railway Company, and to request that I would take that despatch into my consideration, and furnish your Lordship with my opinion as to the instructions which should be sent to Mr. McDonell upon the subject.

In obedience to your Lordship's commands, I have the honour to report—

That Mr. McDonell should be instructed to forward to your Lordship a copy of the Concession made to the Railway Company by the Argentine Government, as well as the Contract, if it be other than the Concession, referred to in the Bill which he reports to have been adopted by the Argentine Congress.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 5.

*The Queen's Advocate to Earl Granville.*—(*Received December* 14.)

*Temple, December* 13, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed to transmit to me the accompanying correspondence, which contains an account of the circumstances attending the murder of Mr. Weguelin, of the Alexandra Colony on the San Javier, in the Argentine Republic, and to request that I would take the same into my consideration, and furnish your Lordship with my opinion as to any steps which Her Majesty's Government can take in the matter.

In obedience to your Lordship's commands, I have the honour to report—

That Her Majesty's Government cannot, in my opinion, take any effective steps to prevent the recurrence of similar disasters, under similar circumstances, to the members of the Alexandra Colony on the San Javier River.

I have, &c.
(Signed) TRAVERS TWISS.

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* Mr. Williams, May 16; to Mr. Stuart, May 20; Mr. Stuart, May 23; to Mr. Williams, May 27; to Mr. Macdonell, No. 19, May 27; Mr. Williams, May 30; to Mr. Williams, June 1; Mr. Macdonell, No. 36, July 12; to Mr. Williams, August 22; Mr. Williams, August 25, 1870; Mr. Williams, July 17, 1871.

1871

## Belgium.

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### No. 6.

*The Queen's Advocate to Earl Granville.—(Received March 9.)*

My Lord, *Temple, March* 9, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 7th instant, stating that he was directed by your Lordship to transmit to me a letter, with its inclosure, from the Board of Trade, respecting a question which has arisen as to whether Belgian mail-packets should be exempted, under the circumstances mentioned in the correspondence, from the payment of certain dues, to which English and French mail-packets are liable on entering Dover Harbour; and Lord Enfield was pleased to request that I would take these papers into my consideration, and furnish your Lordship, at my earliest convenience, with my opinion as to the answer which should be returned to the Board of Trade on this subject.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship ought not, in my opinion, to sanction the levying of port dues upon the vessels of the Belgian Government which carry the mails between Dover and Ostend, except under a Postal Convention with the Belgian Government. The distinction which is at present made between the vessels of the Belgian Government and the vessels of the railway companies, which use the port of Dover, is not founded upon the principle assumed in Mr. Farrer's letter of the 3rd March to the Secretary of the Treasury, that the former are improperly regarded as vessels of war, whilst the latter are treated as vessels of commerce, but upon the fact that the former are the property of the Belgian State, whereas the latter are the property of private companies, and the universal practice amongst nations is to admit the public ships of friendly States into their ports under a total exemption from the law of the territory.

I may take the liberty of inviting your Lordship's attention to the Postal Convention concluded between France and England on the 24th September, 1856 (10 Hertslet, p. 100), where the distinction is recognized between national vessels, the property of either Government, and vessels chartered or subsidized by either Government, the latter being declared liable to the payment of local port dues, whereas the exemption of the former is maintained.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 7.

*The Law Officers of the Crown to Earl Granville.—(Received December 20.)*

My Lord, *Temple, December* 20, 1871.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us a note and inclosure from the Belgian Minister at this Court notifying the arrest by the High Court of Admiralty of the Belgian mail-steamer "Belgique;" that that arrest was stated to be illegal under the terms of the VIIth Article of the Convention of the 19th October, 1844 (copy inclosed); and that your Lordship would be glad to learn our opinion on that case.

In obedience to your Lordship's commands, we have the honour to report—

That the arrest of the Belgian Government mail-packet by process of the Admiralty Court is illegal. It is in contravention of Article VII of the Convention of the 19th October, 1844, as well as of the general law of nations, which exempts ships under the public commission of a State from civil process within the ports of a foreign country. It is probable that on a representation being made by the Post-office authorities, the Judge of the High Court of Admiralty would at once direct the arrest to be removed, but the correct course of proceeding would be for the Belgian Minister to direct an appearance to be given under protest to the jurisdiction of the Court, and pray the release of the vessel upon bail, without prejudice to the question of jurisdiction. The vessel would thereupon be immediately released, and the agent of the Belgian Government will be at liberty to apply to have the bail discharged, with costs and with damages, if the service of her mails has been prejudiced by the arrest.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## Bolivia.

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### No. 8.

*The Queen's Advocate to Earl Granville.—(Received October 10.)*

My Lord, *Temple, October* 10, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to me, for any observations I might have to offer thereupon, a letter from the Bolivian Consul-General in London, inclosing a copy of a Decree issued by the President of Bolivia upon the subject of diplomatic reclamations in that Republic.

In obedience to your Lordship's commands I have the honour to report—

That, as I understand the Decree of the President, it purports to lay down two rules:—

1. That in all cases where foreign subjects have claims of private interest, and the Bolivian Courts are open to them, they must prosecute their rights in those Courts before they have recourse to diplomatic reclamations, and that the latter will only be admitted where justice is delayed or has been denied by the Courts.

2. That where the claims of foreign subjects are at variance with the laws of Bolivia no diplomatic reclamations against the decisions of the Courts will be admitted on their behalf, except in cases allowed by the law of nations.

To the first of these rules I see no objection in principle.

With regard to the second Rule, if the 4th Article of the Decree may be rightfully interpreted as permitting diplomatic reclamations against the decisions of the Courts in all cases where such reclamations would be sanctioned by the law of nations, I think it rather an advantage that this admission of the Government of Bolivia should be officially placed on record by the Decree of the President.

I have, &c.
(Signed) TRAVERS TWISS.

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1871

# Brazil.

## No. 9.

*The Queen's Advocate to Earl Granville.*—(*Received June* 21.)

My Lord, *Temple, June* 20, 1871.

I AM honoured with your Lornship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed to transmit to me the accompanying despatch, and its inclosures, from Her Majesty's Chargé d'Affaires in Brazil reporting the circumstances under which Mr. Fox, Superintendent, and Mr. Fryer, Traffic Manager of the railway in the province of San Paulo, have been imprisoned by the Brazilian authorities on a charge of homicide in connection with an accident on the railway; and to request that I would take these papers into my consideration and furnish your Lordship with my opinion thereupon, and as to any steps which should be taken in the matter.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Chargé d'Affaires at Rio Janeiro should be instructed to watch the case and give any assistance in his power, if there should be occasion for it, to secure that Mr. Fox and Mr. Fryer shall have a fair trial. As I have no information as to the Brazillian law, I am unable to form an opinion upon the propriety of the proceedings of the Chief of the Police at San Paulo; but as they have been affirmed on appeal to a superior Court, the presumption is that the Chief of the Police is right in his interpretation of the law, as it applies to the early stages of the inquiry, although it may be ultimately established that neither Mr. Fox nor Mr. Fryer are guilty of the homicide imputed to them. When Mr. Cobbold shall have forwarded to your Lordship the answer which may be returned to his confidential communication with his Excellency, Dr. Corrien, I shall be better able to judge of the propriety of any further instructions being given to him.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 10.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 30.)

My Lord, *Temple, June* 29, 1871.

WE are honoured with your Lordships's commands signified in Viscount Enfield's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires at Rio de Janeiro, inclosing a project of law for the abolition of slavery in Brazil, and inquiring whether it would be legal for a British subject to contract with a slave, under the provisions of Article IV., paragraphs 2 and 3, for the hire of his services during a term of years, for a sum of money to be applied in purchasing his freedom.

And that he was to request that we would be good enough to favour your Lordship with our opinion upon that question.

In obedience to your Lordship's commands, we have taken this question into consideration, and have the honour to report—

We are of opinion that British subjects may lawfully enter into such contracts, as such contracts are for the purpose of purchasing the immediate freedom of the slaves, subject however to the condition of the freed-man compensating the person, who may have purchased his freedom, by his unpaid services during a limited term of years.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 11.

*The Queen's Advocate to Earl Granville.*—(*Received August* 8.)

My Lord, *Temple, August* 7, 1871.

I AM honoured with your Lordship's commands, signified in Mr. Odo Russell's letter of the 3rd instant, stating that with reference to my Reports of the 7th and 29th November, he was directed to transmit to me a further letter from the North Brazilian Road Steamer Company (Limited), stating that a claim has been made on the Government of Brazil for indemnity for the loss entailed on the Company by their having been prevented working their steamers, and requesting the support of Her Majesty's Government in the matter. A despatch from Her Majesty's Chargé d'Affairs at Rio de Janeiro, reporting the result of his inquiries on the subject, was also inclosed, and Mr. Odo Russell was pleased to request that I would take these papers into my consideration, together with the previous papers, some of which I have already perused, and which were also inclosed, and report to your Lordship my opinion as to whether Her Majesty's Government would be justified in instructing Her Majesty's Representative at Rio to interfere further in the matter.

In obedience to your Lordship's commands, I have the honour to report—

That I am of opinion that Her Majesty's Government would not be justified in instructing Her Majesty's Representative at Rio de Janeiro to interfere further in this matter.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 12.

*The Queen's Advocate to Earl Granville.*—(*Received October* 26.)

My Lord, *Temple, October* 25, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed to transmit to me the accompanying despatches from Her Majesty's Chargé d'Affaires at Rio de Janeiro respecting an action brought by Messrs. Figueredo and Brothers, furniture dealers in that city, against the Queen Insurance Company, of Liverpool and London, to recover the amount of damages caused by the destruction of their property by fire. That I should perceive by Mr. Cobbold's despatch that judgment has been given against the Insurance Company in the Brazilian Law Courts, and that the acting agent of the Company, Mr. Lyde, has been imprisoned by order of the Judge, this decision being, in the opinion of several eminent lawyers, unjust, and Mr. Hammond was pleased to request that I would take these despatches into my consideration, and advise your Lordship as to the proper course to be pursued in this matter.

In obedience to your Lordship's commands I have the honour to report—

That this case is not free from difficulty, as, under the law which prevails in England, a foreigner, against whom an action is pending in an English Court, may be arrested upon an affidavit made before a Judge, that he is about to leave the country, and may be detained in prison until he finds security to satisfy the cause of action. Her Majesty's Chargé d'Affaires at Rio Janeiro states that, in the opinion of three eminent lawyers, the verdict of the Courts is not in accordance with law, and it appears that the case is appealed to the Supreme Court, but he does not state that the Judge's order for the imprisonment of Mr. Lyde is contrary to law.

I cannot, therefore, without further information, advise your Lordship to instruct Her Majesty's Chargé d'Affaires at Rio to interfere further than he has already done with the legal proceedings against Mr. Lyde.

With regard to the instructions with which Her Majesty's Chargé d'Affaires requests to be provided, as to how far Her Majesty's Legation may interpose against such frequent recurring infringements of the personal liberty of Her Majesty's subjects at Rio, no general instructions can well be given to Mr. Cobbold, as each case must depend upon its own peculiar circumstances, beyond authorizing him to interpose in all cases where such imprisonment is clearly contrary to Brazilian law.

I have, &c.
(Signed) TRAVERS TWISS.

1871

### No. 13.

*The Queen's Advocate to Earl Granville.*—(*Received November* 2.)

My Lord, *Temple, November* 2, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that, with reference to my Report of the 25th ultimo, he was directed to transmit to me the inclosed letter from the Chairman of the Queen Insurance Company in London, upon the subject of the judgment given by the Brazilian Law Courts in the action brought by Messrs. Figueredo and Brothers against the Queen Insurance Company, and the sentence of a year's imprisonment which has been passed by those Tribunals on Mr. Lyde, the Company's agent at Rio de Janeiro. Mr. Hammond was pleased to request that I would take this letter into my consideration, and inform your Lordship whether it contains any further information which might induce me to alter the opinion already expressed on this case.

In obedience to your Lordship's commands I have the honour to report—

That the legality of the imprisonment to which Mr. Lyde has been condemned is a question of Brazilian law, in which your Lordship cannot properly interfere, at least at present. The circumstance that Mr. Lyde has no funds of the Insurance Company under his control at Rio does not appear to me to affect this question, and I see no grounds in the further information for altering the opinion which I have already expressed on this case.

I have, &c.
(Signed) TRAVERS TWISS.

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# Central America.

## NICARAGUA.

### No. 14.

*The Queen's Advocate to Earl Granville.*—(*Received January* 31.)

My Lord, *Temple, January* 30, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that with reference to my Report of the 5th May, 1870, he was directed by your Lordship to transmit to me the accompanying letter from Mr. H. Goussen, inclosing legal documents, with translations, in support of his claim upon the Nicaraguan Government on account of monies which he has been compelled to contribute to forced loans by the authorities of that Republic; and he was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon. The previous papers were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That assuming that the statement of Mr. Hilario Goussen having been born within Her Majesty's dominions remains unimpeached, upon the assumption of which fact I reported to your Lordship on the 5th May last that he was entitled to the benefit of the Treaty privileges secured to British subjects residing within the Nicaraguan territory, I am of opinion that your Lordship may properly instruct Her Majesty's Chargé d'Affaires at Guatemala to demand from the Nicaraguan Government the reimbursement of all sums of money exacted from Mr. Hilario Goussen under the Decree of the Nicaraguan Junta of Calculations of the 27th June, 1869, with such legal interest as is current at Nicaragua, and also of the expenses to which he has been subjected in obtaining legal certificates, and which form the third item of his claim as submitted to your Lordship.

With regard, however, to his further claim for damage, on account of the forcible detention of himself and his family in his house for five days, in consequence of his refusal to submit to the Decree, I am not disposed to advise your Lordship to countenance such a claim.

I am of opinion that Mr. Hilario Goussen was wrong in the course which he adopted. He ought, in my opinion, after his claim of exemption had been overruled by the local authorities, to have paid the forced loan under protest, and referred the question of his exemption under the Treaty at once to Her Majesty's Chargé d'Affaires.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 15.

*The Queen's Advocate to Earl Granville.*—(*Received December* 15.)

My Lord, *Temple, December* 14, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 12th instant, stating that with reference to my Report of the 30th January last, on the subject of Mr. Goussen's claim upon the Nicaraguan Government, he was directed to transmit to me a despatch and its inclosures from Her Majesty's Chargé d'Affaires in Central America, from which I should learn the grounds upon which the Nicaraguan Government decline to comply with the demands made upon them on behalf of Mr. Goussen, and to request that I would take the case again into my consideration, and furnish your Lordship with my opinion as to any further steps that can be taken in this matter. The previous papers were inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That an important question is raised in the last paragraph of the despatch of the Nicaraguan Minister of Foreign Affairs, namely, whether Mr. Goussen, on the assumption that he is a natural born British subject, has not become a Nicaraguan citizen by marrying a Nicaraguan woman, and acquiring landed property in Nicaragua. Don Rafael Zurita contends, indeed, that Mr. Goussen, under these circumstances, has lost his primitive nationality according to the laws in force in Nicaragua, "to which Mr. Goussen submitted with the greatest willingness." Now, although Don Rafael Zurita may have formed too high a notion of the authority of the Legislature of Nicaragua in assuming that it could deprive Mr. Goussen of his primitive nationality, he may be justified in contending that under those laws Mr. Goussen has acquired the status of a naturalized Nicaraguan within the Nicaraguan territory, and in such character would be properly subject to the obligations of natural born Nicaraguans. Before Mr. Corbett proceeds any further in this case, it will be desirable, in my opinion, that he should be instructed to ascertain what are the facts as regards the alleged marriage of Mr. Goussen with a Nicaraguan woman, and his acquisition of landed property in Nicaragua, as well as the law of Nicaragua applicable to the facts when ascertained. It is probable that Mr. Goussen has, by his long residence in Granada, acquired an international domicile in Nicaragua, but whether he is a naturalized Nicaraguan, as Don Raphael Zurita contends, is a question of Nicaraguan law, respecting which I am at present unable to advise your Lordship with any certainty.

I have, &c.
(Signed) TRAVERS TWISS.

1871

## SALVADOR.

### No. 16.

*The Queen's Advocate to Earl Granville.*—(*Received November* 25.)

*Temple, November* 24, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed to transmit to me, together with the previous papers on the subject, the accompanying despatch and its inclosures from Her Majesty's Chargé d'Affaires in Central America, relative to a claim made upon the Salvadorian Government by Mr. Charles E. Comyn, on account of his arrest and detention by the Salvadorian authorities, on a groundless charge of conspiring to assassinate the President of that Republic; and to request that I would take the case into my consideration, and furnish your Lordship with my opinion as to the instructions which should be given to Mr. Corbett with regard to it.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Corbett may, in my opinion, be properly instructed to inform Mr. Charles E. Comyn that Her Majesty's Government cannot support his demand against the Government of San Salvador for compensation in so high a scale. It appears, indeed, from Mr. Gregory's letter of the 3rd August, that Mr. Charles E. Comyn has given himself up to a life of military adventure, and that he is now apparently in the service of the party which has come to power in San Salvador on the overthrow of Dueñas, the late President.

If Mr. C. E. Comyn was in any way mixed up with political parties in San Salvador at the time when he was arrested on the charge of a conspiracy against the life of the then President, whom I presume to be the President Dueñas mentioned in Mr. Gregory's letter, I think it open to doubt whether his arrest was not amongst the chances of the career which he has chosen, and I should be of opinion he would have a very faint claim, if any, for your Lordship's protection. Otherwise, I should be of opinion that he has some claim to compensation from the manner in which he was arrested, and the refusal of the authorities to allow him to communicate with the British Vice-Consul, but not on account of damage done to his character, of which he appears to have formed an exaggerated estimate.

I have, &c.
(Signed) TRAVERS TWISS.

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## Chile.

### No. 17.

*The Queen's Advocate to Earl Granville.*—(*Received February* 4.)

*Temple, February* 3, 1871.

My Lord,

I AM honoured with your Lordship's commands, signified in Lord Enfield's of the 30th ultimo, stating that he was directed to transmit to me a despatch with its inclosures, from Her Majesty's Chargé d'Affaires at Santiago, relative to the circumstances under which a marriage ceremony has taken place between two British subjects at the British Vice-Consulate at Coronel. Lord Enfield was also pleased to inclose a letter on this subject from the Registrar General, and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as the validity of the marriage in question.

In obedience to your Lordships's commands, I have the honour to report—

That the validity of the marriage in question is at least open to doubt. There may be circumstances in this case upon proof of which a Court might pronounce the marriage to be valid, but such circumstances are in my opinion not disclosed in the letter of Mr. Vice-Consul Schwager, which rather suggests that according to the law of Chili a civil ceremony ought to have preceded or followed the religious ceremony.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 18.

*The Queen's Advocate to Earl Granville.*—(*Received December* 22.)

*Temple, December* 21, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 18th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Chargé d'Affaires and Consul-General in Chili respecting the circumstances under which the interests of Messrs. Templeman and Co., as regards their mining property, are imperilled by the proceedings of the Governor of Freisnia in the Province of Altacama, and to request that I would take these papers into my consideration and furnish your Lordship with my opinion as to whether any, and what, instructions should be addressed to Her Majesty's Chargé d'Affaires respecting this matter.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Chargé d'Affaires may be properly instructed to give to Messrs. Templeman and Co. any unofficial assistance which they may require to procure for them a proper hearing in the Chilian Law Courts. The question being one involving a title to real property, is peculiarly a question of Chilian law, by which it must be governed, and to which Messrs. Templeman and Co. must appeal in the first instance, as properly pointed out to them by Her Majesty's Chargé d'Affaires.

I have, &c
(Signed) TRAVERS TWISS.

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## China.

### No. 19.

*The Queen's Advocate to Earl Granville.*—(*Received March* 23.)

*Temple, March* 22, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that, with reference to my Report of the 31st January last, he was directed to transmit to me two letters, with their inclosures, from the Colonial Office, relative to the capture of the British ships "Sophia Rickmers" and "Robert Rickmers," by French vessels-of-war, and he was to request that I would take these papers into my consideration, and inform your Lordship whether I see any reason to alter the opinion contained in my above-mentioned Report. The former papers in the case were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That I do not see any reason to vary the opinion expressed by me to your Lordship in my Report of the 31st January last.*

I have, &c.
(Signed) TRAVERS TWISS.

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* See France, p. 16.

1871

## No. 20.

*The Queen's Advocate to Earl Granville.*—(*Received March* 23.)

*Temple, March* 22, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed to transmit to me the accompanying despatches from Her Majesty's Consul at Shanghae, reporting the circumstances connected with the capture, in Chinese waters, of the British barque "Robert Rickmers," by the officer commanding the French naval squadron; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That it has been the long-established rule of the French Prize Courts not to allow the sale of an enemy's vessel to a neutral after the commencement of war to change its national character, so as to exempt it from capture on the high seas. The right of France to observe such a rule cannot be impugned, and the French Courts have acted upon it, both when France was at war with England in 1801 (the "Sechs Geschwestern," 4 ch. Rob., p. 100), and when France was the ally of England against Russia in 1854. Under these circumstances, although Great Britain may be content to observe a milder rule, as in the case of the "Ariel" (11 Moore, P. C., p. 119), upon which Mr. Rennie relied in advising Her Majesty's Consul at Shanghae, the rule of the English Courts is not binding upon France, and I am of opinion that Her Majesty's Consul at Shanghae made a mistake in protesting against the capture of the "Robert Rickmers" by the French Admiral.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 21.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 24.)

*Templi, March* 23, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us the inclosed correspondence with the Colonial Office* respecting the amendments to be effected in the Hong Kong and Macao Extradition Ordinance of 1869, and he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to whether the amended Ordinance, which had been received from the Governor of Hong Kong, was right and proper, and whether there was any objection to its being confirmed by Her Majesty.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we are of opinion that the amended Ordinance is right and proper, and that there is no objection, as far as we are aware, to its being confirmed by Her Majesty.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 22.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 24.)

*Temple, March* 23, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed to transmit to us a despatch from Her Majesty's Chargé d'Affaires at Peking, with its inclosures, in regard to the status of Sister Louise, a native of Ireland, and one of the French Sisters of Charity, who were massacred at Tient-sin in June last; and he was to request that we would take this despatch into our consideration, together with Clause 14 of the Order in Council of March 1865, herewith inclosed, relative to the registration of British subjects in China and Japan, and furnish your Lordship with our opinion as to whether the non-registration of Sister Louise at Her Majesty's Consulate does not affect her position as a British subject. A copy of the papers which have been presented to Parliament in connection with the Tient-sin massacre were also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That, the non-registration of Sister Louise, although it would have dis-entitled her from claiming protection as a British subject from Her Majesty's Consul at Tient-sin, if on application for his protection she could not have excused her neglect to his satisfaction, does not affect her international status as a British subject in any question which Her Majesty's Government may think fit to raise in regard to her treatment by the Chinese authorities.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 23.

*The Law Officers of the Crown to Earl Granville.*—(*Received May* 21.)

*Temple, May* 11, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed to transmit to us the accompanying despatch, with its inclosures, from Her Majesty's Chargé d'Affaires at Pekin, respecting a case which was tried before the Consular Court at Taiwan, the decision of which has been reversed by the Supreme Court at Shanghae. Mr. Hammond was pleased to request that we would take these papers into our consideration, together with the previous papers referred to by Mr. Wade, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the difference which exists between the Representative of Her Majesty at Pekin and Sir E. Hornby is rather one as to the spirit, in which proceedings, such as those of the British subjects who had been plundered of their camphor, should be regarded by the British authorities in China, than a difference as to the facts of the particular case. Mr. Wade is not prepared to differ from Sir E. Hornby's view of the facts, nor to question the correctness of his decision on those facts. We may say that we concur, on the whole, in the view which Sir E. Hornby took of the particular facts before him, and there does not seem anything to complain of in the language in which the Chief Judge conveyed his view. But Mr. Wade (judging probably from other cases and materials not before us) seems to apprehend some divergence of feeling between himself and the Chief Judge as to the leniency or stringency with which the English authorities, political or judicial, ought to deal with acts of a somewhat high-handed sort on the part of British subjects to redress undoubted wrongs committed on themselves in Chinese territory; the Chief Judge apparently thinking that to rely on the Chinese authorities is practically useless in such matters, the Minister thinking that on the whole and in course of time it is better for our interests to treat them as really civilized officials, and to rely upon the forms which have been found sufficient with other civilized countries. It is impossible for us, as Law Officers, to advise your Lordship which, as a matter of policy, is the better course to be pursued; as matter of argument it is obvious that much is to be said on either side. It might, however, be sufficient for your Lordship to say to Mr. Wade, if you think fit to do so, that you are advised that Sir E. Hornby's judgment does not appear to conflict either with the evidence in the case or with any known legal principle, but that you are very sensible of the importance of preserving, so far as possible, all outward respect and courtesy towards the Chinese authorities, and that you are not disposed to question the propriety of Mr. Wade's order to Mr. Hewlett not to publish Sir E. Hornby's decision in Formosa, nor, generally speaking, the wisdom of the principles on which Mr. Wade desires to act.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Colonial Office, February 9; to Colonial Office, February 12, 1870; Colonial Office, March 4, 1871.

1871

## No. 24.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 1.)

*Temple, November* 30, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us the accompanying letter, with its inclosures, from the Colonial Office, relative to the application of the Chinese authorities for the rendition of a Chinese criminal after the expiration of his sentence at Hong Kong, and he (Mr. Hammond) was to request that we would take the case into our consideration, and favour your Lordship with our opinion thereon.

In obedience to your Lordship's commands we have taken this case into consideration, and have the honour to report—

That the instructions conveyed to the officer administering the government of Hong Kong in the Earl of Kimberley's despatch of November 1871 are, in our opinion, right and proper.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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# France.

## No. 25.

*The Queen's Advocate to Earl Granville.*—(*Received January* 5.)

*Temple, January* 4, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 2nd instant, stating that he was directed to transmit to me a note from the French Chargé d'Affaires at this Court, communicating a copy of a note addressed by the French Government to the Prussian Government on the question of the liability of the officers and crews of captured merchants vessels to be treated as prisoners of war, and to request that I would furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That, the Comte de Chandordy is, in my opinion, justified in denying that the Declaration of Paris of 16th April, 1856, whereby "la course" is declared to be abolished, involves, as a question of principle, the abolition of the practice of treating the crews of enemy's merchant vessels as prisoners of war. The reasoning of Count Bismarck assumes that the crews of enemy's merchant vessels, when captured, have been hitherto treated as prisoners of war by reason of the vessels themselves being at any time convertible into privateers; but upon the same principle, the crews of neutral vessels, when captured, would have been liable to similar treatment. Neutral vessels might, according to the practice of nations, have at any time accepted letters of marque from the enemy. The true reason would seem to be that the crews of enemy's merchant vessels were regarded as enemies, precisely as the crews of neutral vessels, carrying contraband of war or seeking to break a blockade, were liable to be treated as prisoners of war, as being *quasi-hostes* as it were enemies by reason of their seeking to promote the interests of one belligerent to the disadvantage of the other.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 24*.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 20.)

*Temple, June* 19, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 10th instant, stating:—

1. That he was directed by your Lordship to state to us that in the course of an inquiry instituted by your Lordship into the Consular establishments in Turkey, it appeared that certain duties devolved upon the Legal Vice-Consul at Alexandria, an officer whose time was very fully occupied, which it would seem might be equally well performed by the Law Secretary.

2. That Mr. Lane, the Legal Vice-Consul at that place, was thereupon called on to report on the subject, and was instructed to specify the duties which he considered might be confided to the Law Secretary.

3. That the inclosed despatch contained his statement in reply; the Orders in Council under which he acted were also therewith transmitted, and Viscount Enfield was to request that we would favour your Lordship with our opinion whether an authorization from your Lordship would be sufficient to enable the Law Secretary to perform any and which of those duties.

4. That if such authorization would not be sufficient, your Lordship would be glad to learn in what manner we think the requisite permission could be given, and that your Lordship was averse, however, to the multiplication of Orders in Council, except in cases of actual necessity.

In obedience to your Lordship's commands we have the honour to report—

That we have no information as to the authority under which Dr. Arpa holds the office of Law Secretary of Her Majesty's Consular Court of Egypt, nor as to the functions exercised by him.

We find no provision in the Order in Council of the 30th November, 1864, for the appointment of any such officer except in the case of the Supreme Consular Court of Constantinople.

Under these circumstances, as we are at present informed, we are of opinion that it will be necessary for an Order in Council to be passed, if your Lordship holds it to be desirable to relieve the Legal Vice-Consul in Egypt of a portion of the duties heretofore discharged by him and to impose them upon a Law Secretary, and that those duties should be specified in the Order in Council, as in the case of the Law Secretary of the Supreme Consular Court.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 26.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 9.)

*Temple, January* 9, 1871.

My Lord,

WE are honoured with your Lordship's commands, signified in Mr. Hammond's letter of the 6th instant, stating—

1. That, since the receipt of our Report of the 30th ultimo, respecting the proposed new telegraph cable between the French and English coasts, he was directed by your Lordship to inform us that it appeared from a communication made to the Foreign Office that day (*i.e.*, the 6th instant) by Mr. Scudamore, the second Secretary to the Postmaster-General, that as the question appeared to be one of a pressing nature, the letter from the Post Office, of the 29th ultimo, which formed the subject of our Report of the 30th December, had been sent off without in the first instance being submitted to the Postmaster-General, who was absent from London at the time.

2. That Lord Hartington having since been made cognizant of that correspondence, had observed that the Department, acting on the advice of the Law Officers, given partly on the information contained in the Post Office letter, had, as your Lordship apprehended, arrived at an erroneous conclusion, or at least had come to a decision on incorrect grounds. That his Lordship apprehended that the tone of the Post Office letter had caused statements, which in themselves were accurate, to be altogether misinterpreted. That his Lordship observed that it was perfectly true that, but for the war, the proposal for the additional cable would not have been made by the French Government, or entertained by the Submarine Telegraph Company, and also that a single wire would be of great use to the Government, and but little to the public, but Lord Hartington doubted the accuracy of the assertion that it was "necessitated by the military requirements of the French Government," or, that it "would be employed almost exclusively for French military purposes." No doubt his Lordship observed the line might be employed, as suggested, as an indirect means of communication between the different armies of France, but Lord Hartington expressed his doubts whether this would have been its principal object. He observed that it was quite conceivable that the French Government might wish to be in direct telegraphic communication with this country, and through this country with the rest of the world for other than military purposes; that it was possible also that the post might be used for the purposes suggested, but that the Post Office had not hesitated to make the best arrangements in their power to restore communication which had been interrupted.

3. That Lord Hartington proceeded to say that, in his opinion, the prohibition which seemed to have been given was an unfriendly, and, as he should have almost considered, an unneutral act, and, in conclusion, the Postmaster-General, after again expressing his apprehension that the remarks contained in the Post Office letter had been misunderstood, requested that, unless any reasons existed which did not appear on the papers, for supposing that the cable was required for military purposes, the matter might be again taken into consideration.

That Mr. Hammond was accordingly to request that we would again consider this matter together, with the observations of the Postmaster-General as therein expressed, and that we would inform your Lordship, at our earliest convenience, whether we saw any reason to alter or modify, and, if so, to what extent, the opinion which we had already given on the subject.

In obedience to your Lordship's commands we have again considered this matter, and have the honour to report—

That the observations of Lord Hartington, as reported to us by your Lordship's desire, place us in some difficulty; for Lord Hartington observes that the statements in the last three paragraphs of Mr. Scudamore's letter are in themselves accurate, but that the tone of that letter has possibly misled us.

We are unable to distinguish between the statements in the letter and the tone of it, and it was upon the statements now said by Lord Hartington to be accurate that we based our Report. They appear to us still entirely to justify it. If indeed Mr. Scudamore has misinformed us, we shall of course be ready to change or modify our Report, but until we are informed in what particular his letter was inaccurate, we are unable to do so.

We have, &c.

(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 27.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 16.)

*Temple, January* 16, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating—

1. That he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Ambassador at Bordeaux, inclosing a copy of a letter from Mr. Robert William Kirby, who appeared to be a British subject, and had for some time past been established at La Torté Imbault, in the Department of the Loire-et-Cher, and who complained of the ill-treatment experienced by himself and his family at the hands of German troops, not only in regard to requisitions levied by them, but also to acts of personal violence.

2. That Mr. Hammond inclosed a copy of a despatch which your Lordship proposed to address to Lord Lyons instructing his Excellency to inform Mr. Kirby of the reasons for which Her Majesty's Government do not consider themselves justified in interfering in this case, and which was founded upon the opinion contained in our letter of the 26th August last, in regard to the liability of British subjects to requisitions when residing in countries which were the scene of military operations, and that Mr. Hammond was to add that your Lordship would be glad to be favoured with our opinion whether there was anything in the present case which should induce your Lordship to alter or modify the instruction which it was proposed to address to Lord Lyons.

In obedience to your Lordship's commands we have the honour to report—

That there is nothing in the present case which in our opinion should induce your Lordship to alter or modify the instruction which it is proposed to address to Lord Lyons.

It is rather the Prussian Government than the French who should be addressed upon the subject; but if the Prussian Minister were applied to, he would reply with truth that things of this sort are inseparable from war, and that an English resident in France cannot, for these purposes, be distinguished from a Frenchman.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 28.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 20.)

*Temple, January* 20, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed to acquaint us that the French Light-house authorities, being unable to get their materials, &c., for lamps from Paris as usual, have applied to the Trinity House to supply them from English sources; and to request that we would inform your Lordship whether there is any objection to this application being complied with.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there is no objection to the application being complied with.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 29.

*The Queen's Advocate to Earl Granville.*—(*Received February* 1.)

*Temple, January* 31, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 30th instant, stating that he was directed to transmit to me a letter from Mr. Peter A. Rickmers, a native of Heligoland, requesting the interference of Her Majesty's Government with a view to obtaining the release of his vessel, the "Sophie Rickmers," which has been captured and taken into the port of Saigon by French cruizers; and he was to request that I would take this letter into my consideration, and furnish your Lordship, at my early convenience, with my opinion whether any and what instructions should be addressed to Her Majesty's Consul at Saigon on this subject.

In obedience to your Lordship's commands, I have the honour to report—

That this is not a case in which your Lordship would be justified, from considerations either of municipal or of international law, in instructing Her Majesty's Consul at Saigon to intervene. The statement of Mr. Rickmers does not show that he was qualified to become the owner of a British ship on the 10th November last, when he alleges that he purchased the "Sophie Rickmers." Assuming him to be a natural born British subject, although he does not state that he was born within Her Majesty's dominions, I am of opinion that he disqualified himself to be the owner of a British ship by taking an oath of allegiance to the Free State of Bremen; and he does not show that he has complied with the requirements of the "Merchant Shipping Act, 1854" (17 and 18 Vict., c. 104, s. 18), so as to regain a qualification. The Act 7 and 8 Vict., c. 66, to which he refers, has no application to his case; besides, it was repealed prior to the 26th July last, when he says that he conformed to its provisions. But upon the most favourable view which can be taken of Mr. Rickmer's title to be the owner of a British ship, and of the circumstances of the sale and the registration of the vessel, I am of opinion that, upon principles of international law, your Lordship would not be justified in intervening diplomatically on his behalf. It is for the Prize Court of the captors to determine whether the "Sophie Rickmers" is good prize of war; and I am of opinion that the French Prize Courts, if they observe their long-established practice, will not recognize the sale of an enemy's vessel made in a neutral port after the commencement of the war, the necessity of such sale being caused by the exigencies of the war, and the object of such sale being to defeat the exercise of belligerent right as regards the capture of enemy's property on the high seas.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 30.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 28.)

*Temple, February* 27, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us the accompanying letters, dated 22nd and 24th instant, and their inclosures, from Messrs. Montgredien, Ellerby, and Co., referring to a contract entered into by them with the French Government for a supply of flour for the revictualling of Paris, and the terms of which they stated had not been observed by that Government; and he was to request that we would take those papers into our consideration, and favour your Lordship, at our earliest convenience, with our opinion upon the case as stated by the applicants, and also upon the steps, if any, which it would be proper for Her Majesty's Government to take therein.

In obedience to your Lordship's commands, we have the honour to report—

That Messrs. Montgredien, Ellerby, and Co. should be informed that Her Majesty's Government cannot interfere in the present stage of their correspondence with the French Government. It does not appear that the French Government wishes to repudiate the purchase of the corn, but it declines to pay for it until after delivery; and we do not find amongst the papers appended to the first letter addressed to your Lordship by Messrs. Montgredien, Ellerby and Co. any undertaking on the part of M. Cuvillier that the payments should be made against delivery. We do not even find it distinctly stated that there was any verbal promise to this effect, though this seems to be implied by the language of Messrs. Montgredien, Ellerby, and Co. On the contrary, it appears from their own statement that they forwarded the corn to France, and handed over the invoices to M. Cuvillier, with a full knowledge that no credit had been opened for them by the French Government with Messrs. Rothschild and Co.

We are accordingly unable to advise your Lordship that there has been hitherto

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any breach of contract on the part of the French Government which would warrant the intervention of Her Majesty's Government.

Messrs. Montgredien, Ellerby, and Co. should be further informed that if they decline to adopt the course pointed out by the French Government in the telegram from Paris of the 23rd instant, they should take such measures as prudent merchants would take under similar circumstances where they had entered into a contract with a mercantile house, such, in fact, as they have themselves indicated in their letter to Paris of 21st February.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 31.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 28.)

*Temple, February* 28, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that he was directed by your Lordship to transmit to us an accompanying despatch from Mr. West, in charge of Her Majesty's Embassy at Paris, requesting instructions as to the answer which he should return to the numerous applications addressed to the Embassy, on the part of British subjects whose property had been destroyed during the war, for indemnity for the losses alleged to have been sustained by them; and that he was to request that we would take this matter into our consideration, and favour your Lordship with our opinion as to the nature of the answer which should be returned to such applications.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That your Lordship cannot, we think, at present lay down any general rule for the guidance of Mr. West, in the answer which should be returned to such applications, further than that Her Majesty's subjects resident in France, whose property has been destroyed during the war, cannot expect to be compensated on the ground of their being British subjects, for losses which the necessities of war have brought upon them in common with French subjects.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 32.

*The Queen's Advocate to Earl Granville.*—(*Received March* 7.)

*Temple, March* 6, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed to transmit to me a letter from the solicitor to the executors of the late Marquis of Hertford, requesting that Her Majesty's Ambassador at Paris may be authorized to receive Lord Hertford's will from the French authorities, and to transmit it to the Court of Probate; and Mr. Hammond was pleased to request that I would furnish your Lordship with my opinion as to the answer that should be returned to this application.

In obedience to your Lordship's commands I have the honour to report—

That I see no objection to Her Majesty's Consul receiving the will for transmission to Her Majesty's Court of Probate, if the French Courts, upon the application of the executors, are willing to hand it over to Her Majesty's Consul for that purpose; but Her Majesty's Consul should not, in my opinion, make any application to the French Courts, nor intermeddle in any way, except Ministerially, to facilitate the transmission of the will, under the very peculiar circumstances in which the executors are placed by the occurrence of the war.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 33.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 23.)

*Temple, March* 23, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed to acquaint us that the following question will be asked in the House of Commons, on Friday, the 24th instant:—"Whether the opinion of the Law Officers of the Crown has been taken upon the liability of the French Government to compensate British subjects resident in France for loss and damage to their property during the late war?" and Mr. Hammond was pleased to request that we would report to your Lordship, at our earliest convenience, whether in our opinion the French Government is liable for such loss and damage to their property.

In obedience to your Lordship's commands we have the honour to report—

That British subjects resident in France would have, in our opinion, no just ground of complaint against the French authorities in the event of their property having been destroyed by the invading armies. Their losses, under such circumstances, would be amongst the inevitable consequences of war raging in a State within which they have chosen, as foreigners, to take up their residence. With regard to such losses, we are of opinion that British subjects would not be entitled to claim any compensation from the French authorities.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 34.

*The Queen's Advocate to Earl Granville.*—(*Received April* 9.)

*Temple, April* 6, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed to transmit to me the accompanying despatch from Mr. Malet, who is in charge of the British Embassy at Paris, referring to certain cases in which he had been applied to by Irishmen who had been serving in the French army, and had received their discharge, for assistance to enable them to return home.

That as Mr. Malet's despatch raises the wider question of whether British subjects who have voluntarily entered the French service are entitled, on the termination of such service, to be repatriated at the public expense, your Lordship would be glad if I would take this matter into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that the question raised in Mr. Hammond's letter is a question of circumstances, and that it would be unwise for your Lordship to lay down a rule that, under no circumstances should Her Majesty's Government assist a British subject in distress, who had violated the Foreign Enlistment Act, 1870, to return to his native country.

Mr. Malet, however, may, in my opinion, be properly instructed that such assistance should only be given in the last resort, where it is established to his satisfaction that the applicant is *bonâ fide* desirous to return to his native country, and has no other means whatever to enable him to do so.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 35.

*The Queen's Advocate to Earl Granville.*—(*Received April* 8.)

*Temple, April* 6, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed to transmit to me the accom-

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panying despatch and its inclosures received from Mr. Malet, who is in charge of the British Embassy at Paris, from which it appears that, in consequence of an application made to him by an English horse-dealer for protection against a requisition for horses, which was being carried out by order of the Central Committee of Paris, Mr. Malet had, on the declaration of the horse-dealer that the animals upon his premises were *bonâ fide* his own property, furnished him with a certificate to that effect: and Mr. Hammond was pleased to request that I would furnish your Lordship with my opinion whether such a certificate could properly be given by Mr. Malet upon a simple declaration, and what liability he would thereby incur on account of Her Majesty's Government in the event of his certificate being disregarded.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Mr. Malet's certificate goes too far. He was, I think, justified in allowing Mr. Bartlett, under the circumstances to make the declaration before him which he countersigned, but he should have stopped there, the matter upon which the certificate bears being a matter of fact not within his knowledge, otherwise than by the declaration of Mr. Bartlett. I do not think that Mr. Malet will have incurred any liability on account of Her Majesty's Government in the event of his certificate being disregarded.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 36.

*The Law Officers of the Crown to Earl Granville.*—(*Received April* 10.)

*Temple, April* 10, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating—

1. That he was directed by your Lordship to transmit to us the inclosed correspondence which had passed between the Foreign Office and Mr. Charles Stewart* respecting the losses which he stated he had sustained by the occupation of his houses in Paris and the neighbourhood by French troops during the war.

2. That Mr. Stewart, as we would perceive, was answered, upon the receipt of his first letter, according to the terms of our Report of the 23rd ultimo; but he now submits that his case does not come within the terms of those which formed the subject of our opinion, inasmuch as there was "no destruction of property by invading armies," but that the damage was caused in consequence of the occupation of his property by French troops, which property had been vacated by orders of the French authorities themselves.

3. That Mr. Hammond was accordingly to request that we would take Mr. Stewart's case into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Stewart should be informed that Her Majesty's subjects resident in France cannot of right claim to be in a better position in respect of their immovable property in France than French subjects; and that if Mr. Stewart has been correctly informed as to the law of France, the intervention of Her Majesty's Government will not be required to enable him to prefer a claim before the French authorities to compensation for any losses resulting to him from the occupation of his houses by French troops. But whether he has been correctly informed, or not, Her Majesty's Government cannot intervene if Mr. Stewart receives at the hands of the French Government the same treatment which French subjects themselves receive.

With regard to Mr. Stewart's allusion to the case of the British ships which were sunk at Rouen, we may observe that there is no analogy between ships and immovable property, and that we advised in that case upon the assumption, which we believe was correct, that the ships in question had gone up to Rouen to unload their cargoes, under a promise or understanding that they would be permitted to return in safety.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Mr. Stewart, March 22; to Mr. Stewart, March 28; Mr. Stewart, March 30, 1871.

## No. 37.

*The Queen's Advocate to Earl Granville.*—(*Received April* 17.)

*Temple, April* 15, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 12th instant, stating that he was directed to transmit to me the accompanying letter from the Rev. J. G. Orger, inquiring as to the validity in England of marriages solemnized under the circumstances therein set forth; and to request that I would take the matter into my consideration, and report to your Lordship my opinion as to the answer which should be returned to Mr. Orger on the subject.

In obedience to your Lordship's commands I have the honour to report—

That assuming all the formalities required by the law of France to have been complied with in this case, so that the marriage contracted before the Mayor of Dinan is a valid marriage according to the *lex loci*, I am of opinion that it is a valid marriage for English purposes, equally with a marriage solemnized under the Consular Marriage Act.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 38.

*The Queen's Advocate to Earl Granville.*—(*Received April* 22.)

*Temple, April* 21, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 18th instant, stating that he was directed to transmit to me a despatch from Mr. Malet, who is in charge of Her Majesty's Embassy at Paris, relative to an application which has been made to him by an English engineering firm for protection, in case they should be called upon by the Commune to manufacture arms. Lord Enfield was pleased to request that I would furnish your Lordship with my opinion as to the answer which Mr. Malet should be instructed to return to this application.

In obedience to your Lordship's commands, I have the honour to report—

That I am of opinion that Messrs. Varral, Elwell, and Middleton will be entitled to claim for their persons, as British subjects, the protection of Her Majesty's Government, if they should be seized and imprisoned for a refusal to comply with an order of the insurgents to open their works, which I understand from Mr. Thomas Elwell's letter it was their intention to close on the 15th instant, but they would not be entitled to claim the protection of Her Majesty's Government for their property if the Commune should seize upon it.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 39.

*The Law Officers of the Crown to Earl Granville.*—(*Received May* 2.)

*Temple, April* 29, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating:—

1st. That he was directed by your Lordship to transmit to us the accompanying letter from Messrs. E. W. Johnson and Company, putting forward a claim to indemnity on account of a quantity of coals, amounting to 150 tons, forming part of a cargo shipped by them for delivery in Paris, and which had been seized by the insurgents in that city, and asking what steps it was necessary for them to take in order to obtain redress from the French Government.

2nd. That Mr. Hammond would be glad to be favoured with our opinion as to the answer which it would be proper to return to Messrs. Johnson's letter, and, further, whethe the principle laid down in our letter of the 23rd March last, and in previous reports, to the non-liability of the French Government for injury sustained by British ects resident in France in consequence of the state of war existing between France Prussia, applied equally to those cases in which loss might have been

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sustained by British subjects either at the hands of the party now opposed to the recognized Government or in consequence of the hostile operations of those two parties.

In obedience to your Lordship's commands, we have the honour to report—

That we are of opinion that the French Government cannot properly be held responsible to Her Majesty's Government for the injuries done to the property of British subjects in parts of France which are not under the political control of that Government, and therefore that Mr. Johnson has no claim of right against the Government at Versailles for compensation on account of injuries done to his property by the agents of the Commune at Paris.

Whether the French Government hereafter, or if it should succeed in re-establishing its authority in Paris and mastering the insurrection, will be disposed to compensate foreigners for requisitions made upon their property by the insurgents, is a question upon which your Lordship is better able to form a correct opinion than ourselves. But we would observe that a distinction may well be made by that Government between the losses which have resulted to British subjects in France from the invasion of that country by the German armies during the late war between France and Prussia, and losses resulting to British subjects from the civil war which at present exists in France, and that whilst the French Government will be justified in refusing to make the slightest compensation in the former case to British subjects for the destruction of their property by the subjects of other Powers, they may feel called upon in the latter case, but only as a matter of equity, to make some compensation to British subjects for losses inflicted upon them by French subjects, notwithstanding there has been no effort wanting on the part of that Government to put down the insurrection. We say "only as a matter of equity" because we think that when a Government has spared no effort on its part to control an insurrection, foreigners can have no claim of right against it for compensation on account of losses to which they have been exposed, in common with the subjects of the Government, and from which the Government has been powerless to protect its own subjects.

We should advise that an answer should be given to Mr. Johnson to the effect that your Lordship is not prepared to make any demand, as of right, against the French Government for compensation to be made to British subjects on account of injuries done to their property by the agents of the Commune, but that, in case the French Government should hereafter intimate its willingness to listen to any such claims, the good offices of Her Majesty's Government will be at the service of Mr. Johnson upon its having been established to the satisfaction of Her Majesty's Government that the interest in the goods when seized was exclusively British.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 40.

*The Queen's Advocate to Earl Granville.—(Received May 4.)*

*Temple, May* 3, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed to transmit to me the accompanying despatch and its inclosures received from Her Majesty's Ambassador in France, with reference to the arrest of Mr. George J. Spelman, a British subject, by the Communist authorities in Paris, whilst, as he states, he was proceeding to give an English lesson to one of his pupils in that city. That Mr. Spelman, as I should perceive, claims a pecuniary indemnity on account of this outrage, and the punishment of the principal parties concerned. Mr. Hammond was pleased to request that I would take this case into my consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Her Majesty's Ambassador at Paris has taken a correct view of Mr. Spelman's case, and that your Lordship cannot properly make any demand against the French Government for a pecuniary indemnity to be made to Mr. Spelman for the indignities to which he reports himself to have been exposed at the hands of the insurgents in Paris. With regard to his suggestion that Her Majesty's Government should make a demand for compensation on his behalf against the Commune of Paris, I am of opinion that your Lordship cannot properly make any such demand, unless Her Majesty's Government has recognized the Government of the insurgents in Paris as a *de facto* Government, which I apprehend not to be the case.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 41.

*The Queen's Advocate to Earl Granville.—(Received May 17.)*

*Temple, May* 16, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Ambassador at Versailles, inclosing an application for his official intervention which has been addressed to him by Mr. J. R. Curtis, a British-born subject, naturalized in Prussia, Mr. Hammond was pleased to request that I would furnish your Lordship with my opinion as to the course which Lord Lyons should be instructed to pursue in this case.

In obedience to your Lordship's commands I have the honour to report—

That his Excellency Lord Lyons is correct in his view that this is not a case in which Her Majesty's Government would be justified in intervening. Mr. J. R. Curtis should be informed by Lord Lyons that as Messrs. Porter and Co. have suffered, as he represents, by a wrongful judgment of an inferior French Court in a matter within its jurisdiction, they must proceed in the ordinary manner, as pointed out by the French Law of Procedure, to obtain a reversion of that judgment by the competent Court of Appeal.

I have, &c
(Signed) TRAVERS TWISS.

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## No. 42.

*The Law Officers of the Crown to Earl Granville.—(Received June 10.)*

*Temple, June* 10, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that with reference to his letter of the 6th instant he was directed by your Lordship to transmit to us an accompanying letter from Messrs. Carver, Darbishire, and Co., who stated that a large quantity of provisions shipped by them to Paris in the month of February last, and which they were compelled by the Communist authorities to store in the Grenier d'Abondance, were destroyed in the recent conflagrations in Paris, and that they claim compensation from the French Government for the loss they have sustained; and further stating that Mr. Hammond was to request that we would take that letter into our consideration, and favour your Lordship, at our earliest convenience, with our opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands we have taken the said letter into our consideration, and have the honour to report—

That Messrs. Carver, Darbishire, and Co. should be informed that they have no privilege over French citizens, and that they must ascertain and adopt the course which French citizens may pursue in claims like their own.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 43.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 10.)

*Temple, June* 10, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating—

1. That he was directed by your Lordship to transmit to us a despatch from Lord Lyons inclosing a copy of a letter addressed to him by Mr. Myers, who stated that he was a British subject, asking his Excellency's intervention to obtain for him compensation for the loss of merchandize burnt in the recent conflagration in the docks at La Villette.

2. That as Lord Lyons anticipated receiving other applications of a similar nature from British subjects who had suffered in consequence of the recent struggle in Paris and its neighbourhood, he was to request that we would favour your Lordship, at our earliest convenience, with our opinion as to the instructions which should be given to Her Majesty's Ambassador in the present, and any cases of a like nature.

In obedience to your Lordship's commands we have the honour to report—

That, before reporting to your Lordship on this case, as your Lordship's decision may govern many other cases, we should wish to be informed under what conditions the goods of Mr. Myers were received into the docks at La Villette.

Mr. Myers states in his letter to Lord Lyons of June 2nd that the goods were for the most part under the charge of the French Customs "en Douane," but he does not say for what purpose they were so under charge. We think it probable they were so under charge for the sole benefit of Mr. Myers, in which case, upon the ordinary principles of jurisprudence applicable to "deposits" the French authorities would only be answerable to Mr. Myers for gross neglect, whereas the destruction of the docks was brought about by fire in consequence of an insurrection, which the French Government could not control, notwithstanding its utmost efforts to master it.

We have, &c.

(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 44.

*The Queen's Advocate to Earl Granville.*—(*Received June* 19.)

*Temple, June* 17, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 15th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Consul at Bordeaux, inquiring whether service on board a British merchant-ship can be considered as residence in Great Britain within the meaning of the Naturalization Act, and to request that I would take this matter into my consideration, and report to your Lordship what answer should, in my opinion, be made to Mr. Hunt's question.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that service on board a British merchant-ship cannot be considered as residence in the United Kingdom, under the provisions of section 7 of the Naturalization Act of 1870.

I have, &c.

(Signed) TRAVERS TWISS.

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### No. 45.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 20.)

*Temple, June* 20, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Ambassador at Paris, inclosing a copy of a letter from Mr. George Hewitt, inquiring whether he was entitled to compensation for the destruction of two houses belonging to him at Asnières, which had been burnt by shells during the late struggle between the French Government troops and the insurgents.

That Lord Lyons had been instructed in regard to the answer to be returned to claims for compensation for the destruction of the immovable property of British subjects during the late war between the German and French Governments, but since, as he observed, claimants would no doubt take a distinction between a regular war and a species of civil war such as had lately raged in and around Paris, his Excellency was anxious to be furnished with authoritative instructions upon that subject, and he (Mr. Hammond) was, therefore, to request us to favour your Lordship with our opinion as to the answer which should be returned to Lord Lyons' despatch.

In obedience to your Lordship's commands we have taken the above despatch into consideration, and have the honour to report—

That Mr. George Hewitt should be informed that, with regard to the destruction of his houses at Villette by shells during the contest between the troops of the French Government and the insurgents, he cannot claim to be in any better position than a French citizen.

That he must wait to see what course the French Government is prepared to adopt with regard to the destruction under similar circumstances of the houses of loyal French citizens; and that Her Majesty's Government is not disposed to claim, on behalf of British subjects who have established themselves in France, any privilege by way of compensation for the destruction of their immovable property under such circumstances which shall not be accorded by the French Government to loyal French citizens.

We have, &c.

(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 46.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 20.)

*Temple, June* 20, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the confidentially inclosed papers* relative to the Treaty engagements between this country and France in regard to commerce, and to request that, with reference to Article XXI of the Treaty, we would favour your Lordship with our opinion whether the French Government could renounce the Commercial Treaty without a year's notice, and, if not, from what time the year's notice would date.

And that your Lordship would be glad to learn further our opinion whether and to what extent the paragraph at p. 3 of the Second Supplementary Convention, "It is further understood that if drawbacks are granted to other articles of French manufacture, the duties of Customs which are imposed upon similar articles of British origin or manufacture shall be augmented by a surtax equal to the amount of the drawbacks," gives the French Government power to modify the Treaty.

In obedience to your Lordship's commands we have the honour to report—

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* Treaty of January 23, 1860; Additional Article; second Additional Article; first Supplementary Convention; second Supplementary Convention.

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That the French Government are not entitled in our opinion to renounce the Commercial Treaty without a year's notice, but they are at liberty to give to Her Majesty's Government a year's notice on any day at their own discretion. With regard to the effect of the paragraph at the bottom of p. 3 of the Second Supplementary Convention we should wish to defer our opinion, and request meanwhile to be informed in what sense the word "drawbacks" was intended to be used by the framers of the Convention, and whether we may assume it to be used in the ordinary sense of a reduction or repayment of the excise duty upon articles of French manufacture which are exported to foreign countries.

We are, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 47.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 22.)

*Temple, June* 21, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Ambassador at Paris, inclosing a copy of a letter from Mr. Alan Metcalfe representing that a quantity of compressed hay, valued by him at 168*l*., and exported by him to Paris in March last, had been taken possession of by the Commune, and asking for Lord Lyons' intervention in order to obtain redress.

And that he was to request to favour your Lordship with our opinion as to the instructions which should be addressed to Lord Lyons on that subject, and which might meet any similar cases in which goods belonging to British subjects had been seized by the Commune, which Lord Lyons anticipated would be numerous.

In obedience to your Lordship's commands we have taken the despatch into our consideration, and have the honour to report—

That Mr. Alan Metcalfe should be informed that he cannot claim to be in a better position as regards the loss of his hay than a loyal French citizen; that he must wait and see what course is adopted by loyal French citizens to bring their respective losses to the attention of the French Government; and that he will do well to pursue the same course when the proper time arrives.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 48.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 22.)

*Temple, June* 21, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence with Messrs. Robert von Glehn and Sons, referring to the destruction in consequence of the recent fire at Villette of a quantity of coffee belonging to them, and then lying in the bonded warehouse of the Magasins Généraux, and inquiring whether Her Majesty's Government would take steps to obtain an indemnity for them from the French Government.

And that he was to request us to take the case into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to the applicants.

In obedience to your Lordship's commands we have taken this case into consideration, and have the honour to report—

That Messrs. Robert von Glehn and Sons should be informed that British subjects cannot claim to be in a better position than French citizens in regard to any merchandize deposited on their account in the Magasins Généraux at La Villette, which has been destroyed in consequence of the recent fire; that they must wait and see what course the French Government will adopt in regard to the property of French citizens destroyed under similar circumstances. We have assumed that the members of the firm of Messrs. Robert von Glehn and Sons are exclusively British subjects, and as such entitled to the protection or good offices, as the case may be, of Her Majesty's Government; but we observe that the firm sounds to the ear German, and it may be advisable for your Lordship to require information, if any further application should be made on behalf of the firm, as to what persons constitute the firm, and whether all its members are of British nationality.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 49.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 26.)

*Temple, June* 24, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Paris inclosing correspondence on the subject of the imprisonment in the fortress of Bitche of Mr. Frederick John Apel, who claimed the intervention of Her Majesty's Government to obtain compensation from the French Government; and that he (Mr. Hammond) was to request us to furnish your Lordship with our opinion as to the instructions which should be sent to Lord Lyons respecting that case.

In obedience to youe Lordship's commands we have taken this matter into consideration, and have the honour to report—

That the circumstances under which Mr. John Apel was captured and imprisoned in the fortress of Bitche are not, in our opinion, such as would warrant your Lordship in making any demand upon the French Government for compensation to be made to him for his imprisonment. It is admitted by Mr. John Apel that he was domiciled in Germany at the time when he set out from Neustadt; that he was travelling under the protection of German papers; that he was employed on an errand most hostile to the French, namely, in selling maps of the country to the German armies, and that when he was captured he was preparing to take a sketch of a French fortress, which had already been attacked by the Germans and was expecting a fresh assault and siege. Under these circumstances we are of opinion that the papers and employment alone of Mr. John Apel entitled the Commandant of the fortress to treat him as an enemy, and that, if Mr. John Apel had otherwise claims to your Lordship's protection as a natural-born subject of the Queen, he would have forfeited such claim in virtue of his hostile employment at the time of his arrest. We are further of opinion that the fact of Mr. John Apel's German domicile deprives him of any right which he might have had on the ground of his birth in this country to require the interference of Her Majesty's Government on his behalf.

We consider, therefore, that both of the questions submitted to your Lordship in Lord Lyons' despatch of the 14th June last should be answered in the negative.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 50.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 26.)

*Temple, June* 26, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that, upon receipt of our Report of the 10th instant, Lord Lyons was instructed to furnish the additional information required by us to enable us to reply to the reference from the Foreign Office of the 8th instant in regard

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to Mr. Myers' application for Lord Lyons' intervention to obtain compensation for him for loss of merchandize lately burnt in the docks of La Villette, and that he was then to transmit to us, together with previous papers, a despatch (further) from Lord Lyons containing the additional information supplied by Mr. Myers.

In obedience to your Lordship's commands we have taken Lord Lyons' further despatch into consideration, and have the honour to report—

That it appears from the letter of Mr. Henry Myers of the 16th June, that his goods were in deposit in a bonded warehouse at La Villette, of which the Northern Railway Company was either the owner or the lessee, and that the Company was, in fact, the depository, upon whom the obligation of safe custody in respect of such goods would, in law, devolve. We do not think that the circumstance of the warehouse being under the surveillance of the French Douane constituted the French Government the bailee of the goods, so as to make them responsible to Mr. Henry Myers for their loss, even assuming that, under the circumstances, any responsibility for their destruction by fire would devolve upon the depositary.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 51.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 6.)

*Temple, July* 5, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. J. F. Boyd, stating that he (Mr. Boyd) desired to make a claim against the French Government for the amount, not then ascertained, of a loss which he stated he had sustained in sending provisions to Paris at the period of the raising of the siege, and which he had forwarded on the faith of a notification published in the London newspapers on behalf of the French Embassy containing directions for the guidance of the British trade in sending provisions for the revictualling of Paris.

That Mr. Boyd's letter explained the circumstances under which, after communication with the French Agent at Dieppe, and, as it was stated, at his invitation, he had dispatched certain provisions, which, however, that agent ultimately declined to accept, and from which occurrence had arisen the loss for which Mr. Boyd desired to make his claim, and which he was desirous of having sent in through the Foreign Office.

And that he was to request us to take the case into consideration and favour your Lordship with our opinion as to the answer which should be retured to Mr. Boyd's application.

In obedience to your Lordship's commands we have taken the case into consideration, and have the honour to report—

That Mr. Boyd should be informed that the proper course for him to adopt is to bring his claim to the attention of the French Government in the usual manner of merchants if he considers that he can establish a breach of contract on the part of an authorized agent of the French Government at Dieppe, from which damages have accrued. That Her Majesty's Government cannot undertake to present Mr. Boyd's claim to the French Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 52.

*The Queen's Advocate to Earl Granville.*—(*Received July* 20.)

*Temple, July* 19, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 17th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Ambassador at Paris, inclosing a copy of a letter from a Mr. Stuart Mackenzie, who applies for the intervention of Her Majesty's Government to obtain compensation for the losses he sustained in consequence of having to lodge French troops during the war, and having had a store belonging to him plundered by them. Mr. Odo Russell was pleased to request that I would take these papers into my consideration and inform your Lordship whether there are, in my opinion, any special circumstances in Mr. Stuart Mackenzie's case which would justify interference in his behalf on the part of Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That it would appear from Mr. Stuart Mackenzie's statement that he claims compensation from the French Government on two grounds: first, that he was compelled to find lodging for numerous troops; second, that his house at Asnières-le-Bourges was plundered by ill-disciplined soldiers. Upon the first ground I am of opinion that he has no title to compensation. The billeting of French troops under the circumstances upon the inhabitants of Asnières-le-Bourges was an inevitable incident of the war, to which French subjects seem to have been exposed equally with foreign residents. On the second ground, however, I am of opinion that Mr. Stuart Mackenzie has *primâ facie* a just claim on the French Government for compensation, inasmuch as the plundering of his house was not an inevitable incident of the war, but apparently the result of the lax discipline of the troops. Before, however, Lord Lyons is instructed by your Lordship to make any representation to the French Government in behalf of Mr. Stuart Mackenzie, I think it would be advisable that he should be required to furnish Lord Lyons with a more accurate statement, and to distinguish between the losses which he estimates himself to have incurred from the lodging of the soldiers, and the losses of which he is able to give evidence that they were the result of wanton plunder.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 53.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 29.)

*Temple, July* 28, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 22nd instant, stating that, with reference to our Report of the 20th ultimo, advising your Lordship that British subjects established in France could not claim any privileges in respect to compensation for the destruction of their immovable property during the late civil war, beyond those accorded by the French Government to loyal citizens, he was directed by your Lordship to transmit to us a despatch from Lord Lyons asking for instructions as to the answer he should give to applications from British subjects in regard to the destruction or plunder during the recent military operations of movable property belonging to them in houses hired by them. A letter respecting the case of Miss Galloway, who is stated to have been completely ruined by the destruction of her property, was also inclosed, and Mr. Odo Russell was pleased to request that we would furnish your Lordship with our opinion as to the instructions which should be sent to his Excellency, especially with regard to this case, and generally as to applications of a similar nature which may be made to him.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that Miss Galloway has no privilege over French subjects, and that she must ascertain and adopt the course which they pursue in claims like her own, and that Lord Lyons may properly inform her that he cannot undertake to bring any claim on her behalf to the notice of the French Government until he has been able to ascertain what course the French Government intends to adopt with regard to the claims of loyal French subjects, whose property has been destroyed under similar circumstances. We suggest that an answer to the like effect may be properly given by Lord Lyons to applications of a similar nature, subject, of course, to special cases being treated specially.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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### No. 54.

*The Queen's Advocate to Earl Granville.*—(*Received August* 12.)

*Temple, August* 11, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 10th instant, stating that he was directed to transmit to me the correspondence respecting the claim of Messrs. Geipel for compensation for a cargo of coals and coke belonging to them on board the "Anna Wilhelmina," which was captured by a French cruizer, and condemned by the French Prize Court. That it appears that the vessel was wrecked, and the coke sold for the sum of 270 fr. That Messrs. Geipel state that they addressed three letters to the French Prize Court, which were returned to them from the Dead Letter Office, and they then, on the 15th June, requested that their letter might be sent to the Prize Court through the Embassy, which was done; but it arrived after the decision of the Prize Court had been given, and M. Favre, in his note of the 24th ultimo (inclosed in Lord Lyons' No. 927), stated that the only legal course for them to pursue was to appeal to the Council of State. That Messrs. Geipel have applied to Lord Lyons to interfere on their behalf, and Mr. Odo Russell was pleased to request that I would take the papers into my consideration, and furnish your Lordship with my opinion as to the instructions which should be given to his Excellency on the subject.

In obedience to your Lordship's commands I have the honour to report—

That the view expressed by his Excellency Lord Lyons in his despatch of 6th August, 1871, as to the proper course for Messrs. Giepel & Co. to pursue is, in my opinion, correct, and that Messrs. Geipel & Co. should be informed that it is for their interest to lose no time in making application according to the prescribed forms of French prize proceedings to the Conseil d'Etat, as pointed out by M. Jules Favre, and that they will have to establish to the satisfaction of that Court that they are the subjects of a neutral Power, and that the cargo laden on board the "Anna Welhelmina" was exclusively neutral property.

I have, &c.  
(Signed) TRAVERS TWISS.

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### No. 55.

*The Queen's Advocate to Earl Granville.*—(*Received August* 12.)

*Temple, August* 11, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 10th instant, stating that, with reference to my Report of the 19th ultimo, he was directed to transmit to me a despatch from Lord Lyons inclosing a letter from Mr. Stuart Mackenzie, in which he states that his losses, on account of goods stolen from his store, amount to 150*l.*, and to request that I would inform your Lordship whether I am of opinion that any steps should be taken to obtain compensation for Mr. Mackenzie from the French Government.

In obedience to your Lordship's commands I have the honour to Report—

That Mr. Stuart Mackenzie should be informed that it is not for Her Majesty's Government to apply, as he suggests, to M. Marnier for a confirmation of Mr. Stuart Mackenzie's statement, but that Mr. Stuart Mackenzie must make out a statement in fuller detail as to the contents of his stores, and the circumstances under which they were plundered, as he alleges, by troops in the service of the French Government, and that he must himself apply to M. Marnier for a confirmation of his statement, which he will be at liberty to forward to Lord Lyons with the fuller particulars.

I have, &c.  
(Signed) TRAVERS TWISS.

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### No. 56.

*The Queen's Advocate to Earl Granville.*—(*Received August* 14.)

*Temple, August* 14, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 11th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Consul at Calais, asking instructions with regard to an application made to him under the circumstances therein set forth for the celebration of a marriage, and to request that I would furnish your Lordship with my opinion as to the answer which should be returned to this despatch.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may properly direct Her Majesty's Consul at Calais to be informed that where a marriage has been solemnized in France between a British subject and a French subject, with a due observance of the forms prescribed by the *lex loci*, so that the marriage would be valid for all French purposes, the marriage will be valid for all English purposes, unless the British subject should, by English law, be disqualified from marrying with the French subject, in which case no valid marriage for English purposes could be contracted by the parties before the British Consul.

I have, &c.  
(Signed) TRAVERS TWISS.

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### No. 57.

*The Queen's Advocate to Earl Granville.*—(*Received August* 29.)

*Temple, August* 28, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 19th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Ambassador at Paris, forwarding copies of correspondence with Mr. Candwell, a British subject resident at Boulogne, who brings certain charges against the judicial authorities there in reference to a lawsuit in which he is concerned. Mr. Odo Russell was pleased to request that I would take the papers into my consideration, and furnish your Lordship with my opinion as to the instructions which should be given to Lord Lyons upon the subject.

In obedience to your Lordship's commands I have the honour to report—

That Lord Lyons may be properly instructed to inform Mr. Candwell that, in your Lordship's opinion, there has been no such denial of justice to him on the part of the Tribunal at Boulogne as would warrant Her Majesty's Government in interfering diplomatically in his behalf, and that Mr. Caudwell must have recourse to his Avocat for advice as to the best course for him to pursue in accordance with the practice of the Tribunal to procure a decision of the question at issue between himself and Mr. Cohen with the least possible delay.

I have, &c.  
(Signed) TRAVERS TWISS.

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### No. 58.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 16.)

*Temple, September* 15, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us a copy of the Treaty of Commerce with France of the 23rd January, 1860, with the Additional Article, and two Conventions supplementary thereto; and he was to request that we would take those papers into consideration, and favour your Lordship, at our earliest convenience, with our opinion whether, under those Treaty stipulations, the French Government had the right to raise suddenly and enormously the duty on British mineral oil.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That in our opinion the French Government cannot, without the notice stipulated

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for in the XXIst Article of the Treaty of 1860, raise the *ad valorem* duty on British mineral oils beyond the 25 per cent. specified in the XVIth Article. The XVIth Article must, we think, be construed as having a general application. *Ad valorem* duties, in the language of the Treaty down to the XIIIth Article, mean those duties which were limited by the Ist Article to 30 per cent., and for which, by the XIIIth Article, a Tariff of specified duties was to be substituted. The XVIth Article appears to have been intended to apply to articles of commerce other than those dealt with in the Ist and XIIIth Articles of the Treaty. The duties on such articles of commerce would, or might, remain *ad valorem;* but it was stipulated that such duties, so far as they were *ad valorem*, should not be higher than 25 per cent. from October 1864.

If this be so, as it is in our opinion, then putting an end to the operation of this clause is putting an end to the operation of the Treaty, and would require the notice stipulated in the Treaty itself.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 59.

*The Queen's Advocate to Earl Granville.*—(*Received September* 18.)

*Temple, September* 16, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 9th instant, stating that he was directed to transmit to me a letter from Messrs. Lawless, Nelson, and Jones, respecting a claim preferred by the owners of the British vessel "Dream," on account of damage sustained through a collision with the French steamer "Isère," and to request that I would take this document into my consideration, and furnish your Lordship with my opinion as to whether the matter is one in which Her Majesty's Government can properly interfere.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. Lawless, Nelson, and Jones may be properly informed that, so long as the French Courts are open to their clients, as appears to be the case, to sue the commander of the French transport "Isère" for the damage caused by that vessel when in collision with the "Dream," your Lordship would not be justified in intervening diplomatically in the case.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 60.

*The Queen's Advocate to Earl Granville.*—(*Received September* 19.)

*Temple, September* 18, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 9th instant, stating that he was directed to transmit to me a letter from Mr. Henry Fairman, complaining of his arrest and imprisonment in Paris, together with two despatches to Lord Lyons, to whom the matter was referred, and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the instructions which should be sent to Lord Lyons on the subject.

I am also honoured with Mr. Hammond's letter of the 14th instant, transmitting a further letter from Mr. Fairman on this subject, in which he brings forward a claim for pecuniary compensation against the French Government.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Fairman is not free from blame, in my opinion, and although his imprisonment may have been unreasonably prolonged, considering the trivial nature of his offence, I am not prepared to advise your Lordship that he is entitled to claim any compensation on that account from the French Government, having regard to the exceptional circumstances under which the peace of Paris is at present maintained by that Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 61.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 22.)

*Temple, September* 20, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a despatch from Lord Lyons, inclosing correspondence respecting the case of Mr. John Hamon, a British subject resident at St. Malo, who claimed compensation on account of his imprisonment on a charge on which he was subsequently acquitted; and he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the course that should be pursued in the matter.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That it appears from the correspondence before us that Mr. John Hamon, who was in the employment of the London and South-Eastern Railway Company at St. Malo, was arrested by the French authorities in that town in November 1869, and tried before the Court of Assize at Rennes in August 1870, on a charge of being an accomplice, with his son, in a robbery or fraud against the Railway Company; that he was acquitted of the charge, but his son, who had absconded, was found guilty and sentenced to twenty years' imprisonment with hard labour. Mr. John Hamon complains of the proceedings of the French authorities against him, and in his letter of the 12th August to his Excellency Lord Lyons, suggests that "the matter was concocted against him in order to annoy British subjects," and that he was entitled to compensation, either from Her Majesty's Government or from the French Government. We need hardly inform your Lordship that Mr. John Hamon has no title whatever, in our opinion, to be compensated by Her Majesty's Government for his imprisonment by the French authorities, and with regard to any claim on his part for compensation from the French Government, we see no just grounds for your Lordship's intervention on his behalf. The charge appears to have been established against the son, as principal, and there may have been grounds of suspicion against the father, as an accomplice, which warranted his arrest; and with regard to the length of his imprisonment before that, no facts are stated by Mr. John Hamon which would lead us to believe that his imprisonment was prolonged unjustifiably and beyond what was required by the circumstances of the case, or that the proceedings were in any way contrary to what would have been the normal course if the accused parties had been French subjects.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 62.

*The Queen's Advocate to Earl Granville.*—(*Received September* 27.)

*Temple, September* 26, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 25th instant, stating that he was directed to transmit to me the correspondence relative to a complaint preferred by Messrs. Smith, Fleming, and Co., respecting the enforcement of duty on a cargo of coffee at Havre in alleged contravention of existing Commercial Treaties; and he was to request that I would take these papers into my consideration and furnish your Lordship at my earliest convenience with my opinion as to the instructions which should be addressed to Her Majesty's Ambassador in this matter.

In obedience to your Lordship's commands I have the honour to report—

That it would seem, as far as I can gather from the concluding letter of the cor-

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respondence (No. 93), that Messrs. Smith, Fleming, and Co., were in error in stating that the circumstances of the "Anazi" calling at Falmouth affects this question, which appears to resolve itself into the simple fact that the coffee was not consigned to merchants domiciled in France, and on that account is held by the Director-General of Customs at Havre not to be within the exception made in favour of cargoes shipped for France before the change of duty. Upon this view of the case two points suggest themselves for consideration; (1) had the French Government a right to raise the duty on coffee during the period occupied by the voyage, and if so, (2) had they the right as regards cargoes shipped before the alteration of duty, to make a distinction in favour of cargoes shipped to France on French accounts, admitting them at the old rate, whilst cargoes not so shipped and imported into France were to be charged with the new duty? With regard to the Treaty of Commerce of 1860, I do not find coffee mentioned in it, and I should hesitate to say that Article XIX of that Treaty coupled with the French Decree extending the condition of the Portugese Treaty to Great Britain, would entitle Her Majesty's Government to claim the same privileges with regard to goods not specified in the Anglo-French Treaty as may have been granted to any third Power (No. 75). Before, however, I can safely advise your Lordship as to the instructions which should be given to Lord Lyons upon the objections raised against the decision of the French authorities, in Mr. Consul Bernal's letter of 15th September, 1877, I should wish to be favoured with the text of the law of 9th July last, under which the new duties have been imposed, as well as of the Portuguese Treaty and the Imperial Decree of 28th July, 1867.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 63.

*The Queen's Advocate to Earl Granville.—(Received September 29.)*

*Temple, September* 28, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that in compliance with the request contained in my Report of yesterday's date respecting the enforcement of duty on a cargo of coffee at Havre in alleged contravention of existing Commercial Treaties, he was directed to transmit to me a copy of the French law of the 8th July last, under which the new duties are levied, together with a printed volume, at pp. 281 and 457, of which would be found copies of the Treaty between France and Portugal of 1867, and of the Imperial Decree of the 28th July, of the same year, and he was to request that these documents might be returned with my Report upon this case.

In obedience to your Lordship's commands I have the honour to report—

That coffee appears to be an article not mentioned in the Portuguese Treaty. The Decree, therefore, of the 28th July, 1867, under which the dispositions of the latter Treaty are extended to Great Britain would not apply to that article of commerce; nor do I find any provision in that Treaty which restrains the right of the French Government to augment the import duty on coffee, as it has done by the Decree of the 8th July, 1871. I have in my previous Report to your Lordship intimated my opinion, that as the article of coffee is not mentioned in the Treaty of Commerce of 1860, the French Government is at full liberty as regards its Treaty engagements with Great Britain to augment the duties on coffee imported into France, on the scale laid down by the Decree above mentioned. I do not discover anywhere in that Decree the exception which Messrs. Smith, Fleming, and Co., in their letter (No. 60) have stated to be made in favour of all cargoes shipped for France before the change, and the advantage of which exception they say has been unfairly denied to the owners and underwriters in the coffee per "Anazi." I am, therefore, unable to advise your Lordship that Messrs. Smith, Fleming, and Co., have been deprived of any advantage to which they are entitled under that Decree, and I beg to suggest that before any definite instructions are given to his Excellency Lord Lyons, it would be desirable that more precise information should be obtained as to the nature of the authority under which the distinction complained of has been made in favour of cargoes consigned to merchants domiciled in France to the disadvantage of merchants not so domiciled.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 64.

*The Queen's Advocate to Earl Granville.—(Received October 7.),*

*Temple, October* 7, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that with reference to my Report of the 28th ultimo, respecting the enforcement of duty on a cargo of coffee at Havre in alleged contravention of existing Commercial Treaties, he was directed to call my attention to a law of the French National Assembly of the 12th July last, to which your Lordship has reason to believe that my attention had not previously been directed, which exempts from the operation of the Law of the 8th July articles imported by ships which sailed for France from the countries of which the articles are the produce, before the presentation to the Assembly of the Bill for raising new taxes could be known in those parts. The former papers, together with a further despatch from Mr. West relating to this case, were also inclosed, and Mr. Hammond was pleased to request that I would report to your Lordship whether the papers now inclosed induce me to alter the opinion already expressed by me in this case.

In obedience to your Lordship's commands I have the honour to report—

That the coffee shipped on board the "Anazi" is in my opinion clearly not within the letter of the exception made by the Decree of the French Assembly of the 12th July, 1871, which I have now before me, nor does it come within the equitable construction put upon that Decree in favour of cargoes consigned to merchants domiciled in France (whether French or foreign), notwithstanding the vessels may have touched at a Portuguese or a British port of call. No question arises in this case in my opinion as regards the Portuguese Treaty, or the Treaty of Commerce between France and Great Britain. The substantial question is, whether the French authorities are interpreting the Decree of the 12th July unfairly in requiring evidence of the French destination of the cargo to be forthcoming upon the face of the ship-papers in each case. I cannot advise your Lordship that the course, which they are pursuing, is an unfair interpretation of that Decree, or is so harsh in principle, seeing that an opposite course might expose the revenue to great frauds, that your Lordship would be entitled to remonstrate against it. I assume from the last despatch of the French Minister of Foreign Affairs, that the limits of officious representation have been already reached.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 65.

*The Law Officers of the Crown to Earl Granville.—(Received Ociober 13.)*

*Temple, October* 11, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating—

1. That, with reference to our Report of the 5th July, on Mr. Boyd's claim against the French Government, he was directed by your Lordship to transmit to us a letter from that gentleman, stating that he had received no answer to the application which he addressed to the French Government, and requesting that Her Majesty's Ambassador at Paris might be instructed to present his claim to them, in order that it might be duly taken into consideration, and Mr. Hammond was to request that we would furnish your Lordship with our opinion as to the answer which should be returned to Mr. Boyd.

2. That the former papers were annexed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may, we think, properly assent to Mr. Boyd's application, so far as to instruct Lord Lyons to mention the case officiously to the French Minister of Foreign Affairs, and to request his attention to it at his early convenience.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

### No. 66.

*The Queen's Advocate to Earl Granville.—(Received October 16.)*

*Temple, October* 16, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed to transmit to me two despatches from Her Majesty's Minister at Paris, inclosing copies of a correspondence with Her Majesty's Consul at Charente, respecting two persons named Bocchini and Smart, who are now prisoners on a charge of being implicated in the late revolutionary proceedings in Paris, and who claim British protection on the grounds of being British subjects.

That your Lordship has requested Her Majesty's Secretary of State for the Home Department to cause inquiry to be made respecting the truth of Bocchini's statements, Mr. Hammond was pleased to request that I would take the case of Smart into my consideration, and furnish your Lordship with my opinion whether, though born in Paris, being of English parents, he would have a claim to the protection of Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Mr. Eugène George Smart, having been born in Paris of parents who, although they may be British subjects, have clearly acquired a French domicile, has no claim to be protected by Her Majesty's Government against the operation of the law of France applicable to any criminal offence against the State of which he may be charged; but I think that your Lordship may properly sanction the intervention of Her Majesty's Chargé d'Affaires on his behalf, so far as to secure for him a fair trial, and if that be impossible in the present condition of feeling, to obtain for him some remission of his punishment under the circumstances of his case, as detailed in the letter of Her Majesty's Consul at Charente of the 21st September, 1871. (No. 2 in Mr. West's No. 59).

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 67.

*The Queen's Advocate to Earl Granville.—(Received October 23.)*

*Temple, October* 21, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that he was directed to transmit to me, together with the previous correspondence, a printed copy of a letter from Messrs. Smith, Fleming, and Co., containing further representations on the subject of the duty charged at Havre upon the coffee shipped on board the "Anazi;" and he was to request that I would take this letter into my consideration, and furnish your Lordship with my opinion as to whether there is anything in the arguments therein set forth to alter the opinion on this case expressed by me in my Report dated the 7th instant.

In obedience to your Lordship's commands I have the honour to report—

That I see no grounds from the arguments set forth in the letter from Messrs. Smith, Fleming, and Co., to alter the opinion expressed by me in my Report to your Lordship of the 7th instant.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 68.

*The Law Officers of the Crown to Earl Granville.—(Received October 24.)*

*Temple, October* 23, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th October instant, stating that he was directed by your Lordship to transmit to us the accompanying letter, and its inclosure, from Mr. Lionel West, Her Majesty's Minister Plenipotentiary at Paris, suggesting whether under Article XIX of the Commercial Treaty with France of 1860, Her Majesty's Government would not be justified in claiming the same privileges as are now to be conceded to Alsace and Lorraine; and Mr. Hammond was pleased to request that we would take the letter into our consideration, and favour your Lordship with our opinion upon the question raised therein.

In obedience to your Lordship's commands we have taken the letter into our consideration, and have the honour to report—

That we have not before us the text of the concession intended to be made by France in favour of the produce of Alsace and Lorraine; we should not wish to commit ourselves to a definitive opinion as to whether Her Majesty's Government would not be justified, under the letter of the XIXth Article of the Treaty of 1860, in claiming similar privileges in favour of the produce of Her Majesty's dominions, but as at present informed, we are of opinion that such a claim might properly be contested by France as not within the spirit of the Treaty.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 69.

*The Queen's Advocate to Earl Granville.—(Received October 28.)*

*Temple, October* 27, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that upon the receipt of my Report of the 11th of August last, respecting the claim of Mr. McKenzie for losses sustained by him in connection with the billeting of French troops upon him during the war, Lord Lyons was informed that Mr. McKenzie should be told that it was not for Her Majesty's Government to apply, as he suggested, to M. Marmier for a confirmation of Mr. McKenzie's statement, but that he should make out a further statement in detail as to the contents of his stores, and the circumstances under which they were plundered, and that he must himself apply to M. Marmier for a confirmation of his statement, which he would be at liberty to send in with the fuller particulars. Mr. Hammond was now pleased to transmit two further despatches (Nos. 1081 and 1105) from Her Majesty's Ambassador, containing the additional particulars required, together with M. Marmier's certificate, and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to what further steps Her Majesty's Government would now be justified in taking in this matter. The previous papers were annexed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Stuart McKenzie should be informed that, being domiciled in France, he can have no privilege over French subjects in regard to compensation for the destruction of his property by troops in the service of the French Government, and that he must ascertain and adopt the course pursued by French subjects in claims for compensation under similar circumstances.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 70.

*The Queen's Advocate to Earl Granville.—(Received November 2.)*

*Temple, October* 31, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th instant, stating that he was directed to transmit to me the draft of the reply, which upon the receipt of my Report of the 18th ultimo was returned to Mr. Fairman's letter, putting forward a claim for compensation on account of the arrest of himself and his son in Paris, and also that gentleman's reply commenting upon the decision thus conveyed to him, and renewing his claim; and Mr. Hammond was pleased to request that I would take Mr. Fairman's letter into my consideration, and

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furnish your Lordship with my opinion as to the answer which should be returned to it. The previous papers were also annexed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Fairman may properly be informed that the opinion upon which your Lordship has acted, and which Mr. Fairman questions, has been founded on a careful consideration of Mr. Fairman's own admissions as to what occurred in the Café Chantant previous to the arrival of the police, and which led to their intervention. That what followed was an unavoidable consequence of the intervention of the police, which ought to have been foreseen by Mr. Fairman, had he properly borne in mind the disordered state of Paris, and the difficulty of maintaining the peace of that city under circumstances which all foreigners visiting Paris were bound not to overlook.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 71.

*The Queen's Advocate to Earl Granville.*—(*Received November* 8.)

*Temple, November* 7, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed to transmit to me, with reference to the claim of Messrs. Von Glehn and Sons against the French Government in consequence of the destruction of a quantity of coffee on the occasion of the fire at La Villette, a further correspondence which has since taken place between the Foreign Office and Messrs. Glehn and Co., and to request that I would furnish your Lordship with my opinion as to the answer which should be returned to their letter of the 30th ultimo, stating their reasons for considering that Her Majesty's Ambassador at Paris might now be instructed to support their claim.

In obedience to your Lordship's commands I have the honour to report—

That, Messrs. Glehn and Co. should be informed that, in the opinion of your Lordship, they ought to pursue the course pointed out to them by French law, and that the reluctance of French subjects to press their claims upon the Municipality of Paris under present circumstance does not, in your Lordship's opinion, warrant their having recourse to your Lordship's intervention.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 72.

*The Queen's Advocate to Earl Granville.*—(*Received November* 9.)

*Temple, November* 9, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed to transmit to me the accompanying letter from Messrs. de Mattos and Greene requesting the friendly intervention of Her Majesty's Ambassador at Paris in support of certain claims, which they advance against the French Government, arising out of contracts made with the French War Department in December last, both in London and at Bordeaux. That the claims in question are included under three heads:—

1. Balance of accounts due.
2. Balance due for loss by exchange on negotiating the Treasury Bills; and—
3. Damages for non-acceptance of articles contracted for; and amount, irrespective of any damages the claimants may have to pay under a pending action against them, to the sum of 578,329 fr. 80 c. That the grounds of Messrs. de Mattos and Greene's application for assistance are: alleged inability to bring an action in the Courts of this country in this case, and to attach the defendant's property in case of a favourable verdict, and certain alleged impediments in the way of their proceeding against the French Government in the French Law Courts with any prospect of success. Mr. Hammond was accordingly pleased to request that I would take Messrs. Mattos and Greene's application into my consideration, and that I would furnish your Lordship with my opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. de Mattos and Greene be requested to inform your Lordship whether they have sent in their claim to the Committee appointed by the National Assembly to examine all the contracts made during the late war, as it seems to your Lordship from their statement that such would be the proper course for them to adopt, at least in the first instance.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 73.

*The Queen's Advocate to Earl Granville.*—(*Received November* 18.)

*Temple, November* 17, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 13th instant, stating that he was directed to transmit to me a letter, with its inclosure, from Messrs. Rossel, Fehr, and Fromm, respecting their claim against the French Government for compensation on account of losses sustained by them through the increased duty charged on their mineral oils by the custom-house authorities at Dunkirk in alleged violation of the Treaty stipulations between this country and France; that the previous correspondence on this subject would be found in the accompanying volume. Lord Enfield was pleased to request that I would take the same into my consideration with reference to the Report of the Law Officers, dated 15th September last, and furnish your Lordship with my opinion as to the answer which should be returned to Messrs. Rossel, Fehr, and Fromm's application.

In obedience to your Lordship's commands I have the honour to report—

That I am unable to discover in either of the Tariffs annexed to the Conventions supplementary to the Treaty of Commerce of the 23rd June, 1860 (xii Hertslet, p. 183), any mention of English coal oil to support the statement in the letter of Messrs. Rossel, Fehr, and Fromm of the 20th July, 1871, that the article has passed through the French custom-house for many years on payment of the *ad valorem* duty of 5 per cent. in accordance with our Commercial Treaty. But I gather from the letter of Messrs. Fraser and Co. of the 30th September, 1871, that, in the French Customs Tariff heretofore in use, "essence de houille" is mentioned, under the heading of the Anglo-French Treaty, as paying a duty of 5 per cent. *ad valorem*; and the letter suggests that, as in the English printed copy of the Treaty, "chemicals not enumerated" are put down at 5 per cent., it would seem as if "essence de houille" was taken as included under that heading. It is possible that such may have been the view taken by the French custom-house authorities, but it is only matter of conjecture on the part of Messrs. Fraser and Co., and I am not prepared to advise your Lordship that Her Majesty's Government can of right insist on such a construction of the Tariff. I am, however, of opinion that Her Majesty's Government may with justice claim the observance on the part of the Director of French Customs of the stipulation in Article XVI of the Treaty of 1860, that no higher *ad valorem* duty than 25 per cent. shall be levied on any British product. This, as Messrs. Fraser and Co. have also pointed out, would allow a duty of 11 fr. 25 c. to be levied as a maximum duty on British coal oil, whereas an *ad valorem* duty of 37 fr. is, under the new regulations, now levied upon such oil. The Law Officers have already reported to your Lordship that, in their opinion, the raising of the duty on British mineral oil so enormously by the French custom-house authorities is, in fact, putting an end to the operation of the Treaty, and I see no reason for modifying that opinion, in which I concurred. With regard, however, to the answer which should be given to Messrs. Rossel, Fehr, and Fromm's application, much will depend upon the policy which Her Majesty's Government may resolve to adopt upon the general question. I should advise meanwhile that Messrs. Rossel, Fehr, and Fromm be informed that negotiations are pending at present between Her Majesty's Government and the French Government on the subject of the increased duties levied on mineral oils of British origin, and that your Lordship will bear in mind the statement submitted by them to your Lordship, and when the proper opportunity arrives will bring to the attention of the French Government the severe losses to which Messrs. Rossel, Fehr, and Fromm have been exposed, in common with other British merchants, by the sudden and excessive increase of duty upon these oils.

I have, &c.
(Signed) TRAVERS TWISS.

### No. 74.

*The Queen's Advocate to Earl Granville.*—(*Received November* 24.)

*Temple, November* 24, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th instant, stating that he was directed to transmit to me a correspondence relative to a complaint made by Messrs. Wade and Co., of Hull, respecting freight levied by the French Government on the cargoes of two German ships named the "Johanna" and "Stadt Frankfort" captured by French cruizers during the late war, and he was to request that I would take these papers into my consideration and furnish your Lordship with my opinion whether Messrs. Wade's objection to the payment of the freight charge is well founded.

In obedience to your Lordship's commands I have the honour to report—

That the objection of Messrs. Wade and Co. to the payment of freight is not well founded. It may be true that the practice of British Prize Courts is rather more favourable to the neutral owner of cargo captured in enemy's vessels, but France has only waived her right to make prize of such cargoes since the Declaration of Paris, and she is not bound under that Declaration to adopt the practice of British Prize Courts as regards the proportion of freight to be paid by the neutral owner of cargo under such circumstances.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 75.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 5.)

*Temple, December* 5, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th November ultimo, stating—

1. That with reference to our Report of the 21st June last, respecting the request of Messrs. Glehn and Co. that Her Majesty's Government should interfere to obtain for them compensation from the French Government for the destruction of their property at Paris during the operations against the Commune. Mr. Hammond was directed by your Lordship to transmit to us a letter from Messrs. Glehn renewing their application for the support of Her Majesty's Government for their claim, and he was to request that we would report to your Lordship our opinion as to the answer which should be returned to that letter.

2. That the former papers were annexed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That Messrs. von Glehn and Sons should be informed that your Lordship, assuming their information to be correct that the City of Paris is by the law of France liable to make good such losses as have been incurred by Messrs. von Glehn and Sons, is of opinion that they must have recourse to the ordinary Tribunals of France to enforce the liability of the City of Paris before they can properly request your Lordship to interfere diplomatically on their behalf with the French Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 76.

*The Queen's Advocate to Earl Granville.*—(*Received December* 12.)

*Temple, December* 11, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 9th instant, stating that he was directed by your Lordship to transmit to me a letter from Mr. Kennelly, requesting, on behalf of Young's Paraffin Light and Mineral Oil Company, the assistance of Her Majesty's Government in support of the Petition addressed by him to the French Government, with reference to the losses entailed upon the Company in question and the impending legal proceedings consequent upon the increased duty levied upon mineral oils imported into France since the passing of the law of the 8th July last; and to request that I would take these papers into my consideration, and furnish your Lordship, at my earliest convenience, with my opinion as to whether the representation contained in Mr. Kennelly's Petition can properly receive the support of Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Her Majesty's Government may properly decline to give any official support to the Petition which the Agent of Young's Paraffin Light and Mineral Oil Company has addressed to the French Minister of Finance, and that Mr. Kennelly should be informed that in case of the French courts decreeing the performance of the contracts of the Company, under the altered system of import duties, he will be at liberty to make a further representation on that subject to your Lordship.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 77.

*The Queen's Advocate to Earl Granville.*—(*Received December* 15.)

*Temple, December* 14, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 13th instant, stating that, with reference to my Report of the 11th instant, he was directed to transmit to me a further letter from the Agent of the Coatbridge Oil Company, stating that they have been sentenced by the Court of Douai to pay 2,700*l.* damages on a contract of 1,500 barrels, and are subject to further actions, entailing damages of not less than 7,000*l.*, besides law expenses.

Lord Enfield was pleased to request that I would take this letter into consideration, and furnish your Lordship with my opinion, at my earliest convenience, as to whether the decision come to by the French Court of Douai affords any grounds for remonstrance or other action on the part of Her Majesty's Government, and whether Her Majesty's Government would be justified in making the application to the French Government asked for by Mr. Wilson, that the Company should be permitted to import under the old duty the barrels of oil which are stated to have been sold previous to the enforcement of the new Tariff.

In obedience to your Lordship's commands I have the honour to report—

That there are considerations of equity arising out of the recent decision of the Court of Douai, which will justify your Lordship, in my opinion, in using your good offices with the French Government in favour of the Coatbridge Oil Company, with a view to procure for that Company permission to fulfil its contracts, which the Court of Douai has pronounced to be binding upon it, under the same conditions as those under which they were entered into, the altered conditions of the import duties, to which they will otherwise be subject, being ruinous to the Company.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 78.

*The Queen's Advocate to Earl Granville.*—(*Received December* 21.)

*Temple, December* 20, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 16th instant, stating that with reference to my Report of the 24th ultimo, he was directed to transmit to me a further despatch and its inclosures from Her Majesty's Ambassador at Paris, together with a letter from Messrs. Wade and Sons, on the subject of their claim against the French Government arising out of the seizure of the vessels "Johanna" and "Stadt Frankfort," and to request that I would take these papers into my consideration and furnish your Lordship with my opinion as to whether the claim of Messrs. Wade for the return of the charges levied for unloading the cargoes of the vessels in question can properly be supported by Her Majesty's

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Government. The previous papers in this case were also returned for facility of reference.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. Wade and Co. may be properly informed that it is a question for the discretion of the Prize Court to decide whether the expenses of the unlivery of cargoes, where they are restored to the neutral owners, shall be borne by the captors or the cargo, and that Her Majesty's Government cannot interfere with the discretion of the Prize Court in the present case, however much they may regret the loss to which Messrs. Wade and Co. have been exposed.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 79.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 22.)

*Temple, December* 21, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us a despatch from Lord Lyons, inclosing a copy of an application which had been addressed to him by a British subject, named Etherington, for assistance in obtaining from the French Government compensation for the losses and sufferings he had sustained in consequence of his arrest and imprisonment on the charge of having taken part in the insurrection of Paris; and that he (Viscount Enfield) was to request that we would take the matter into our consideration, and report to your Lordship our opinion as to the instructions which should be given to Lord Lyons, for his guidance in that and similar cases.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That Lord Lyons may be properly instructed to inform Mr. Etherington and other British subjects who may have been exposed to losses and sufferings arising out of the insurrection of the Commune against the Provisional Government of France, that Her Majesty's Government cannot claim for them to be treated in a more favourable manner than loyal French citizens, and that until the French Government finds itself to be in a condition to afford relief in the cases of loyal French citizens, Her Majesty's Government does not consider that it can press the claims of British subjects on its attention with any prospect of a successful issue.

We think it right, however, to point out that this may be the case of a foreigner, an innocent person, arrested *bonâ fide*, and imprisoned in the ordinary way, on an accusation of crime, he cannot complain that he is not better treated than the natives in a like case. It makes no difference that the arrest was under martial law, which had been proclaimed on account of an insurrection.

We have, &c.
(Signed) J. D. COLERIDGE,
G. JESSEL.
TRAVERS TWISS.

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### No. 80.

*The Queen's Advocate to Earl Granville.*—(*Received January* 1, 1872.)

*Temple, December* 30, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th instant, stating that, with reference to my Report of the 27th October, he was directed to transmit to me a letter from Mr. B. C. Stuart Mackenzie, stating that his claim for compensation from the French Government, on account of the damage caused to his property by French troops, has been rejected on the ground that it was sent in after the 15th of September, the latest date fixed for the submission of such claims. That Mr. Mackenzie renews his application for the interference of Her Majesty's Government on his behalf; and Mr. Hammond was pleased to request that I would take his letter into my consideration, and report to your Lordship my opinion as to the answer that should be returned to it. The previous papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That before any answer is sent to Mr. Mackenzie's letter of the 27th instant, it would be desirable that a copy of the Decree of the French Government of 15th June, 1871, should be procured, with a view to ascertain whether both the classes of damage incurred by Mr. Stuart Mackenzie are within the scope of it. It may be that the Decree applies to losses incurred by the billeting of troops, and not to the wanton plunder of the persons upon whom they have been billeted.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 81.

*The Queen's Advocate to Earl Granville.*—(*Received January* 1, 1872.)

*Temple, December* 30, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th instant, stating that he was directed to transmit to me herewith a letter from the India Office, reporting the circumstances which led to the bombardment by the French of a native settlement in the island of Mohilla, and he was to request that I would furnish your Lordship with a Report on the subject, bearing more especially on the question raised at the Foreign Office, whether Her Majesty's Government can with propriety remonstrate with the French Government on the conduct of their naval authorities in connection with this matter.

In obedience to your Lordship's commands I have the honour to report—

That unless it can be established that the property of British subjects has been destroyed at Mohilla by the bombardment of the French gun-boats, which, if notice had been given of the intended bombardment, might have been removed to a place of safety, British subjects would have no interest in respect of which Her Majesty's Government can properly remonstrate against the bombardment of the town.

I have, &c.
(Signed) TRAVERS TWISS.

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## General.

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### No. 82.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 5.)

*Temple, January* 4, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st December ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from the India Office, dated 29th December, 1870, requesting to be informed what answer should be returned to a telegram which had been received from the Government of India, inquiring whether the interdict against the entrance into British ports of armed ships of belligerents, accompanied by prizes, is to be extended to the cases of prizes of war in charge of prize crews desiring to enter such ports.

Mr. Hammond was pleased also to state that the Report of the Queen's Advocate, to which allusion is made in the India Office letter, was therewith annexed; and that he was also to inclose, for convenience of reference, the further Reports marked in the

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margin,* and to request that we would favour your Lordship with our opinion as to the instruction which should be given to the Indian Government upon the point in question.

In obedience to your Lordship's commands we have the honour to report—

That the Government of India should be informed that the interdict is intended to apply to prizes of war brought into Her Majesty's ports in charge of prize crews, subject always to their being allowed to enter them, if driven thereto either by stress of weather or want of necessaries.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 83.

*The Queen's Advocate to Earl Granville.*—(*Received January* 12.)

*Temple, January* 11, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed to transmit to me the accompanying letter and its inclosure from the Admiralty, relative to the coaling of two belligerent vessels—one the French vessel-of-war "Guyenne," and the other the North German vessel-of-war "Augusta." That it would appear that the operation of coaling the former vessel off Queenstown had been suspended, in consequence of orders issued by the Senior Naval Officer on the coast of Ireland, but that the French Consular Agent had, by desire of the French Captain, remonstrated on the subject, upon the ground that the "Augusta" had lately been allowed to take on board a quantity of coal in Bantry Bay.

A further letter from the Admiralty, inclosing a copy of one from the Inspecting Lieutenant of Coast Guard at Berehaven, explaining the circumstances under which the "Augusta" did receive 220 tons of coal at that port in the month of December last, was also inclosed; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with any observations I may have to offer thereupon.

I obedience to your Lordship's commands I have the honour to report—

That the circumstances under which the North German vessel-of-war "Augusta" was allowed to take in a supply of coal in Bantry Bay, although they may be possibly not within the strict letter of your Lordship's Circular of 19th July last,—a question which would depend very much upon the relative distances of Madeira and the nearest Prussian port from Bantry Bay,—are, in my opinion, within the spirit of it, on the assumption of the good faith of the Captain of the "Augusta," in stating that she was short of coals to carry her to her immediate destination, Madeira.

With regard to the coaling of the French vessel-of-war "Guyenne," off Queenstown, it does not appear that she was in need of coal to take her to any French port, or other immediate destination. I am of opinion, therefore, that the stoppage of the coaling of that vessel by order of the Rear-Admiral of the station was proper and in conformity with your Lordship's Circular, and that there is no conflict of principle between the two cases.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 84.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 12.)

*Temple, January* 12, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that with reference to our Report of the 30th November last respecting the vessels "Sharpshooter" and "Steady," he was directed by your Lordship to transmit to us an accompanying letter from Mr. Cheetham claiming to be the owner of the latter vessel, which he stated he was desirous of disposing of by sale, for which reason he requested that she might be immediately released without his being put to the expense of an application to the Court of Admiralty, and requesting that we would take Mr. Cheetham's letter into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands we have taken Mr. Cheetham's letter into our consideration and have the honour to report—

That the vessel may be released subject to two conditions: that Mr. Cheetham registers himself as the owner, and gives security to the amount of twice the value of the vessel; that he will not dispatch her contrary to the Foreign Enlistment Act.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 85.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 12.)

*Temple, January* 12, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us an accompanying letter from the Admiralty, inclosing one addressed to Mr. Childers by Lord Robert Montague respecting the proposed reception at Folkestone by a private individual, as it was stated, of a number of wounded French soldiers who were to be sent over from Boulogne for medical treatment. Mr. Hammond also inclosed a letter from the Home Office, dated 10th January, to which Department that matter had been referred, containing a Report by the Mayor of Folkestone upon the subject, together with a statement of Mr. Bruce's views, and Mr. Hammond was to state to us that before replying to the Admiralty's letter your Lordship would be glad to be favoured with our opinion upon that case, and whether the circumstances would appear to render it advisable for Her Majesty's Government to take any steps therein.

In obedience to your Lordship's commands we have the honour to report—

That this is not a case in which, in our opinion, Her Majesty's Government is called upon to interfere.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 86.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 19.)

*Temple, January* 18, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating:—

1. That upon the receipt of our Report of the 30th November last, respecting the case of the "Sharpshooter," the Lords Commissioners of the Treasury were informed, in conformity with the opinion therein contained, that as the vessel was released without her being required to make an application to the Court of Admiralty, Her Majesty's Government might fairly admit the principle, that some damage should be paid for her detention, and that the claim of Mr. Bates ought to be paid subject to Her Majesty's Government being satisfied of the reasonableness of its amount.

2. That Mr. Hammond inclosed, by your Lordship's directions, a letter from the Treasury, forwarding a further Report from the Board of Customs respecting the circumstances attending the "Sharpshooter's" detention, and he was to request that we would take those papers into our consideration, and inform your Lordship whether, under the circumstances now stated by the Board of Customs, we remained of opinion that Mr. Bates had any claim for compensation.

3. That Mr. Hammond inclosed for convenience of reference the Treasury letter of the 15th November last, containing Mr. Bates' claim for compensation.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

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* Queen's Advocate, 25th October and 3rd November; the Attorney- and Solicitor-General, 30th November.

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That we cannot advise Her Majesty's Government to accede at once, and without further inquiry, to the demands of Mr. Bates. The question of whether any and what compensation is due to him depends upon whether the "Sharpshooter" was in fact detained to his injury by Her Majesty's Government: if it were so, we think he should be compensated, but if, as we gather, no hindrance was offered to her loading, and she went to sea in fact as soon as she would have done if no order to detain her had been given by the Government, no compensation would we think be due to her owner. On this subject a detailed and exact Report should be asked for, and upon the receipt of such Report Her Majesty's Government will be able to judge how far, if at all, Mr. Bates' demands should be yielded to.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 87.

*The Law Officers of the Crown to Earl Granville.—(Received February 25.)*

*Temple, February* 24, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 18th instant, stating—

1. That with reference to our Report of the 17th December, therewith inclosed, he was directed by your Lordship to transmit to us a letter from the Colonial Office,* containing a copy of a despatch from the Governor of New South Wales with regard to the exemption of French vessels-of-war carrying mails from the restrictions as to the supply of coal imposed in the Circular letter from the Foreign Office of the 19th July last.

2. That Lord Belmore stated in his despatch that there were two French steam dispatch-vessels on the station, and that the "Belliqueuse," a large iron-clad ship, had also lately arrived. That his Excellency wished to know whether if the last-named ship came for the mail she was to be treated as a mail-steamer, and also whether the limit as to time of stay was to hold good against the mail-vessels. That his Excellency added that owing to the presence of those armed French ships there were five German vessels in the port afraid to venture to sea.

3. That Viscount Enfield was to request that we would take that letter into our consideration and favour your Lordship with our opinion as to the points raised in Lord Belmore's despatch.

4. That the letters from the Colonial Office† upon which our Report of the 17th December was founded were inclosed, for convenience of reference, as well as a correspondence which took place in 1866,‡ and which was referred to by the Colonial Office as bearing upon that question.

In obedience to your Lordship's commands we have the honour to report—

That the grounds upon which we reported to Her Majesty's Secretary of State for the Colonies on the 6th October last in favour of the French postal packets being exempted in the ports of New South Wales from the restrictions imposed by Article 3 of your Lordship's Circular letter appear to us to justify their exemption from the restrictions imposed by Article 2 of that Circular.

So long as the postal packets are not diverted from their especial duty of conveying the mails we are of opinion that they are fairly entitled to the same hospitality in British ports as in a time of general peace, and we see no reason why they should be subject to any other requirement to leave our ports than those of the service of the mails.

With regard to the "Belliqueuse," which his Excellency describes as "a large iron-clad ship-of-war," if she should come for the mails, we are of opinion that she should not be exempted from the restrictions imposed by your Lordship's Circular letter upon the hospitality to be shown to belligerent ships-of-war, unless her Commander should be able to satisfy his Excellency that his instructions forbid her to be diverted from the especial duty of conveying the mails whilst she is on the station. The Commander should, we think, be pointedly informed that hostilities, or even any

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* February 11, 1871.

† October 8 and December 9, 1871.

‡ See Colonial Office of February 11, 1871.

## No. 86*.

*The Queen's Advocate to Earl Granville.—(Received February 9.)*

*Temple, February* 9, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed to transmit to me a letter which your Lordship has received from Messrs. Hillyer and Fenwick, requesting the attendance of some gentleman from the Foreign Office to produce in the Court of Admiralty, on a forthcoming trial, certain original documents bearing on the question of the declaration of war between France and Prussia, and to request that I would take the same into my consideration and furnish your Lordship with my opinion as to the answer which should be returned to Messrs. Hillyer and Fenwick. The papers bearing on the subject were inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. Hillyer and Fenwick may be informed that, if due notice is given at the Foreign Office of the day and hour at which the suit in question will be heard in the Admiralty Court, your Lordship will authorize a gentleman from the Foreign Office to attend the Court and to exhibit the original copy of "the declaration made to the Senate and to the Corps Législatif in the sitting of the 20th July, 1870," which was communicated to your Lordship by the Marquis de Lavalette on the 22nd July last, and to leave a copy of it for the use of the Court.

With regard to the notice of "the days of grace," the extract from the official "Journal" of the 21st July is not exactly in the form in which it should be offered as evidence to a Court of Law. There can, however, be no objection to the same gentleman producing it in Court, and stating that it was communicated in its present form to your Lordship by Her Majesty's Ambassador at Paris in a despatch which was received on the 22nd July last, and that it was stated by him to be an extract from the "Journal Officiel" of the 21st July last.

A copy of this document may also be left for the use of the Court.

I have, &c.
(Signed) TRAVERS TWISS.

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threats of hostilities indulged in by him, would at once forfeit the privileges of his ship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 88.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 1.)

*Temple, February* 28, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that, with reference to our report of the 18th ultimo, stating that a further report on the case of the "Sharpshooter" would be necessary to enable us to form an opinion as to Mr. Bates' claim for compensation on account of the detention of that vessel, he was directed to inclose a letter from the Treasury forwarding a Report from the Customs authorities on the subject, and he was to request that we would furnish your Lordship with our opinion as to the course that should be pursued with regard to the claim.

In obedience to your Lordship's commands we have the honour to report—

That the statement in Mr. Bates' letter of the 10th November, 1870, that he could not allow the consignees to put cargo on board while the ship was under detention by the Government, conflicts in some degree with that in the Report of Messrs. Lilley and Gardner of the 19th December, that not only had Mr. Bates free access to the vessel, but "that cargo was put on board" during the time of her detention. But the expression that "cargo was put on board" is an ambiguous one, and may mean either that some small or even insignificant part of the cargo was put on board, or that the loading of the ship proceeded in the usual manner, which latter meaning would be wholly inconsistent with Mr. Bates' allegation, and would negative any claim on his part to damages.

This being so, we requested, in our letter of the 18th January, that Messrs. Lilley and Gardner should be desired to give a more detailed report of what occurred. We had in view further information as to the extent to which the vessel was loaded, whether the loading was continuous or occasional, and facts of that character, which we supposed easily ascertainable, and which appeared to us necessary to determine the question put to us. We are somewhat surprised to find that Messrs. Lilley and Gardner, instead of affording further information, or even, as it would appear, making further inquiries, content themselves with reporting that the opinions which they expressed remain the same. We have to observe that their opinions were not required, but facts, upon which ours might be founded. In the absence of further information, we do not feel able to do more than to advise generally, that if Mr. Bates' statement, that in point of fact he abstained from loading the vessel for a week in consequence of her detention, cannot be contradicted more directly by the Customs authorities, we think that, on the whole, it will be prudent to accede to his claim.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 89.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 18.)

*Temple, March* 18, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed to inform us that a copy of our Report of the 28th ultimo respecting Mr. Bates' claim for compensation on account of the detention of the "Sharpshooter" has been communicated to the Board of Treasury, and he was pleased to transmit a further letter from that Department containing additional particulars furnished by the Board of Customs in regard to that vessel

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as bearing upon the question whether the detention involved any real loss or delay, as far as the interests of the owner were concerned; and Mr. Hammond was pleased to request that we would take these further papers into our consideration, and furnish your Lordship with our opinion as to the answer which should be returned to the Treasury.

In obedience to your Lordship's commands we have the honour to report—

That we think it somewhat doubtful, on the further statements which have been put before us, whether Mr. Bates' claim can be successfully resisted, and on the whole we advise that it be paid.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

I have great doubts of Mr. Bates' claim being a *bonâ fide* claim to the extent to which he has advanced it; but as he might probably succeed in establishing some claim to damages, I concur with the Attorney-General and the Solicitor-General in thinking that Her Majesty's Government had better not contest it merely for the sake of reducing the amount.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 90.

*The Law Officers of the Crown to Earl Granville.—(Received March* 18.)

*Temple, March* 18, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us a letter from the Board of Trade forwarding a Memorial from certain Scotch merchants relative to an alleged loss sustained by them in consequence of an erroneous official note which appeared in the "Edinburgh Gazette" of the 16th August last,* with regard to the blockade of Hamburg; and Mr. Hammond was to request that we would take those papers into our consideration, and furnish your Lordship with our opinion as to the answer that should be returned to the Memorialists.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That the merchants in question should be informed that there was no error on the part of Her Majesty's Government in the official notice which appeared in the "Edinburgh Gazette" of August 16, 1870, with reference to the communication which Her Majesty's Secretary of State had received from Her Majesty's Ambassador at Berlin, and that Her Majesty's Government cannot be responsible for any inconvenience or loss which the merchants may have incurred from any error in the communication made to the Governor of Heligoland by the French Admiral as to the date of the commencement of the intended blockade.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 91.

*The Queen's Advocate to Earl Granville.—(Received April* 3.)

*Temple, March* 31, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating that with reference to my Report of the 13th October, he was directed to request that I would furnish your Lordship with my opinion whether, under the provisions of the Act 6 George IV, cap 87, and of the Naturalization Act of last Session, the contributions to British Consular Church Establishments abroad made by ladies of British birth who have married foreigners, can during the lifetime of their husbands or subsequently when they may have become widows, be looked upon as contributions to be classed amongst those to which Her Majesty's Government is empowered by the first-named Act to grant equivalents.

In obedience to your Lordship's commands I have the honour to report—

That the question raised by your Lordship is not free from difficulty, as it may be open to argument; that the first paragraph of the 10th section of the Naturalization Act, 1870, was intended to confer a privilege, not to impose a disability upon married women, but looking to the definition of the term "disability," as explained in the 17th section of the Act, I am of opinion that the first paragraph of the 10th section was intended to preclude a woman, who may have been a natural-born subject of the Queen at the time of her marriage with the subject of a foreign State, from the further enjoyment of any privilege which may attach under British law to British subjects, so long as her husband continues to be a foreign subject, and that accordingly a lady of British birth, who may have married a foreigner, cannot during the lifetime of such foreigner be deemed to be a British subject for any of the purposes of the Consular Act (6 Geo. IV, cap. 87).

With regard, however, to any such lady, if she should subsequently become a widow, she will continue under such disability until she shall have availed herself of her statutory capacity to be readmitted to the status of a British subject, but even upon such readmission her status will be so far qualified, that she will not be entitled to be deemed a British subject within the limits of the State, of which her husband was a subject, unless the laws of that State allow her to renounce her allegiance to it, or she is entitled to renounce her allegiance to it in pursuance of a Treaty to that effect.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 92.

*The Queen's Advocate to Earl Granville.—(Received April* 17.)

*Temple, April* 15, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 10th instant, stating that, with reference to my Report of the 31st ultimo, he was directed to request that I would also furnish your Lordship with my opinion as to how, under the Naturalization Act of 1870, a woman, by birth the subject of a foreign State, who marries a British subject and subsequently becomes a widow, is, during her widowhood, entitled to be considered (*a*) during her residence in the country of her birth, and (*b*) in any other foreign country, a British subject for any of the purposes of the Consular Act 6 Geo. IV, cap. 87.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that the national status of a British subject, which an alien-born woman acquires for British purposes upon her marriage with a British subject under the first paragraph of clause 10 of the Naturalization Act, 1870, is not affected upon her widowhood by any of the provisions of that Act, so as to deprive her of any privileges to which she may have become entitled upon her marriage under the Consular Act 6 Geo. IV, cap. 87, and that those privileges hold good whether she is resident in the country of her birth or in any other foreign country.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 93.

*The Queen's Advocate to Earl Granville.—(Received April* 18.)

*Temple, April* 17, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 11th instant, stating that he was directed to request that I would furnish your Lordship with my opinion whether the accompanying form of despatch, by which a person is placed in charge of a Consulate as Acting Consul during the absence of the Consul, the despatch being signed by an Under-Secretary or Assistant Under-

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* See also "London Gazette" of August 15, 1870.

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Secretary of State, conveys due authority to such Acting Consul to solemnize marriages under the provisions of the Act 12 & 13 Vict., cap. 68, a copy of which was also inclosed, in cases where the Consul who is on leave of absence is duly provided with a marriage warrant under that Act. A form of warrant now in use was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That I incline to the opinion that the form of the despatch, being the usual form under which a person is authorized to act in the absence of any of Her Majesty's Consul's from his post, would satisfy the statute, but it would be less open to question if, instead of the words "approves of your placing," the words "authorizes you to place" were substituted in the despatch.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 94.

*The Queen's Advocate to Earl Granville.*—(*Received April* 19.)

*Temple, April* 18, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 17th instant, stating that he was directed to transmit to me a letter from the Colonial Office, inclosing a copy of a despatch from the Governor of Victoria, reporting the arrival of the French ship of war "Belliqueuse" at Melbourne, and her departure after having taken in stores and coal, and he was to request that I would furnish your Lordship with my opinion whether it would be proper that Lord Canterbury's proceedings in the matter should be approved.

In obedience to your Lordship's commands I have the honour to report—

That Lord Canterbury's proceeding in this matter may, in my opinion, be properly approved.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 95.

*The Queen's Advocate to Earl Granville.*—(*Received May* 6.)

*Temple, May* 6, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed to transmit to me a letter from the India Office asking for information on certain points connected with the Neutrality Proclamation issued at the outbreak of the recent war between France and Germany, and your Lordship's Circular to Departments of 19th July, 1870, and he was to request that I would furnish your Lordship with my opinion as to the answer that should be returned to the India Office.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship, in answer to the letter from the India Office, may, in my opinion, properly reply, that you concur in the view expressed by the Government of India, in regard to troop-ships, that they ought to be considered as vessels-of-war within the meaning of Her Majesty's Proclamation of Neutrality; and that with regard to belligerent vessels-of-war calling at Aden on their way out to join a squadron, or returning to Europe from a distant station, they ought not to be exempted from the strict operation of the third of your Lordship's rules, which forbids the supply, without special permission, of coal to any belligerent ships-of-war until three months from the time when coal was last furnished to her in British waters.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 96.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 12.)

*Temple, June* 12, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a correspondence, marked in margin,* from which we would perceive that legal proceedings had been instituted by Mr. J. Pyne Yeatman, of No. 3, Pump-court, Temple, against Mr. Bonar, Her Majesty's Minister at Berne, in connection with a divorce suit, in which Mr. Yeatman was a party, in the year 1863, and that the motion for an attachment against Mr. Bonar was to come on for hearing on the 13th instant.

That Mr. Bonar's reply to Mr. Yeatman's allegations against him (Mr. Bonar) would be found in his despatch No. 52 of the 1st ultimo; and in his further despatch No. 68 of the 4th instant, he (Mr. Bonar) requested instructions as to his answering any summons which might oblige personal attendance at the Court on the suit; and that he (Mr. Hammond) was to request us accordingly to take the papers into consideration, and favour your Lordship, at our earliest convenience, with our opinion as to the instructions with which Mr. Bonar should be furnished on that subject.

Mr. Hammond was pleased to inclose, for our information, a correspondence with Her Majesty's Mission at Munich respecting the case of "Yeatman *v.* Yeatman," including some Reports of the Law Officers respecting the suit out of which present proceedings have originated.

In obedience to your Lordship's commands we have taken the whole of the papers into consideration, and have the honour to report—

That the Court of Divorce has no legal power to issue an attachment against Mr. Bonar, as he is out of its jurisdiction, nor would that Court be likely to permit an attachment to issue without previous notice to Mr. Bonar, nor are there any facts in this case, as far as we are informed, which can justify Mr. Yeatman's application for an attachment against Mr. Bonar.

We think it probable that the Court, being acquainted with the previous history of Mr. Yeatman's case, will deal with his application in a manner which will save Mr. Bonar from any necessity of absenting himself from his post. With regard to any instructions to be given to Mr. Bonar as to the answer to be given by him to any summons from the Divorce Court, your Lordship may, we think, properly direct Mr. Bonar to make a further application to your Lordship, if he should receive any such summons, and meanwhile not to proceed to England without your Lordship's special permission.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 97.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 1.)

*Temple, June* 30, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office, inclosing copies of a despatch from the Governor of Heligoland, and of a draft Ordinance for the suppression of gambling in that island, which had been prepared at the Colonial Office, and substituted for the one submitted by the Governor.

That Lord Kimberley was desirous, as we would perceive, of obtaining an opinion as to the propriety of adopting sections 7 and 8 of that Draft Ordinance, which specially applied to foreigners; and as the Governor was anxious for instructions on that subject as speedily as possible, he (Mr. Hammond) was to request that we would take the matter into consideration, and favour your Lordship with our opinion thereupon at our earliest convenience.

* Mr. Yeatman, April 18; to Mr. Bonar, No. 24; to Mr. Yeatman, April 28; Mr. Bonar, No. 52; to Mr. Yeatman, May 11; Mr. Yeatman, May 26; to Mr. Bonar, No. 33; to Mr. Yeatman, June 2; Mr. Bonar, No. 68; Mr. Yeatman, January 8, 1871.

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In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That we see no objection to any part of the Ordinance. The wording of section 3 would be improved by substituting for "failure to pay" "the default of any person so convicted to pay;" but we do not think the amendment important.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 98.

*The Queen's Advocate to Earl Granville.—(Received July 15.)*

*Temple, July* 14, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Consul at Saigon, relative to the sale of the "Sophie" and "Robert Rickmers" at that port, and to request that I would furnish your Lordship with my opinion thereupon. A Parliamentary paper containing the previous correspondence respecting these vessels was also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That the question of the propriety of the sale of the prizes in this case, whilst lying in the French port of Saigon, is a matter for the decision of the French Prize Court, and the claimant will be at liberty, if he should succeed in establishing his title, to have the vessels restored to him as neutral property, to claim damages in the French Prize Court, if they have been improperly sold and his interest has been prejudiced thereby. With regard to the suggestion of the masters of the two vessels, that, as peace has been concluded between France and Prussia, the vessels would, as a matter of course, be given up to them, they have misapprehended the effect of the termination of hostilities. No captures made after such termination of hostilities would be valid captures, but the re-establishment of peace will not divest the French captors of their interest in any prize captured during hostilities; and they will have a right to continue the proceedings, which I presume to have been commenced, before a competent Prize Court, for the adjudication of the vessels as lawful prize to them, unless there should be some provision to the contrary, of which I am not aware, in the Treaty of Peace concluded between France and Germany.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 99.

*The Queen's Advocate to Earl Granville.—(Received July 19.)*

*Temple, July* 18, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 17th instant, stating that, with reference to my Report of the 14th instant as to the sale of the "Sophie" and "Robert Rickmers" at Saigon, in which I stated my opinion that "the re-establishment of peace would not divest the French captors of their interest in any prize captured during hostilities, and that they would have a right to continue the proceedings before a competent Prize Court for the adjudication of the vessels as lawful prize to them, unless there should be some provision to the contrary of which I was not aware in the Treaty of Peace between France and Germany." Mr. Odo Russell was directed to transmit to me a copy of the said Treaty, and to call my attention to the second paragraph of the XIIIth Article, which provides that prizes not condemned before the 2nd March, 1871, shall be restored or their value returned to the owners; and he was to request that I would take these papers into my consideration in connection with this Article, and furnish your Lordship with my opinion as to the liability of the French authorities in respect of the vessels.

In obedience to your Lordship's commands I have the honour to report—

### No. 99*.

*The Law Officers of the Crown to Earl Granville.—(Received September 6.)*

*Temple, September* 4, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 30th ultimo, stating that, with reference to our letter of the 28th January last respecting the proposal of the Treasury to print draft forms of warrant for the detention of vessels under the Foreign Enlistment Act, he was directed by your Lordship to transmit to us a letter from that Department, inclosing four draft forms of warrant, which had been drawn up by the Solicitor to the Board of Customs; and he (Mr. Russell) was to request that we would favour your Lordship with our opinion as to whether they might properly be approved by your Lordship.

In obedience to your Lordship's commands we have examined the said warrants, and have the honour to report—

That we would suggest a slight alteration in the warrants by substituting the words, "To wit, within the limits of the said port of (*g*)," in place of "To wit, in the said port of (*g*);" subject to which alteration, we think the four warrants, as prepared by the Solicitor to the Board of Customs, may be properly approved by your Lordship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 100*.

*The Queen's Advocate to Earl Granville.—(Received February 28.)*

*Temple, February* 27, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed to transmit to me the accompanying letter from the Treasury,* requesting to be informed whether, under the terms of the Convention of 1860 respecting the Greek Loan, it is not open to Her Majesty's Government to require that so much of the annual payment as is due by Greece should be remitted in bills for sums expressed in sterling instead of in francs.

A memorandum drawn up in the Foreign Office on the subject,† together with a printed copy of the papers relating to the arrangement referred to, was also inclosed, and Mr. Hammond was pleased to request that I would report to your Lordship my opinion as to the course which Her Majesty's Government would, under the circumstances, be justified in taking in the matter.

In obedience to your Lordship's commands I have the honour to report—

That it is not open, in my opinion, to Her Majesty's Government to require the bills annually remitted by the Hellenic Government under the terms of the Convention of 1860 to be made out for sums expressed in sterling instead of francs. The loan itself appears to have been originally made in francs, and has been recognized as so made by more than one Act of Parliament; whilst the arrangements of 1860, under which the payment in question is now made, stipulate for a minimum sum to be annually paid on account of the loan in the same currency.

I have, &c.

(Signed) TRAVERS TWISS.

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* Treasury, February 6, 1871. See MS. Vol. "Greek Loan."

† Memorandum, February 20, 1871. See MS. Vol. "Greek Loan."

That the XIIIth Article of the Treaty of the 10th May, 1871, provides only for the restitution of German vessels not condemned before the 2nd March, 1871, whereas the claimant of the "Sophie" and "Robert Rickmers" asserts himself to be a British subject and claims them as his property, whereby he places them out of the pale of the Treaty. Your Lordship would, therefore, not be entitled to claim for his vessels a favour which is matter of Treaty and limited to vessels of German nationality.

I have, &c.

(Signed) TRAVERS TWISS.

## Greece.

### No. 100.

*The Queen's Advocate to Earl Granville.—(Received February 17.)*

*Temple, February* 16, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 14th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Minister at Athens, stating the course he has taken in regard to an application, of which he inclosed a copy, which has been addressed to him by a deserter from the British army, named Snelling, for a British passport for his sons to proceed to school at Constantinople. A letter which has been received from the War Office, to which Department Mr. Erskine's despatch has been referred, was also inclosed, and Lord Enfield was pleased to request that I would furnish your Lordship with my opinion as to the course which Mr. Erskine should now be instructed to pursue in this matter.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Snelling having renounced his allegiance to the Queen, as far as in him lies, by deserting from Her Majesty's forces abroad, has, in my opinion, forfeited all title to Her Majesty's protection, and your Lordship may properly instruct Her Majesty's Minister at Athens to decline to furnish him with a British passport.

I have, &c.

(Signed) TRAVERS TWISS.

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### No. 101.

*The Queen's Advocate to Earl Granville.—(Received April 3.)*

*Temple, March* 31, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed to transmit to me the accompanying despatches from Her Majesty's Minister at Athens, and Her Majesty's Consul at Corfu, respecting a proposal of the Greek Minister of Finance to extend the deductions, now made on all public salaries and allowances, to all military, naval, civil and ecclesiastical pensions in general throughout the Kingdom. Mr. Hammond was pleased to request that I would take this question into my consideration, and report to your Lordship my opinion whether, under the stipulations of the Convention between Great Britain and Greece of March 1864, Her Majesty's Government would be justified in protesting against the application of the proposed measure to the pensions of the Ionian Government now payable by the Greek Government under that Convention.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Her Majesty's Government will be justified in protest-

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ing against the measure in question being applied to any of the pensions which are the subject of the Convention between Her Majesty and the King of the Hellenes.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 102.

*The Queen's Advocate to Earl Granville.*—(*Received May* 19.)

*Temple, May* 18, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 16th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Chargé d'Affaires at Athens relative to a dispute between Mr. J. M. Evans and the Greek Government in regard to a contract for emery. Mr. Odo Russell was pleased to request that I would report to your Lordship my opinion as to the merits of this case, and as to any steps in the matter which it may be proper for Her Majesty's Government to take.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that it will not be proper for Her Majesty's Government to intervene in this case as it stands at present. If Mr. J. M. Evans has been aggrieved, he has according to the opinions of his Counsel in Greece a remedy by action in the Greek Courts against the Greek Government, and until he has exhausted all the legal means of redress which are available to him he cannot properly invoke the aid of Her Majesty's Government.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 103.

*The Queen's Advocate to Earl Granville.*—(*Received July* 3.)

*Temple, June* 30, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 27th instant, stating that he was directed to transmit to me the correspondence relative to certain proceedings on the part of the Greek Government with regard to a Company who are engaged in working a lead mine at Esgasteria, and he was to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to any further instructions which should be addressed to Her Majesty's Minister at Athens in this matter, and the reply which should be returned to Mr. Naegeley's representations.

In obedience to your Lordship's commands I have the honour to report—

That it appears from the letter of the 28th April, 1871, addressed by M. Sarpieri to Baron Galvagna, that the Company which has entered into a contract with the Hellenic Government, the true purport of which contract is under dispute, is a different Company from that of Hilarion Roux and Co., in which Mr. John Naegeley has shares, and that whilst the Compagnie Sarpieri has a direct grievance against the Hellenic Government, founded on an alleged breach of a contract with itself, the firm of Hilarion Roux and Co. is only indirectly prejudiced by the alleged bad faith of the Hellenic Government in consequence of the inability resulting therefrom of the Compagnie Sarpieri to fulfil its engagements. Under these circumstances, if I have rightly understood the case, I am of opinion that Her Majesty's Government cannot properly direct Her Majesty's Minister at Athens to intervene officially with the Hellenic Government on behalf of the interests which Mr. John Naegeley has in the firm of Hilarion Roux and Co.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 104.

*The Queen's Advocate to Earl Granville.*—(*Received August* 11.)

*Temple, August* 10, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 3rd instant, stating that with reference to my Report of the 30th June last relative to the proceedings of the Greek Government in the case of the Smelting Company at Laurium, in which certain British subjects are indirectly interested, he was directed to transmit to me, together with the former papers relating to this case, a further despatch on the subject, which has been received from Her Majesty's Minister at Athens. Mr. Odo Russell was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion whether there is anything contained in Mr. Stuart's despatch which would induce me to alter the opinion already expressed by me upon this case.

In obedience to your Lordship's commands I have the honour to report—

That however impolitic and inequitable may be the course adopted by the Hellenic Government in declaring the surface refuse of the ancient workings of the mines to be the property of the State, and not to be included in the Concession granted to Messrs. Sarpieri and Co., I am of opinion that Her Majesty's Government cannot officially remonstrate against the interpretation put upon that Concession by the Hellenic Government. There is, strictly speaking, no British interest involved in that Concession, although the interpretation put upon it by the Hellenic Government may disable Messrs. Sarpieri and Co. from fulfilling contracts in which it has engaged itself towards British subjects.

I have, &c.
(Signed) TRAVERS TWISS.

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## Guatemala.

### No. 105.

*The Queen's Advocate to Earl Granville.*—(*Received March* 30.)

*Temple, March* 29, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that, with reference to my Report of the 12th November, 1869, and to previous Reports, with regard to the claim preferred against the Guatemalan Government by the owners of the San Geronimo Estate for damage done to that property in 1838, he was directed to transmit to me the accompanying further correspondence which has taken place with regard to this matter, from which I should perceive that the Commission appointed to examine the claim have come to a decision, and have granted an award to the claimants. That Captain Harris, as I should see from his letter of the 9th instant, takes exception to the terms of this decision, and Mr. Hammond was pleased to transmit to me the draft of answer, which your Lordship proposes to return to that gentleman, and to request that I would take the same into my consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordships's commands I have the honour to report—

That the answer which your Lordship proposes to return to Captain Harris is, in my opinion, right and proper.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 106.

*The Queen's Advocate to Earl Granville.*—(*Received May* 4.)

My Lord,
*Temple, May* 3, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that with reference to my Report of the 29th March last, with regard to the claim preferred against the Guatemalan Government by the owners of the San Geronimo Estate, he was directed by your Lordship to transmit to me, for any observations I might have to offer, a further letter from Captain Harris, insisting that the expenses of the arbitration in this case should be borne by the Guatemalan Government. A Memorandum on this point furnished by Her Majesty's Chargé d'Affaires in Guatemala, who is now in London, and the former papers in this case were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that your Lordship cannot properly accede to Captain Harris' request that Mr. Corbett should be instructed to call upon the Guatemalan Government for the amount of the expenses incurred by him in the arbitration. It must, I consider, be assumed in this stage of the case that the settlement upon which the arbitrators have agreed is an equitable settlement, and as the amount awarded by the arbitrators falls very much short of the amount claimed by Captain Harris, it would not be equitable, in my opinion, for your Lordship to insist upon the Guatemalan Government defraying Captain Harris' costs as well as their own.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 107.

*The Queen's Advocate to Earl Granville.*—(*Received June* 21.)

My Lord,
*Temple, June* 20, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that with reference to my Report of the 3rd ultimo, upon the subject of the San Geronimo claim, he was directed to transmit to me the accompanying letter from Captain Douglas Harris, requesting to be informed whether any instructions have been given to Her Majesty's Representative in Central America for the payment to the claimants of the sum awarded, namely, 7,000 dollars; that I should perceive from the inclosed draft to Mr. Peatfield that that gentleman has been directed to retain the money in question in his own possession until he should receive further instructions, and he has accordingly lodged it in a strong commercial house at Guatemala. The former papers in this case were also inclosed, and Mr. Hammond was pleased to request that I would take them into my consideration, and furnish your Lordship with my opinion as to the course that should be taken in view of the latter part of Captain Harris' letter of the 13th April, in which he requests to be informed of the nature of the evidence required of his right to receive the two-thirds of the indemnity due to the parties resident in this country, and further offers to enter into, in conjunction with Mr. John Owen, a bond of indemity to Her Majesty's Government in the event of a claim being established by other parties to the two portions of the sum awarded.

In obedience to your Lordship's commands I have the honour to report—

That it would be proper in my opinion for Mr. Peatfield to deduct from the gross sum of 7,000 dollars, which has been paid over to him by the Guatemalan Government, those expenses of the Commission, which should be properly defrayed by the parties for whose benefit the 7,000 dollars has been received by him, and to pay over the balance in the proportion of two-thirds to Captain Harris upon the bond of indemnity being given to Her Majesty's Government as proposed by Captain Harris, and the remaining third part to the third party resident in Guatemala on proof being furnished that the said party is entitled to receive the same.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 108.

*The Queen's Advocate to Earl Granville.*—(*Received July* 10.)

My Lord,
*Temple, July* 8, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that with reference to my Report of the 20th ultimo, on the subject of the distribution of the San Geronimo award, he was directed to transmit to me the accompanying letter from Mr. Corbett, requesting instructions as to the expenses which should be deducted from that award before the balance is handed over to the claimants; and, with reference to my previous Reports on this point, he was to request that I would furnish your Lordship at my early convenience with my opinion as to the precise directions which should be given to Mr. Corbett. The former papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Corbett may, in my opinion, be properly directed by your Lordship to deduct from the award before it is handed over to the claimants the expenses incurred for legal assistance and for witnesses examined, but not the percentage on the whole sum awarded, which the claimants by private arrangement engaged to pay to the arbitrator.

I have, &c.
(Signed) TRAVERS TWISS.

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## Hayti.

### No. 109.

*The Queen's Advocate to Earl Granville.*—(*Received May* 6.)

My Lord,
*Temple, May* 6, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that, on the receipt of my Report of the 30th September last, your Lordship instructed Her Majesty's Acting Consul-General at Port-au-Prince to furnish the further information required by me in the case of the claim of Messrs. Williams and Knowles of Nassau to compensation for the seizure, on two occasions, and the subsequent condemnation and sale of the schooner "Belinda W." Mr. Hammond was directed to transmit to me the accompanying despatch (No. 7, March 31), which has been received from Mr. Byron in reply, and he was to request that I would take the same into my consideration, together with the former papers which were also inclosed, and furnish your Lordship with my opinion as to the instructions that should be given to Mr. Byron in the matter.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Byron may be properly instructed by your Lordship to inform the parties who have applied to him on behalf of the owners of the "Belinda W.," that Her Majesty's Government declines to support any claim on their behalf for compensation from the present Haytian Government on account of the seizure and condemnation of their vessel. The "Belinda W." at the time of her capture was clearly engaged in a trade which was forbidden to foreign vessels by the laws of Hayti, and it was in my opinion competent for the Court, before which the capture was discussed, to enforce against her the penalties prescribed by the laws of Hayti.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 110.

*The Queen's Advocate to Earl Granville.*—(*Received June* 9.)

*Temple, June* 8, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 5th instant, stating that he was directed to transmit to me the accompanying despatches from Mr. Byron and Mr. St. John respecting a claim of a British merchant, Mr. Charles Smith, on the Government of Hayti, in regard to certain duties charged on goods belonging to him. Mr. Odo Russell was pleased to request that I would report my opinion to your Lordship as to the steps which it may be proper to take in the matter.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Mr. Charles Smith has not any claim of right to be reimbursed by the actual Government of Hayti for the custom duties paid by him at St. Marc, inasmuch as his merchandize was reimported from a foreign port, and there does not appear to have been any violation of Haytian law on the part of the revolutionary authorities at St. Marc in requiring under the circumstances the payment of custom duties *de novo* upon the reimportation of his merchandize. I think, however, that he has an equitable claim against the actual Government of Hayti on two grounds: first, that both French and German merchants appear to have been permitted by the authorities at St. Marc to reimport merchandize into that port under similar circumstances free of duty, and secondly, that it was for the benefit of that part of the island which was then in the possession of the revolutionary authorities, who are now the actual Government, that Mr. Charles Smith so reimported his merchandize at a time when the adverse Government under General Salnave prohibited the direct transport of his merchandize from Port-au-Prince to St. Marc by the usual course of trade, under which it would have been exempt by Haytian law from any further payment of import duties.

I have, &c.
(Signed) TRAVERS TWISS.

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# Italy.

## No. 111.

*The Queen's Advocate to Earl Granville.*—(*Received February* 24.)

*Temple, February* 23, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 20th instant, stating that he was directed to inclose a despatch from Mr. Jervoise relative to the claim put forward for international protection by the governing body of the Dominican College of St. Thomas Aquinas, at Rome, and to request that I would furnish your Lordship with my opinion as to the claim of the College to British protection.

In obedience to your Lordship's commands, I have the honour to report,—

That I am unable to discover, in the communications made to Mr. Jervoise, and transmitted to your Lordship, on behalf of the Dominican College of St. Thomas Aquinas, at Rome, any sufficient grounds to warrant the claim made on the part of its governing body for British protection.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 112.

*The Queen's Advocate to Earl Granville.*—(*Received March* 3.)

*Temple, March* 2, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed to acknowledge the receipt of my Report of the 23rd ultimo, stating that I was unable to perceive any sufficient grounds to warrant the claim advanced by the governing body of the Dominican College of St. Thomas Aquinas, at Rome, for British protection, and he was to request that I would be good enough to inform your Lordship whether I held the same opinion in regard to the Convent of the Minerva, to which, as it appears from Mr. Jervoise's despatch, it is locally annexed, though enjoying a distinct foundation.

In obedience to your Lordship's commands I have the honour to report—

That the Convent of the Minerva at Rome is, in my opinion, not in any sense entitled to British protection, unless evidence is forthcoming to show that British subjects have proprietary rights in the Convent; and even in that case, as the rights of ownership in immovable property are exclusively governed by the *Lex Rei Sitæ*, the protection which Her Majesty's Government would be entitled to extend to British owners of such property in Rome will be of a qualified character, to be exercised rather in the form of good offices, and with the object of obtaining an equitable compensation from the Italian Government for any losses which may result to such parties from changes in the law of the place affecting their existing rights of ownership.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 113.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 6.)

*Temple, July* 5, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to us two despatches, noted in the margin,* from Her Majesty's Consul-General at Venice relative to the circumstances under which the validity of a will executed by a Mr. Folliot Nash, a British subject, deceased at Venice, after his marriage with an Italian lady, had been disputed by the relatives of the deceased in this country, on the ground of an alleged former marriage; and he (Mr. Russell) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to whether any and what instructions should be addressed to Her Majesty's Consul-General on that subject.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

We are of opinion that the alleged previous marriage of Mr. Nash would not affect the validity of his will, inasmuch as the lady to whom he bequeaths his property is designated by name, and there can be no question as to the person for whom the bequest was intended. The will, indeed, deals only with property of the testator out of England, and does not revoke any previous wills which may have disposed of his property in England, and it is possible that such wills or will might be admitted to proof in this country. It would appear, however, sufficient to instruct the Consul that we see no grounds for doubting the validity of the will made in Venice.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Consul-General Perry, Nos. 4 and 6.

1871

### No. 114.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 9.)

My Lord, *Temple, September* 8, 1871.

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us a translation of a despatch from the Italian Minister for Foreign Affairs to the Italian Chargé d'Affaires at this Court, respecting the refusal of two Irish Religious Communities at Rome to make the declaration of their property for the application of the mortmain duty required by the law of 21st April, 1862, on the ground of their being foreigners, and he (Mr. Odo Russell) was to request we would take the subject into consideration, and favour your Lordship with our opinion as to the answer that should be returned to the Italian Government.

In obedience to your Lordship's commands we have taken this subject into consideration, and have the honour to report—

That it is an admitted principle of international law that the Sovereign Power of a State has a right to make laws to bind foreigners in relation to their property within its territory equally with natives, and we are unable to discover in the Law of 21st April, 1862, any such features of specialty as would justify the claim of the Irish Religious Communities in Rome, that their property situated within the Italian territory should be exempt from its operation, as we understand the law. The tax in question imposed by that law, as it is to be levied on all property held in mortmain by corporate bodies, whether Italian or foreign, may properly be regarded as a general tax, and so long as no other declaration or return for the purpose of assessment is required from the Irish Religious Communities in Rome than is required from Italian corporate bodies holding property under similar legal conditions, we are of opinion that the Irish Religious Communities in Rome will not be justified in refusing to make the declaration required from them.

With regard to the precise answer which it will be proper for your Lordship to return to the Italian Government, we are rather at a loss to advise your Lordship, as no direct question has been raised in the despatch of the Italian Minister of Foreign Affairs. We would suggest that your Lordship may properly inform Count Maffei that Her Majesty's Government sees nothing unjust in the property of foreigners, British subjects within the Italian territory being made subject to the payment of an annual tax, so long as the tax is reasonable in its amount and is levied at an uniform rate upon property of the same kind, whether held by Italian subjects or foreigners.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 115.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 30.)

My Lord, *Temple, November* 29, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd November instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, suggesting that the Governor of Malta should be authorized to introduce a local enactment, extending to that Colony the provisions of the 24th section of the "Extradition Act of 1870," and Mr. Hammond also stated that he was to request that we would report to your Lordship our opinion as to the answers that should be returned to the Colonial Office, and added that at present no Treaty under the Act had been concluded with Italy, though one is under consideration.

In obedience to your Lordship's commands we have the honour to report—

That the proposal of the Crown Advocate of Malta that a local enactment based upon the 24th section of the "Extradition Act, 1870," should be introduced, may, in our opinion, be properly approved by your Lordship, and an answer to that effect be returned to the Colonial Office.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## Japan.

### No. 116.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 15.)

My Lord, *Temple, March* 14, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that, with reference to our Report of the 28th June, 1869, he was directed to transmit to us a letter from Messrs. Murray and Hutchins, containing further particulars in regard to the estate of the late William Kemptuer, of Yokahama, and to request that we would take this letter into our consideration, together with the accompanying and former papers and correspondence in the case, and furnish your Lordship with our opinion as to the answer which should be returned to Messrs. Murray and Hutchins.

In obedience to your Lordship's commands we have the honour to report—

That we think your Lordship may properly inform Messrs. Murray and Hutchins that this is not a case in which you can interfere diplomatically as they desire. For the reasons given in our Reports to Lord Clarendon of January and June 1869, from which we see no reason to depart, the case appears to be one of German and not of British jurisdiction, and we do not understand that the German Courts have yet been applied to, nor that, if they were, there is any reason to believe they would fail to do their duty in the matter.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 117.

*The Law Officers of the Crown to Earl Granville.*—(*Received May* 29.)

My Lord, *Temple, May* 27, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating—

1. That he was directed by your Lordship to transmit to us the accompanying despatch (No. 40) from Her Majesty's Minister in Japan, respecting the dislike of the Japanese Authorities to shooting, as a pastime, on the part of foreigners, and forwarding copies of the correspondence that had passed between himself and his foreign colleagues upon the subject, together with two Regulations which, after consultation with Mr. Hannen, the Deputy Judge, he had drawn up for the guidance of British subjects who might undertake shooting excursions in the interior of Japan.

2. That the former despatches referred to by Sir H. Parkes* were likewise transmitted to us, together with the Order in Council of March 9, 1865, and Mr. Hammond was to request that we would take those papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That the two Regulations proposed to be issued by Sir H. Parkes may, in our opinion, be properly approved by Her Majesty.

We should, however, suggest that in the preamble, section 90 of the Order in Council of the 9th March, 1865, by which the provisions of sections 85 and 86, which are exclusively applicable to China, are made applicable to Japan, should be recited, as well as sections 85 and 86 of that Order.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* No. 101 of November 20, 1861; and No. 24, of February 26, 1862.

### No. 117*.

*The Law Officers of the Crown to Earl Granville.—(Received July 31.)*

*Temple, July 29*, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 26th instant, stating that with reference to our Report of the 29th December, 1869, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Vienna, which was founded on that Report, respecting the conditions on which Her Majesty's Consuls in China, Japan, and Siam might be authorized to act temporarily as Consuls for Austria, that State having no Consular Officers in those countries, together with a note from the Austrian Ambassador in London,† announcing the appointment of an Austrian Consul-General for China, Japan, and Siam, to reside at Shanghae, and expressing the hope that the above-mentioned arrangement might be allowed to remain in force; and that he (Mr. Russell) was to request that we would take the matter into our consideration, and favour your Lordship with our opinion thereon at our earliest convenience.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That the appointment of a Consul-General at Shanghae by the Austro-Hungarian Government does not in our opinion raise any legal objection to Her Majesty's Consuls continuing to exercise the functions of Austro-Hungarian Consuls under the conditions specified in our previous Report to your Lordship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Mexico.

### No. 118.

*The Law Officers of the Crown to Mr. Hammond.—(Received October 5.)*

*Temple, October 5*, 1871.

Sir,

WE are favoured with your letter of the 15th September ultimo, in which you stated—

1. That we were doubtless aware that, after the death of the Emperor Maximilian and the consequent overthrow of the Imperial Government established by him in Mexico, the Republican Government which succeeded refused to hold intercourse with the Powers who had recognized the Imperial Government, and repudiated all engagements of an international character which had theretofore existed between such Powers and Mexico.

2. That the British Chargé d'Affaires was accordingly withdrawn from Mexico, and from that time no diplomatic intercourse had been maintained between this country and Mexico, although a state of war did not ensue.

3. That the consequence had been that the operation of all Treaties and engagements of the like character between the two countries had been suspended, and among the latter certain official arrangements made for the assignment of a portion of the revenues of the custom-house at Vera Cruz for the payment of British claims, including those of the bondholders.

4. That the present Government of Mexico, however, though disclaiming any international obligation to provide for those claims, was understood not to disown the obligation of the National Treasury to provide for them.

5. That Her Majesty's Government in this state of things had hitherto considered it would be inconsistent with the dignity of this country to make any advances for a renewal of diplomatic relations with Mexico, and had required as the condition of their listening to any overtures from Mexico for that purpose that the Republic should either recognize all existing conventions and agreements with this country, or substitute others that might be mutually agreed upon for them.

6. That meanwhile, however, the money payments on account of British claims were in suspense; and the points on which you had to ask our opinion were: (1) whether the course taken by the Government of the Republic in repudiating its Treaty engagements with Great Britain is warranted by international law; and if not (2) what course Her Majesty's Government would be justified in adopting with a view to secure the observance of them.

7. That you inclosed the Treaty and agreements referred to, and also a Memorandum drawn up some time ago in the Foreign Office.

In compliance with the request contained in your letter we have the honour to report—

1. That the course taken by the Government of the Republic of Mexico in repudiating its Treaty engagements with Great Britain is in our opinion not warranted by international law.

2. That Her Majesty's Government has, we think, a strict right to adopt reprisals after a due summons to the Government of the Republic to fulfil its Treaty engagements, but the exercise of this right under the circumstances is a matter of policy, on which we do not presume to advise.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Monte Video.

### No. 119.

*The Queen's Advocate to Earl Granville.—(Received August 21.)*

*Temple, August 19*, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 12th instant, stating that he was directed to transmit to me the accompanying letter and its inclosures from the River Plate Telegraph Company, claiming the interference of Her Majesty's Government in consequence of the alleged unjustifiable proceedings of the Uruguayan Government with regard to the representatives and property of the Company in that Republic, and he was to request that I would take the same into my consideration, and furnish your Lordship with my opinion as to any steps which should be taken in the matter.

In obedience to your Lordship's commands I have the honour to report—

That I am not perfectly informed as to the present condition of political affairs in the State of Uruguay, but I infer from the declaration of Mr. John Oldham of 29th November, 1870, that there is a rebellion against the Government recognised by Her Majesty, and that the rebels are in possession of the "Campana," and have interrupted the working of the line of telegraph between Monte Video and Buenos Ayres. Under these circumstances, the Telegraph Company have requested Her Majesty's Government to protect them, on the ground that they are a British Company with British representatives, and they rely on the 4th Article of the Concession granted to the Company by the Monte Videan Government, by which it undertook to protect the property of the Company "as far as lies in its power." I do not find any

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* To Lord Bloomfield, No. 1, January 3, 1870

† 3rd July, 1871.

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good grounds in the correspondence for supposing that the Monte Videan Government is able to protect the property of the Company from the Blanco party, which has evidently the command of the country between Monte Video and Colonia, and Her Majesty's Government cannot, in my opinion, properly interfere to control the action of the Blancos in the Campana if it be thought necessary by them in the interests of the rebellion to interrupt the telegraph wires, in order to prevent the use of the telegraph by the Monte Videan Government for political purposes.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 120.

*The Queen's Advocate to Earl Granville.*—(*Received October* 10.)

*Temple, October* 9, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that, with reference to my Report of the 19th August on the claim of the River Plate Telegraph Company upon the Uruguayan Government, he was directed to transmit to me, together with the former papers in the case, a further letter from that Company, and to request that I would furnish your Lordship with my opinion as to the answer which it would be proper to return to them.

In obedience to your Lordship's commands I have the honour to report—

That before any definitive answer is sent by your Lordship to the further letter from the River Plate Telegraph Company, it would be desirable that the Secretary should be requested to furnish your Lordship with a copy of that part of the Concession to which reference is made in the letter of Mr. Oldham to Her Majesty's Acting Minister at Buenos Ayres, dated 19th January, 1871 (Excerpt p. 24), and with copies of the note addressed by the Ministro de Gobierno on the afternoon of the 6th October, 1870, to Mr. Oldham, together with Mr. Oldham's reply, unless your Lordship should think it more advisable to communicate with Her Majesty's Acting Minister at Buenos Ayres, and to instruct him to forward copies of the papers inclosed to him in Mr. Oldham's letter of the 19th January, 1871, and to report to your Lordship upon the occurrences in the months of October and December, 1870, when Her Majesty's Consul was called upon to intervene on behalf of Mr. Oldham. The latter would perhaps be the more satisfactory course, and if your Lordship should decide in favour of it, the Secretary of the Company may be informed "that as it appears from Excerpt p. 24, to which your Lordship's attention has been more particularly invited in the further letter from the Company, that the intervention of Her Majesty's Consul was invoked by Mr. Oldham on both the occasions referred to, your Lordship thinks it necessary to communicate with Her Majesty's Acting Minister at Buenos Ayres before any definitive answer can be given to the Company's further letter."

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 121.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 6.)

*Temple, December* 5, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th November ultimo, stating that he was directed by your Lordship to transmit to us the accompanying Memorandum, which had been drawn up in the Foreign Office, together with the original correspondence upon which it was founded, containing a statement of the complaints which Her Majesty's Government have against the Government of Uruguay, and for which, up to this time, they have been unable to obtain satisfaction, and Mr. Hammond was to request us to take those papers into our consideration, and favour your Lordship, at our early convenience, with our opinion as to the course which it would be proper for Her Majesty's Government to pursue to obtain redress for the pecuniary and other injuries inflicted on Her Majesty's Government and subjects.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That, with the exception of the money due to Her Majesty's Treasury, the grievances complained of have reference to the treatment of Her Majesty's subjects, who have established themselves in the State of Uraguay, and whose condition would be rendered worse by a declaration of war on the part of Great Britain against that State. It is therefore extremely difficult to suggest to your Lordship any effective mode of enforcing satisfaction for the wrongs inflicted on British subjects, unless Her Majesty's subjects who may be established in the State of Uraguay have timely notice to withdraw themselves and their property, and comply with such notice. As regards, however, the money due from the State of Uraguay to Her Majesty's Treasury, we are of opinion that the most effective course to enforce payment of it will be to make reprisals, as was done by Her Majesty's Government in 1840, when the Neapolitan Government refused to make its grant of the sulphur monopoly to a French Company.

We must observe, however, that if Her Majesty's Government should order Her Majesty's fleet to seize and detain Uraguayan vessels until the just demands of Her Majesty's Government are satisfied, Her Majesty's Government must be prepared to declare war against Uraguay, if the Uraguayan Government should lay an embargo on British vessels, or sequestrate the property of British subjects.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## Morocco.

### No. 122.

*The Queen's Advocate to Earl Granville.*—(*Received August* 5.)

*Temple, August* 4, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 29th ultimo, stating that he was directed to transmit to me a despatch from Her Majesty's Minister at Tangier, with its inclosure,* from the British Vice-Consul at Mazagan, dated the 7th ultimo, containing inquiries as to his liability to the jurisdiction of the Supreme Court of Gibraltar, in regard to acts done by him in his official capacity, under the authority of the Order in Council of 1857, Mr. Odo Russell was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the replies which should be returned to the inquiries of the British Vice-Consul on this subject.

In obedience to your Lordship's commands I have the honour to report—

That it does not appear from Mr. Vice-Consul Stokes' letter to Sir John Drummond Hay whether the Vice-Consul was or was not within the local jurisdiction of the Supreme Court of Gibraltar, when he was served with the process of that Court on the 14th March, 1871. As far as I am able to inform myself, by reference to the Charter of Justice of the 1st September, 1830, under which the Supreme Court of Gibraltar was constituted, the local jurisdiction of that Court is conterminous with the garrison and territory of Gibraltar; and in order to found the jurisdiction of that Court in an action of trespass brought by Mr. John Haire against the Vice-Consul, it would be a condition precedent, in my opinion, that the Vice-Consul should have been within the local jurisdiction of that Court, when he was served with its process. There is nothing in the Order in Council of the 27th August, 1857, which would give effect to

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* Separate, July 7.

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the process of the Supreme Court of Gibraltar within the territory of Morocco in an action or suit brought against Her Majesty's Consul, and I should be surprised to learn that the process of that Court has been served on Her Majesty's Vice-Consul within the territory of Morocco.

On the other hand it appears that the Vice-Consul has obeyed the citation issued from the Supreme Court of Gibraltar, and has so far placed himself within its jurisdiction. Whether he has appeared under protest to its jurisdiction, or in what manner he has objected to its jurisdiction, is not explained by him; I am therefore at a loss to advise your Lordship upon this part of the case without further information. Upon the question of time raised by Her Majesty's Vice-Consul, viz., that under the Order in Council of the 27th August, 1857, it is provided that "every action or suit brought against Her Majesty's Consul by reason of anything done under the authority of that Order shall be commenced within six calendar months next after the doing thereof, and not otherwise," it will be competent for him to raise that objection against the Supreme Court entertaining the suit if he has, in fact, placed himself within its jurisdiction.

I would, however, venture to observe on this provision of the Order in Council, that I have great doubts, as it differs from the provision of the Foreign Jurisdiction Act, whether it would have any operation outside the limits of the territory of Morocco. The Queen is, for instance, authorized by the first clause of that statute to exercise within the territory of Morocco "the same power and authority as Her Majesty may exercise within any territory acquired by conquest or cession;" but she is not thereby authorized to control the exercise of jurisdiction by Courts within Her Majesty's dominions, unless there should be some further provision to that effect in the statute. The limitation, however, which is enacted by the seventh clause of the statute, falls short of that laid down by the Order in Council of 1857, as the statute enacts that the limitation of six months shall only be in force when the cause of action has arisen within Her Majesty's dominions, and, where it has arisen out of Her Majesty's dominions, an action may be brought at any time within six months after the plaintiff and the defendant shall have been within the jurisdiction of the Court in which the action shall be brought.

Your Lordship will perceive that, under this clause of the statute, the jurisdiction of the Supreme Court of Gibraltar may be operative, as regards time, in a manner not contemplated by Mr. Vice-Consul Stokes. I should suggest, as the case may be of importance as a precedent, particularly as the Order in Council conflicts *primâ facie* with the statute, that further and fuller information should be obtained from Her Majesty's Vice-Consul.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 123.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 25.)

*Temple, September* 23, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that, with reference to the Report of the Queen's Advocate of the 4th ultimo, herewith inclosed, he was directed to transmit to us the accompanying correspondence* relative to the question of jurisdiction by the Supreme Court of Gibraltar over British Consular Officers in Morocco; and he was to request that we would take the inclosed papers into consideration, and furnish your Lordship with our opinion on this matter, and also as to the course which should be pursued with regard to the specific case of Mr. Vice-Consul Stokes therein referred to.

In obedience to your Lordship's commands we have the honour to report—

That we, the Attorney-General and Solicitor-General, not having had the honour to be consulted by your Lordship in the earlier stage of this business, are unable to say more, with reference to the Queen's Advocate's Report of the 4th August, 1871, than that we concur in the views expressed therein as to the effect of the limitation clause of the Order in Council of August 1857.

We are all of opinion, upon the information now disclosed to us, that the Court of

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* Sir J. D. Hay, Separate, of July 7; No 26, Commercial, of August 29; to Sir J. D. Hay, No. 15, Commercial, of August 8, 1871.

Gibraltar had not power to issue process against persons not within its local jurisdiction, and, consequently, none in the present case to serve Mr. Stokes with a writ of summons, whilst he was within the Empire of Morocco. We may observe that the question arises not exactly as it is put in Mr. Hammond's letter as to the jurisdiction of the Supreme Court of Gibraltar over British Consular Officers in Morocco; but as to the jurisdiction of the Court over British subjects in general, for Mr. Stokes is sued not in his character as Vice-Consul, nor for anything (on the face of the proceedings) done by him as such, but for ordinary trespasses. While we think it right to point this out, we do not think that the Supreme Court has other or exceptional jurisdiction as to the issuing of writs of summons against Consular Officers from the jurisdiction enjoyed by it over British subjects in general.

As far as we can judge from the papers before us, Mr. Stokes appears to have acted with perfect propriety, and simply in the execution of his judicial or quasi-judicial functions as Vice-Consul. And we think, therefore, that your Lordship would be warranted in taking such steps, or directing such steps to be taken, for his defence as the course of the Foreign Office sanctions in cases where Consular Officers are sued for acts done in the honest discharge of their duty. Should the judgment in the Court of Gibraltar assert the jurisdiction of the Court in a case like the present, it may be very fit to have the matter brought at once for decision before the Judicial Committee, and decided as a matter of law apart from the facts of the case. The facts appear, as far as we can judge, to afford a complete defence to Mr. Stokes; but it may be desirable, as a precedent, that the assertion of jurisdiction (if made) by the Court of Gibraltar should not pass unquestioned. There is nothing to show that Mr. Stokes has, by any act of his, waived the point of jurisdiction; but on this matter we desire to be understood as speaking with some reserve, from the fact that the technical forms of the proceeding are not before us.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 124.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 26.)

*Temple, September* 25, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed to transmit to us a despatch from Her Majesty's Minister in Morocco relative to a question which has arisen between the British and United States' Consulates at Tangier in regard to the jurisdiction to be exercised over a British subject employed as interpreter at the United States' Consulate. A copy of the Order in Council for regulating jurisdiction over British subjects in Morocco was also inclosed, and Mr. Hammond was pleased to request that we would take this matter into our consideration, and furnish your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That although Mr. Scott is not entitled to claim British protection by reason of his having neglected the duty of registering himself prescribed by section 35 of the Order in Council of 1857, nevertheless as a British subject, not having got rid of his nationality under the provisions of the "Naturalization Act, 1870," he remains in our opinion subject to the criminal jurisdiction of the British Consul, nor do we think his employment as interpreter to the American Consul entitles the American Consul to claim exemption for him from British jurisdiction. The question, whether Mr. Scott could get rid of his nationality by becoming a Moorish subject, will not arise until he is recognized as such by the Moorish Government, an event which does not seem probable; but we have to observe that should he become a Mahommedan and a Moorish subject, still under our Treaty with Morocco of December 1856 (Hertslet, vol. x., p. 903), the British Consul would be bound to entertain a civil suit brought against him by a Moorish subject.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 125.

*The Queen's Advocate to Earl Granville.*—(*Received November* 7.)

My Lord, *Temple, November* 6, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 2nd instant, stating that he was directed to transmit to me a despatch with its inclosures from Her Majesty's Minister at Tangier, respecting the attitude assumed by the Moorish Government in regard to the claims of British and foreign creditors on the estates of Moorish subjects, whose property has been confiscated by the Sultan of Morocco. Lord Enfield was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to whether the claims of British subjects to payment under the circumstances referred to can properly be supported by Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that the Ministers of the Sultan of Morocco will be justified in holding that all moneys raised by the Governors and Sheikhs, whether properly or improperly, by imposing taxes on the subjects of the Sultan, are the property of the State, and are not liable to the personal debts of the Governors and Sheikhs, if this is the question. But it appears to me probable that there are several questions involved in the dispute between the creditors of the Governors and Sheikhs and the Sultan's Government. I am also of opinion that the Sultan's Government will be justified in asserting a paramount lien on the property of the Governors and Sheikhs for any arrears of taxes due from them to the State to the exclusion of private creditors, and in such cases I am of opinion that the claims of British subjects to preference of payment cannot properly be supported by Her Majesty's Government. It will be convenient that Her Majesty's Minister at Tangier should report if there are other classes of claims, more particularly if there are any claims on the part of British subjects for moneys lent to the Sheikhs and elders of the tribes to pay taxes exacted from them by the Governors, whose effects have been confiscated.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 126.

*The Queen's Advocate to Earl Granville.*—(*Received December* 4.)

My Lord, *Temple, December* 2, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed to transmit to me the accompanying despatch, which has been received from Sir J. D. Hay, inclosing copies of correspondence respecting an assault which has been committed on Mr. Robert Spinney, a British subject, in the neighbourhood of Mazagan, by a Moor; and Mr. Hammond was pleased to request that I would take this despatch, together with its inclosures, into my consideration, and that I would furnish your Lordship with my opinion as to the instructions which should be sent to Sir J. D. Hay upon the subject.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Minister at Tangier has, in my opinion, adopted a sound view of the course which should be adopted by him in this case, namely, that he should insist upon the parties who assaulted and wounded Mr. Spinney being signally punished, but that he should not require the Moorish Government to make Mr. Spinney a pecuniary compensation. Under the circumstances that there was a "Moosem," or Moorish religious festival, being celebrated at the place where the market was held, as admitted by Mr. Vice-Consul Stokes in his letter of the 6th November, 1871, Mr. Spinney was not, in my opinion, justified in going there without giving notice to the local authorities, in accordance with the Circular notice of Her Majesty's Minister, in order that he might either have been warned not to go there, or have obtained a native guard to accompany him. Having neglected to observe the precautions pointed out to him in that Circular, he may, in my opinion, be justly allowed to suffer the consequences of his neglect, as also pointed out in the Circular. Your Lordship may, however, in my opinion, properly instruct Her Majesty's Minister at Tangier to follow up his demand for the punishment of the individuals who assaulted and wounded Mr. Spinney, but not to press any further on the Moorish Government Mr. Spinney's claim for a pecuniary compensation.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 127.

*The Queen's Advocate to Earl Granville.*—(*Received December* 8.)

My Lord, *Temple, December* 8, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 4th instant, stating that he was directed to transmit to me a despatch and its inclosure,* from Her Majesty's Minister at Tangier, relative to a question which has arisen between Her Majesty's Court at that place and the Spanish Consul as to the nationality of persons born in Gibraltar of Spanish parents, and to request that I would furnish your Lordship with my opinion on the matter.

In obedience to your Lordship's commands I have the honour to report—

That the parties in question in this case appear to be subjects of Great Britain by birth and subjects of Spain by origin, and the point which is raised is whether Her Majesty's Consuls should extend protection to such persons against the Consular authorities of Spain when those authorities claim to exercise jurisdiction over them within the territory of Morocco, under Treaty engagements with that Power.

I am of opinion that Her Majesty's Consuls should not extend protection to such person, under such circumstances, against the Consular authorities of Spain, as the parties owe allegiance to Spain, and the Spanish Consular authorities in Morocco are empowered by Treaty to exercise jurisdiction over Spanish subjects within that State.

I have, &c.
(Signed) TRAVERS TWISS.

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## Netherlands.

### No. 128.

*The Law Officers of the Crown to Earl Granville.*—(*Received May* 5.)

My Lord, *Temple, May* 4, 1871.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 26th April, stating that he was directed by your Lordship to transmit to us accompanying papers respecting a rumour which had been alluded to in the Belgian newspaper the "Echo du Parliament," that the Grand Duchy of Luxemburg was about to enter the German Confederation, the Kingdom of Netherlands resigning the Grand Dukedom in favour of Prince Henry of the Netherlands; and that he was to request that we would favour your Lordship with our opinion as to whether such a proceeding, if it actually took place, would be a violation of the Treaty respecting Luxemburg of 1867, to which Great Britain was a party.

In obedience to your Lordship's commands we have considered this matter, and have the honour to report—

That the admission of the Grand Duchy of Luxemburg into the German Confederation, the object of which we presume to be the mutual defence of the territories of the several members of the Confederation against hostile invasion, would be, in our opinion, inconsistent with the obligation which the Grand Duke has contracted towards

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* No. 34, Commercial, November 18, 1871.

1871

the co-Signataries of the Treaty of the 11th May. 1867, the IInd Article of which Treaty imposes upon the Grand Duchy the obligation of perpetual neutrality towards all other States. We consider, therefore, that the accession of the Grand Duke to the Germanic Confederation of Princes would be a violation of the Treaty of 1867.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 129.

*The Queen's Advocate to Earl Granville.*—(*Received July* 5.)

*Temple, July* 4, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 1st instant, stating that he was directed to transmit to me a despatch from the Acting British Vice-Consul at Batavia respecting the solemnization of marriages in the British Consular Chapel at that place. The Circular despatch referred to by Mr. Fraser was also inclosed, and Mr. Odo Russell was pleased to request that I would report my opinion on the points in regard to marriages solemnized in this chapel adverted to in Mr. Fraser's despatch.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Fraser should be informed that the course which your Lordship considers may be properly followed in cases analogous to that which is referred to in Mr. Fraser's letter of the 9th May last is the course which has been expressly sanctioned by Parliament in 1856 on the motion of the then Bishop of Oxford. That by the 19 and 20 Vict., c. 119, sect. 12, express permission has been given to any clergyman of the Church of England to read the marriage service of the Church of England, if parties, who have been married before the Civil Registrar, present themselves to him and express their desire to add the religious ceremony ordained by the Church; but the reading of such service is not to affect the marriage previously contracted, nor is it to be entered as a marriage in the Consular Register. That your Lordship sees no objection to parties who may have contracted marriage in a British Consulate without any religious ceremony, if they should afterwards desire to add the religious service in the Consular chapel, being allowed so to do, if the Chaplain is willing to read the service, but no entry should be made in any register book of such service. That, with regard to the two points upon which Mr. Fraser wishes to be favoured with your Lordship's opinion, he should be informed that the Consular Chaplain has no legal authority to publish banns of marriage in any such chapel; and that your Lordship cannot sanction the reading or celebration of the marriage service in the Consular chapel, except in the case of parties who may have contracted marriages without any religious ceremony at the British Consulate.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 130.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 7.)

My Lord, *Temple, December* 6, 1871.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 6th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying papers as noted in inclosed list,* respecting the claim advanced by Messrs. Swanzy against the Netherlands Government for compensation for losses sustained by them on the occasion of an attack made on Dixcove by the Ahanta tribes in the month of June, 1869, and he was to request that we would take the papers into our consideration and favour your Lordship with our opinion upon the merits of Messrs. Swanzy's claim, and upon the course with respect to it which Her Majesty's Government should now pursue.

In compliance with your Lordship's commands we have taken the said papers into our consideration, and have the honour to report—

That it appears that the property in question in this case was destroyed by the attack of a hostile Ahanta tribe upon the town of Dixcove in the possession of the Netherlands Government. Upon a perusal of these papers we are prepared to advise that the charge of collusion against the Dutch Governor is not made out, and under these circumstances it appears that this is the ordinary case of destruction of property by operations of war, and that the neutral owner of that property has no title to compensation from the Government of the invaded territory.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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* See list bound in volume of papers.

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### No. 131.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 15.)

My Lord, *Temple, December* 15, 1871.

WE are favoured with your Lordship's commands signified in Viscount Enfield's letter of the 12th instant, stating—

1st. That with reference to our Report dated the 6th instant, relative to the claim of Messrs. Swanzy against the Netherlands Government for the destruction of their property at Dixcove, he was directed by your Lordship further to call our attention to the following point in connection with this case.

2nd. That Messrs. Swanzy asserted that the Dutch soldiers joined the besiegers in plundering their property; and your Lordship would be glad to be favoured with our opinion whether, if this were proved, Messrs. Swanzy would not then have a valid claim against the Netherlands Government.

3rd. That Viscount Enfield returned for facility of reference the papers which had already been laid before us.*

In obedience to your Lordship's commands we have the honour to report—

That assuming that it can be proved that Dutch soldiers took part in attacking the town of Dixcove and in plundering the stores of Messrs. Swanzy, we are of opinion that, to the extent of the plunder committed by such soldiers, Her Majesty's Government may properly claim compensation for Messrs. Swanzy from the Netherlands Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## New Granada.

### No. 132.

*The Queen's Advocate to Earl Granville.*—(*Received April* 18.)

*Temple, April* 17, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 8th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Bogota relative to a question which had arisen between the municipal and ecclesiastical authorities of the town of Honda and certain foreigners residing there with regard to the use of the cemetery of the district, and inclosing the translation of a Protocol of Conference, which

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* Volume; and Admiral Harris, No. 145.

Mr. Bunch, the United States' Minister, and the Columbian Minister for Foreign Affairs had signed, by which the question is set at rest; and to request that I would take the same into my consideration with reference to the Burials Acts Amendment Bill now before Parliament, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that the Burials Acts Amendment Bill will not enable effect to be given to the 1st Article of the Protocol of Conference as regards the interment of Venezuelan citizens residing in British territory, but will allow of complete effect being given to the 2nd Article, and that as regards the 3rd Article the Bill has no bearing upon it, as I presume that it is intended to apply to burials in Venezuelan cemeteries.

I have, &c·
(Signed) TRAVERS TWISS.

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### No. 133.

*The Law Officers of the Crown to Earl Granville.*—(*Received April* 20.)

*Temple, April* 20, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 6th instant, stating—

1. That with reference to our Report of the 9th July last, and to previous Reports of Her Majesty's Advocate-General, upon the subject of the claim of Mr. Percy Brandon against the Colombian Government on account of certain bonds issued by the former Government of New Granada, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Chargé d'Affaires at Bogota (No. 7), reporting that the Colombian Government had delayed carrying out the engagement into which they had entered for the payment of such of the bonds as they had recognized in Mr. Brandon's favour, and Viscount Enfield was to request that we would take the same into our consideration, and favour your Lordship with our opinion as to any further instruction which should be given to Mr. Bunch on the matter.

2. That the previous papers relating to this case were also sent therewith for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may, in our opinion, properly approve the course which Mr. Bunch has adopted in this case, and instruct him to remonstrate with the Colombian Government against any further delay in the settlement of Mr. Percy Brandon's present claim.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 134.

*The Queen's Advocate to Earl Granville.*—(*Received October* 10.)

*Temple, October* 10, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that, with reference to my Report of the 15th December last, respecting the claim of Messrs. Robinson and Fleming on the Government of Colombia, he was directed to transmit to me a further despatch from Her Majesty's Chargé d'Affaires at Bogota, inclosing copies of correspondence with Señor Zjapata on this subject, resulting in the refusal of that Government to entertain the claim in question, and suggesting that in future all further discussion on the point shall be carried on through the Colombian Minister in London. Mr. Hammond was pleased to request that I would take into consideration the arguments put forward in Señor Zjapata's letter to Mr. Bunch, and furnish your Lordship with my opinion as to the further steps which it would be proper for Her Majesty's Government to take in this matter. The former papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may, in my opinion, properly open a communication with the Colombian Minister in London on the subjects referred to in the last despatch of Señor Zjapata to Her Majesty's Chargé d'Affaires at Bogota, and request to be informed whether he has received instructions from his Government to bring the question of the true construction of their contract with Messrs. Robinson and Fleming before the British Courts.

I have, &c.
(Signed) TRAVERS TWISS.

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## Pacific Islands.

### No. 135.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 18.)

*Temple, February* 17, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed to transmit to us a letter from the Colonial Office, inclosing with other papers a letter from the Attorney-General of New South Wales, suggesting the extension to the Fiji Islands of the provisions of the proposed law for the Extradition of Criminals, and he was to request that we would furnish your Lordship with our opinion on this suggestion.

In obedience to your Lordship's commands we have the honour to report—

That we think the evil pointed out by the Attorney-General of New South Wales cannot properly be remedied in the proposed manner. So long as no Government is recognized at Fiji the mutual surrender of criminals by independent and civilized communities is a principle to which the Fiji Islands must remain foreign. As repeatedly before, so here again, the importance of specific Imperial legislation on the subject of our relations to places like the Fiji Islands seems to be established by the facts brought to the Law Officers' notice in connection with them. But such legislation should not be by way of extention of the "Extradition Act 1870," the scope of which is wholly different. In any such legislation means might with propriety be taken to carry out the suggestion of Sir William Manning, mentioned in section 3 of the letter of the Attorney-General ot New South Wales.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE
TRAVERS TWISS.

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### No. 136.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 1.)

*Temple, February* 17, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 1st instant, stating—

1. That with reference to our Report of the 11th January of last year to the Secretary of State for the Colonies upon the question of enacting legislative measures for the suppression of abuses in connection with the introduction of natives from the South Sea Islands to the Australian Colonies and the Fiji Islands, he was directed by your Lordship to submit to ~~us a correspondence*~~ respecting the question of conferring

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* Consul March, No. 3, December 17, 1869; to Consul March, No. 7, March 30; Consul March, No. 12, May 17; Consul March, No. 20, July 18; Colonial Office, October 17, 1870.

1871

on Her Majesty's Consul in the Fiji Islands powers under the Foreign Jurisdiction Act to deal with crimes and offences committed by British subjects within his Consular district.

2. That we should find among the correspondence copies of the Code of Laws supposed to be in force in Fiji, which are, however, stated by the Consul to be for all practical purposes a dead letter, and we should observe that Mr. March reported that the Chiefs entirely disclaimed any jurisdiction over foreigners, and looked to the Consul to exercise over his own countrymen the same power and authority that they do over the natives.

3. That those despatches also show that some more constituted and recognized authority than the Consul now possesses is required to enable him to deal with the cases which are constantly brought before him, and which are likely to become more numerous as the numbers of settlers increase, many of these cases embracing crimes and offences with which the Consul's present powers do not enable him legally to deal.

4. That under those circumstances your Lordship had thought it necessary to cause the inclosed draft Order in Council to be prepared and submitted to us, and Viscount Enfield was to request that we would have the goodness to favour your Lordship with our opinion—

1st. Whether Her Majesty has, under the Foreign Jurisdiction Act, sufficient authority to issue the Order in Council; and

2ndly. If so, whether the proposed Order is right and proper, or whether we have any alterations to suggest in it.

5. That we should observe that a clause (No. 34) had been inserted for the purpose of making better provision for the regulation of the traffic in South Sea Islanders, and for the protection of those immigrants, to which Viscount Enfield begged to direct our particular attention.

In obedience to your Lordship's commands we have the honour to report—

That we assume that there has been some sort of jurisdiction exercised by Her Majesty, at least by sufferance, in the Fiji Islands, so as to bring the case within the words of 6 and 7 Vict., cap. 94, and on that assumption we think that Her Majesty has sufficient authority to issue an Order in Council, under the Foreign Jurisdiction Act, for the purpose proposed by the Secretary of State for the Colonies, but we would suggest to your Lordship that certain alterations should be made in the draft Order, so as to keep its provisions within the powers conferred on Her Majesty by that statute.

As we are of opinion that the powers so conferred on Her Majesty are limited to offences committed within the limits of the Fiji Islands, we should advise the words "or of kidnapping natives from other islands under false pretences" should be amended in Article 16 in accordance with an amended form of Article 34, which we subjoin, and which we think will sufficiently meet the evil intended to be remedied.

We suggest the substitution in Article 16 of the words "or of importing labourers into the Fiji Islands from other islands of the Pacific, in contravention of the provisions of the said Order as hereinafter mentioned."

We think it advisable to give to labourers so imported into the Fiji Islands in British vessels, by a separate Article, a form of which is subjoined, a remedy for recovering their wages and obtaining proper treatment, upon complaint to the British Consul.

With regard to the provisions of Article 25, we are of opinion that Her Majesty has not, under the statute, authority to give to the High Court of Sydney jurisdiction in respect of suits of a *civil* nature arising between British subjects within the Fiji Islands. We should advise the omission of this Article. We have also advisedly omitted in the amended draft of Article 34, the power given to officers of Her Majesty's Navy to board and search all merchant-vessels, as being also *ultra vires*. We have inserted in Article 22 the addition of the words "or against this Order."

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Inclosure 1 in No. 136.

*Memorandum by Mr. Vivian on Law Officers' Report of February* 17, 1871.

I CANNOT but think that if Article 25 (by which jurisdiction in civil suits between British subjects is given to the High Court of Sydney) is to be omitted, Articles 5, 6, 7, 8, and 9 (providing for reference on appeal to the Court at Sydney) also require alteration.

Query. Consult Law Officers on this point?

C. V.

*Foreign Office, March* 1, 1871.

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## Inclosure 2 in No. 136.

*Amended Article.*

§ 34. AND whereas it is expedient to make provision for the protection of hired labourers imported in British vessels into Fiji from other islands in the Pacific, it is further ordered that it shall not be lawful for any master or owner of a British ship, or any agent of any such master or owner, to import into Fiji any such labourer, unless he shall have been hired by an agreement in writing, which shall specify the date of hiring, the rate of wages, the allowance of provisions, the period of engagement, and the place of discharge, and of which one copy or duplicate shall have been delivered to the Headman or Chief of the tribe to which such labourer shall belong, or to the British Consul within whose Consular district such labourer shall have been hired, or to the Missionary or other authority appointed by the inhabitants of the place where such labourer shall have been hired, and another such copy or duplicate shall be delivered to the British Consul in Fiji on arrival there, and any master or owner of a British vessel, and any agent of any such master or owner contravening this regulation shall be deemed and taken to be guilty of a misdemeanor, rendering the person committing it answerable to any amount of punishment not exceeding imprisonment for calendar months, or a fine of .

R. P. C.
J. D. C.
T. T.

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## Inclosure 3 in No. 136.

*Further Amended Article.*

§ 34A. IT is further ordered that it shall be lawful for Her Majesty's Consul, and he is hereby empowered and required to go on board any British merchant vessel which shall be within any port or harbour of the Fiji Islands, for the purpose of ascertaining whether there is any labourer on board such vessel, who has been imported into Fiji in contravention of the provisions of the next preceding Article, and to inquire into and hear any complaint from any such labourer, and to redress any such just complaint to the full extent of his power and authority, and all hired labourers imported into Fiji in British vessels shall have the same rights and remedies for recovering their wages and obtaining just and proper treatment on complaint to the Consul in all respects as if they were British subjects.

R. P. C.
J. D. C.
T. T.

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## No. 137.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 1.)

*Temple, February* 21, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating—

1. That he was directed by your Lordship to transmit to us, together with the papers relating to the case,* a Report from the legal adviser to the Treasury upon Slave Trade matters, upon the claim of the owners and others interested in the "Daphne" for the payment of the passages of certain natives whom they had imported as labourers into the Fiji Islands from other islands in the Pacific.

2. That those claims had been advanced in consequence of the release of the "Daphne" by the Vice-Admiralty Court at Sydney, where she had been sent for trial on a charge of slave trading, and Mr. Hammond was to request that we would advise your Lordship whether we concurred in Mr. Rothery's opinion upon the case, and upon the claims of the interested parties.

In obedience to your Lordship's commands we have the honour to report—

That we concur in Mr. Rothery's opinion that this is not a case in which the owners of the vessel have any just claim for compensation from Her Majesty's Government on account of their not having received any passage money for the native labourers landed at Levuka and placed in charge of Her Majesty's Consul.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 138.

*The Law Officers of the Crown to Earl Granville.—(Received March* 17.)

*Temple, March* 15, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th March instant, stating that in our Report of the 17th ultimo, therewith returned to us, upon the proposed Order in Council for the regulation of Consular jurisdiction in the Fiji Islands, we suggested the omission of Article 25 of the Order because we considered that the Queen had not under the Statute authority to give to the High Court of Sydney jurisdiction in respect of suits of a civil nature arising between British subjects within the Fiji Islands.

Mr. Hammond was also pleased to say that he was directed by your Lordship to request that we would have the goodness to advise you why it was not within Her Majesty's competency to grant to the Court at Sydney the same powers in civil as in criminal cases in which her right of jurisdiction is maintained, and why Her Majesty cannot confer upon the Court of a neighbouring Colony the same powers in civil suits that she has conferred in other similar cases upon the nearest British Court (for example, in the Zanzibar Order in Council, upon the Court at Bombay), and that he was also to inquire whether if Article 25 was to be omitted, Articles 5, 6, 7, 8, and 9, in which provision is made for reference on appeal in civil cases to the High Court at Sydney do not also require amendment, and, if so, Mr. Hammond further stated that he was to request that we would suggest necessary alterations.

Mr. Hammond was also pleased further to say that he was to ask our advice as to the amount of fine or term of imprisonment which should attach to a contravention of the Regulations affecting the importation of native labourers into the Fiji Islands, referred to in Article 34 as amended by us.

In obedience to your Lordship's commands we have the honour to report—

That ever since the well-known case of Campbell *v.* Hall, 1 Cowper 204, it has been considered settled, as your Lordship is aware, that where a Colony has received representative institutions the power of the Queen to legislate for it *jure coronæ* is at an end. Sydney has received representative institutions, the Queen can, therefore, have no power to legislate for it, except what is expressly conferred upon her by Imperial Statute. The Statutes 6 and 7 Vict., cap. 94, sec. 4, gives her the power to direct persons accused of crimes committed in places out of her dominions to be taken for trial to some British Colony to be designated by Order in Council, and thereupon empowers the Supreme Court of such Colony exercising criminal jurisdiction to keep in custody, try, and punish the offenders; but it gives Her Majesty no power to direct that civil causes arising out of her dominions shall be determined by any Court of her Colonies. For this reason we advised that so much of the Order as purported to give jurisdiction to the Court at Sydney over civil causes arising at Fiji was *ultra vires*.

It certainly follows, as is pointed out by Mr. Hammond, that Articles 5, 6, 7, 8, and 9 require amendment; that amendment would consist in striking out so much of them as relates to the exercise of appellate jurisdiction by the Court of Sydney in civil cases.

We have to observe, with respect to the Order giving the Court of Bombay jurisdiction in certain civil causes arising at Zanzibar, that we are not fully cognizant of the circumstances under which that Order was made; it may be enough, however, to point out that Bombay is not a Colony with representative institutions.

With regard to the term of imprisonment and the amount of the fine to be inserted in amended Article 34, we think that the limit adopted in Article 3 may be followed in this Article, viz., imprisonment for a term not exceeding three calendar months, or a fine not exceeding 100*l*.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 139.

*The Queen's Advocate to Earl Granville.—(Received May* 5.)

*Temple, May* 4, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 29th ultimo, stating that he was directed to transmit to me a despatch from Her Majesty's Consul in the Fiji Islands, reporting a violent boarding of the British ship "Oriti" in the Port of Levuka by certain parties, some of whom were British subjects, and his proceedings thereupon; Mr. Odo Russell was pleased to request that I would furnish your Lordship with my opinion as to the action which Her Majesty's Consul would be justified in taking in such cases.

In obedience to your Lordship's commands I have the honour to report—

That it is desirable that I should have the advantage of conferring with the Attorney-General and the Solicitor-General as to the best mode of dealing with this case and cases of a like character, in connection with the proposed Order of Her Majesty in Council for the regulation of the jurisdiction of Her Majesty's Consuls in Fiji.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 140.

*The Law Officers of the Crown to Earl Granville.—(Received May* 19.)

*Temple, May* 18, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 3rd instant, stating—

1. That with reference to our Reports of the 15th February and 17th March last, respecting the proposed Order in Council for the regulation of Consular jurisdiction in the Fiji Islands, he was directed by your Lordship to transmit to us a letter from the Colonial Office, dated 15th April, 1871, approving the Order generally, but suggesting doubts both as to the power of the Supreme Court of New South Wales to try appeals or references in criminal cases, and as to the propriety of directing without previous reference to the Colonial Government, that persons guilty of crimes in the Fiji Islands should be deported for punishment to a British Colony.

2. That your Lordship apprehended that the objections raised by the Colonial Secretary on those points might be met by the insertion in Articles 13, 14, 15, 16, 21, and 22 of the provision to the effect that the consent of the Colonial Government should be obtained for hearing criminal cases on appeal, and for undertaking the custody of offenders deported from Fiji, before those clauses could take effect, and your Lordship directed him to return the Order in Council to us in order that we might make such alterations in it as we might think necessary to meet those objections.

3. That Viscount Enfield was to add that your Lordship thought it would be better, if possible, to pass the Order in Council as a whole, and not in part, as suggested by the Colonial Office.

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* List, January 20, 1871.

1871

In obedience to your Lordship's commands we have the honour to report—

That as regards the 13th Article, we do not think that the jurisdiction which it confers is strictly speaking an appellate jurisdiction; at the same time we think it advisable that Lord Granville's suggestion be adopted that the consent of the Colonial Government should be obtained to its provisions before they take effect.

As regards the remaining Articles to which Mr. Holland's letter refers, we entirely agree with your Lordship that it may be desirable on grounds of policy to obtain the consent of the Colony of New South Wales to the provisions contained in them which affect that Colony.

It appears to us that the best mode of expressing this in the Order would be the insertion of an additional Article thus worded: "Articles 13, 14, 15, 16, 17, 21, 22, and 23 shall not take effect until the consent of the Government of the Colony of New South Wales shall have been obtained thereto."

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 141.

*The Law Officers of the Crown to Earl Granville.—(Received May 19.)*

*Temple, May* 18, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul in the Fiji Islands,* reporting a violent boarding of the British ship "Oriti" in the port of Levuka by certain parties, some of whom were British subjects, and his (the Consul's) proceedings thereupon; and that he was to request us to favour your Lordship with our opinion as to the action which Her Majesty's Consul would be justified in taking in such cases.

In obedience to your Lordship's commands we have taken the above despatch into consideration, and have the honour to report—

That cases like the present are attended with great difficulty not only from the strange and lawless character of the traffic in Polynesian natives (called passengers) which gives rise to them, such traffic being in some cases little better than a modified Slave Trade; but from the absence of all legitimate and enforceable authority in the Consul.

The Consul in this case has it appears done all that he can do, and has on the whole acted with sense and discretion. But he can have no real authority except such as is conferred upon him by Order in Council under the Foreign Jurisdiction Act, and at present in such a case as this he has none. He can only interefere in such cases with the weight which his position and personal character may give him, and things will remain in this condition until he is clothed with some authority under the Foreign Jurisdiction Act. When the proposed Order in Council is passed, we think that it will be competent to him to deal with such a case as this summarily under Act. 12, and with more serious cases by the subsequent Articles.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 142.

*The Law Officers of the Crown to Earl Granville.—(Received July 4.)*

*Temple, June* 30, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 23rd instant, stating—

1. That with reference to our Report of the 18th ultimo, he was directed by your Lordship to transmit to us a revise of the draft Order in Council for the regulation of Consular jurisdiction in the Fiji Islands, as amended in accordance with our advice and with the concurrence of the Secretary of State for the Colonies, as expressed in the accompanying letter,* and Viscount Enfield was to request that we would be good enough to advise your Lordship whether the Order could properly be passed in its present shape, or whether we had any further alterations to suggest.

2. That the addition suggested in our Report of the 18th ultimo would be found at the end of Article 23.

In obedience to your Lordship's commands we have the honour to report—

That we have suggested certain trifling verbal amendments in the text of the Order for greater clearness, and subject to such amendments the Order is, in our opinion, proper and suitable to be submitted to the Queen.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### Inclosure in No. 142.

*Alterations suggested in proposed Order for Fiji Islands.*

Section 6, line 11; "*shall* give" for "*will* give."
Section 9, line 11; any British subject who, *upon having* been duly served, &c.
Section 9, line 17; "*shall make wilful default* to appear.
Section 9, line 18; *shall be* punished.
Page 10, section 16, line 2; Consul for Consuls.
Section 28, line 1; Register for Registe.

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## No. 143.

*The Law Officers of the Crown to Earl Granville.—(Received July 25.)*

*Temple, July* 22, 1871.

My Lord,

WE are honoured with your Lordship's commands signiffed in Mr. Odo Russell's letter of the 12th instant, stating—

1. That he was directed by your Lordship to transmit to us the accompanying copy of a despatch from the Governor of New South Wales, which had been forwarded to your Lordship by the Secretary of State for the Colonies, inclosing a copy of a communication from Her Majesty's Consul in the Fiji Islands respecting a Charter (a copy of which was inclosed) granted by the Chief Thakobau to the European residents at Levuka, and authorizing the formation of a Body Corporate "to frame and pass police, muncipal, and other regulations, and to recover such taxes, imports, &c., as may be necessary for the carrying out of such corporation."

2. That it would be seen that the Attorney-General for New South Wales was of opinion that the European residents at Levuka would not be justified in carrying out the provisions of such a Charter, and that any British subject taking the property or restraining the freedom of any person under the authority of the laws promulgated by any Fijian Chieftian would be liable to prosecution under the Act 9 Geo. IV, cap. 83; and Mr. Russell was to request that we would take those papers into our consideration and report to your Lordship whether we concur in the opinion of the Attorney-General of New South Wales, and in the event of our agreeing with that officer, that we would favour your Lordship with our opinion what steps it would be competent for the Chief of Fiji, or for the European residents there to take with the view to enforce obedience to any laws that might be made for the benefit of the community.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That it is, in our opinion, within the competence of the sovereign power of any country to depute to others those powers, or any portion of those powers, of governing the residents in or immigrant into that country, which are possessed by that Sovereign Power. It is true that this country, or indeed any country would probably not recognize these powers as existing in fact in any Sovereign Power either too barbarous

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* Consul March, No. 2, January 27, 1871.

* Colonial Office, June 17.

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or too unstable to be capable of entering into business relations with other Governments. It is a question of fact whether the power of Thakobau, the Fijian Chieftain, is or is not of such a character; and it is probably a question of policy whether Her Majesty's Government choose to recognize his authority and to deal with him as possessing it.

If Her Majesty's Government choose so to recognize his authority and so to deal with him, we think the Charter in question is one the binding force of which, within the area of its operation, may properly be recognized; and if our opinion be desired as to whether in point of fact the power and character of this Fijian Chieftain be of such a sort as to warrant the British Government in according to it this sort of recognition, we can only say that the various papers which have come before us relating to the Fiji Islands in which this Chieftain has been mentioned do not lead us to reply to this question in the negative.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 144.

*The Queen's Advocate to Earl Granville.—(Received August 29.)*

My Lord, *Temple, August* 28, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 23rd instant, stating that with reference to the Law Officers' Report of the 21st February last, herewith returned to me, relative to the claims arising out of the release of the "Daphne" by the Vice-Admiralty Court of New South Wales, preferred by the owners and others interested in the vessel for the payment of the passages of certain natives, whom they had imported as labourers into the Fiji Islands from other Islands in the Pacific, he was directed to transmit to me a letter from Mr. Smith, who describes himself as registered owner of the vessel, praying that the natives may be either transferred to the custody of the persons properly entitled to their services, or that the persons in whose custody the natives are placed may be called upon to defray the expenses of their passages, and to guarantee their wages and return passages home when their period of services shall have expired, or in default of this, that Her Majesty's Government will cause the owners to be compensated for the losses they have suffered in respect of these immigrants. The instructions that have been sent to Consul March upon this subject, together with the previous papers, were also inclosed, and Lord Enfield was pleased to request that I would furnish your Lordship at my early convenience with my opinion as to the answer that should under the circumstances be returned to Mr. Smith's application.

In obedience to your Lordship's commands I have the honour to report—

That the prayer of Mr. Smith in his memorial to your Lordship is founded on the assumption that he and the other owners of the "Daphne" are under certain legal obligations towards the Islanders landed at Fiji, in consideration of which he claims that the owners of the "Daphne" should be re-imbursed the passage-money of the Islanders to Fiji under the Charter party with Mr. Ross Lewin. I am of opinion however, as at present informed, that the owners of the "Daphne" are under no such legal obligation. The agreements, such as they were, are stated by Sir Alfred Stephen in his judgment on the case in the Vice-Admiralty Court of Sydney to have been made between the Islanders and Mr. Ross Lewin, the charterer of the "Daphne," so that in strict law the Islanders would have no cause of action for breach of those agreements against the owners of the "Daphne;" on the other hand, as regards the question of fact, Her Majesty's Consul has made arrangements under which all legal responsibility for the payment of annual wages to the Islanders in question and their passage-money home has been undertaken by the parties to whose care and employment they have been transferred by Her Majesty's Consul. Under these circumstances I am of opinion that Mr. Smith has made out no case on behalf of the owners of the "Daphne" for payment of the passage-money of the Islanders to Fiji, and as regards his alternative prayer, that the Islanders may otherwise be transferred to the custody of the persons properly entitled to them, by which I presume him to mean Mr. Ross Lewin or his agents, I am of opinion that Mr. Ross Lewin has forfeited all title to the services of the natives by his violation of the terms of the licence granted to him by the authorities of Queensland.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 145.

*The Attorney- and Solicitor-General to Earl Granville.—(Received September* 11.)

My Lord, *Temple, September* 9, 1871.

WE are honoured with your Lordship's commands signified in Mr. Russell's letter of the 5th instant, stating that with reference to the Queen's Advocate's Report of the 28th ultimo, upon the subject of the claim preferred by Mr. Smith on account of the natives imported into Fiji in the "Daphne" and released by Her Majesty's Consul there, he (Mr. Russell) was directed by your Lordship to transmit to us a draft of the answer which, in accordance with the advice of the Queen's Advocate, it was proposed to return to Mr. Smith, and he (Mr. Russell) was to inquire whether we agreed in its terms, or whether we would suggest any alterations.

In obedience to your Lordship's commands we, the Attorney-General and the Solicitor-General, have taken this matter into consideration, and have the honour to report—

That not having been parties to the Queen's Advocate's Report of the 28th August, and not having had the advantage of seeing it amongst the papers now sent to us, we are unable to report "with reference to it," as your Lordship invites us to do.

As far as we can judge from the papers before us, however, we see no reason to doubt that the answer proposed to be sent by your Lordship to Mr. Smith is under the circumstances a proper answer.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.

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## No. 146.

*The Queen's Advocate to Earl Granville.—(Received September* 16.)

My Lord, *Temple, September* 16, 1871.

I am honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 5th instant, stating that with reference to my Report of the 28th ultimo, upon the subject of the claim preferred by Mr. Smith on account of the natives imported into Fiji in the "Daphne" and released by Her Majesty's Consul there, he was directed to transmit to me, as well as to the Attorney and Solicitor-General, a draft of the answer which, in accordance with the advice contained in my Report, it is proposed to return to Mr. Smith, and Mr. Odo Russell was pleased to inquire whether I agree in its terms, or whether I would suggest any alterations.

In obedience to your Lordship's commands I have the honour to report—

That the answer which your Lordship proposes to transmit to Mr. Smith is in my opinion proper for the occasion.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 147.

*The Law Officers of the Crown to Earl Granville.—(Received November* 2.)

My Lord, *Temple, October* 31, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed to transmit to us the correspondence respecting the case of the British vessel "Challenge," which was seized by Consul March, and sent to Sydney for trial on a charge of a breach of the laws relating to the Slave Trade, under the circumstances reported in his despatches. That

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as it appears that upon the refusal of the Governor of New South Wales to proceed against the vessel upon this charge in the Colonial Vice-Admiralty Court, she was restored to her owners, who have stated that they will hold the captors responsible for all loss or damage by her detention, Mr. Hammond was pleased to request that we would furnish your Lordship with our opinion upon the proceedings of Consul March in this case; upon the course pursued by the Governor of New South Wales and the Commander of the "Blanche;" and as to the steps, if any, that should be taken in the event of the threatened proceedings being instituted against the captors.

In obedience to your Lordship's commands we have the honour to report—

That it appears to us that Consul March did his duty, and no more than his duty, in seizing the "Challenge" and endeavouring to obtain her condemnation and the punishment of her captain and officers for breaches of the law against slave-trading; and that, so far as he requires it, he should be supported by Her Majesty's Government.

With regard to the conduct of the Earl of Belmore, it was very difficult for him to disregard the clear and elaborate opinion given him by the Attorney-General for the Colony. We think his determination is a matter to be regretted, but one which entails no blame upon the Governor himself, who acted upon his Law Officer's advice. The Attorney-General of the Colony thought that evidence of kidnapping natives, and treating them as they were treated in this case was no evidence of an intention to deal with them as slaves. Questions of intention are no doubt questions on which different minds may come to different conclusions, and we will say no more than that we should not have come to the same conclusion as the Attorney-General for New South Wales. But this is not a matter for which the Earl of Belmore can be considered responsible.

With respect to the conduct of the officers of the "Blanche," it appears to us to have been in all respects worthy of approbation, and that it will be proper for Her Majesty's Government at all events to hold them harmless for any loss or expenses they may incur in case of an action being successfully prosecuted against them by the owners of the "Challenge" for doing what seems to us to have been their duty.

We venture to add that this, with other cases on which your Lordship has done us the honour to consult us, seems to show the great importance of some interference on the part of the legislature of this country to protect the victims of kidnapping captains and to stop the growth of a Slave Trade in the Pacific, carried on chiefly by British subjects and in the supposed interests of British settlers.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 148.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 24.)

My Lord, *Temple, November* 23, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that, with reference to our Report of the 31st ultimo, he was directed by your Lordship to transmit to us therewith two further letters from the Colonial Office inclosing despatches* from the Governor of New South Wales respecting the case of the British vessel "Challenge," from which we would perceive that the master of that vessel had been convicted in the Supreme Court of the Colony and sentenced to three years' imprisonment, and that the owners had taken possession of her again, and had sent to Captain Montgomerie, of Her Majesty's ship "Blanche," a claim for 700*l.* for damages and loss of profits, a claim of which that officer had, on the advice of the Attorney-General of the Colony, declined to take any notice, and that he was to request we would take the papers into our consideration, and favour your Lordship with our opinion thereon.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

We are of opinion that the legal seizure of the "Challenge" must be held to have taken place when Captain Montgomerie, at the request of Her Majesty's Consul, took possession of her, and that if the owners of the "Challenge" should bring any action against Captain Montgomerie, the action should be defended by the Crown, and the privilege of seizors, under 5 George IV, c. 113, s. 45, should be claimed on his behalf.

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* Colonial Office, November 7 and November 8, 1871.

We have, &c.
(Signed) J. D. COLERIDGE.
GEORGE JESSEL.
TRAVERS TWISS.

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## Paraguay.

### No. 149.

*The Queen's Advocate to Earl Granville.*—(*Received February* 21.)

My Lord, *Temple, February* 20, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 17th instant, stating that he was directed to transmit to me the accompanying letter from Mr. W. Masterman, in which he requests the assistance of Her Majesty's Government to procure for his brother, Mr. G. F. Masterman, compensation from the new Government of Paraguay for the sufferings inflicted upon him by the late President Lopez. A Memorandum was also inclosed showing the facts of the case; and Lord Enfield was pleased to request that I would furnish your Lordship with my opinion as to whether any steps should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands I have taken these papers into my consideration, and have the honour to report—

That I am unable to advise your Lordship that any case is made out by Mr. W. Stanley Masterman which would justify the interference of Her Majesty's Government on behalf of his brother with the present Government of Paraguay.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 150.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 1.)

My Lord, *Temple, November* 30, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed to transmit to us the accompanying letter from Messrs. Valpy and Chaplin, inclosing Counsel's opinion upon claims put forward by their clients, Messrs. Percy Burrell and Henry Valpy, against the Government of the Republic of Paraguay for unpaid services and for injuries sustained by them while serving under the late President Lopez.

Previous correspondence which has taken place on this subject with Messrs. Valpy and Chaplin was also inclosed, and Mr. Hammond was pleased to request that we would take these claims into our consideration, and furnish your Lordship with our opinion thereupon.

We are also honoured with Mr. Hammond's letter of the 24th instant, transmitting a further letter from Messrs. Burrell and Valpy on this subject.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that Her Majesty's Government may properly support the claims of Messrs. Burrell and Valpy against the Government of Paraguay for remuneration for the services performed by them to the State of Paraguay under their contracts with the late President Lopez, and also to a reasonable remuneration for

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their services during the subsequent period when they were accepted, and it may be said, required by the Government of President Lopez after the expiration of their contracts. We should not advise your Lordship to support any claim on their part for compensation on account of restraint or ill-treatment during the latter period, as there is nothing to show that the claimants suffered otherwise than in common with all the subjects of Lopez, and any case for diplomatic interference would not arise unless they had been treated differently in respect of compensation from other subjects of Paraguay, who have suffered wrongs of the same sort at the hands of the late President of that State.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL
TRAVERS TWISS.

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## Persia.

### No. 151.

*The Queen's Advocate to Earl Granville.*—(*Received June 5.*)

My Lord, *Temple, June* 3, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed to transmit to me the accompanying despatch, with its inclosures, from Her Majesty's Minister at Tehran respecting an accident which happened to the gunner of the British steamer "Nada" while firing a salute in honour of a Persian passenger. Mr. Hammond was pleased to request that I would take these papers into my consideration, and report to your Lordship my opinion whether, under the circumstances therein set forth, the claim for compensation can be rightly pressed upon the Persian Government.

In obedience to your Lordship's commands I have the honour to report—

That I do not find in the circumstances of this case any sufficient ground for pressing on the Persian Government a claim for compensation to be made by that Government to the wounded gunner of the British steamer "Nada," but I think there is sufficient ground for pressing on that Government, if the necessity should arise, the duty on its part of enforcing the fulfilment of the engagement into which the Persian subjects interested in the "Nada" have formally entered, to make compensation to the gunner.

I have, &c.
(Signed) TRAVERS TWISS.

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## Peru.

### No. 152.

*The Queen's Advocate to Earl Granville.*—(*Received October 24.*)

My Lord, *Temple, October* 23, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed to transmit to me therewith, for any observations I might have to offer thereupon, a despatch from Her Majesty's Chargé d'Affaires at Lima, inclosing a copy of a Decree issued by the Peruvian Government providing that litigation against the agents in England of the Guano Consignment Company for Great Britain can only be carried on before Peruvian Tribunals.

In obedience to your Lordship's commands I have the honour to report—

That I see no warrant for Her Majesty's Government to object to the Decree restraining the Peruvian Commission of Fiscal Delegates from bringing actions in the Courts of England against the Guano Consignees of Great Britain. It appears to be a matter entirely within the discretion of the Peruvian Government to permit or forbid their delegates to bring such actions.

I have, &c.
(Signed) TRAVERS TWISS.

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## Portugal.

### No. 153.

*The Law Officers of the Crown to Earl Granville.*—(*Received April 18.*)

My Lord, *Temple, April* 17, 1871.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 13th instant, stating—

1. That with reference to our Report of the 9th February last, respecting the proposed alterations in the draft Convention with Portugal providing for the abolition of the Slave Trade Mixed Commission Courts, he was directed by your Lordship to transmit to us a despatch and its inclosures from Her Majesty's Minister at Lisbon, showing that the Portuguese Government agreed to the substitution of the procedure in cases of slave trading for the procedure in cases of maritime prize; but that they required further explanations of the proposed insertion which we advised at the end of Article 2 of the words "and the rules of evidence to be applied," as the principle involved appeared to them at variance with the general rule of law, which provides that the *onus probandi* should fall upon the accuser.

2. That Viscount Enfield was to request that we would be good enough to furnish your Lordship with such an explanation or declaration upon that point as might be satisfactory to the Portuguese Government.

3. That a copy of the corrected Draft Treaty, as submitted to the Portuguese Government, was annexed.

In obedience to your Lordship's commands we have the honour to report—

That the Portuguese Government may be properly informed by Her Majesty's Minister at Lisbon that the object of inserting the words "and the rules of evidence to be applied," as proposed in the IInd Article of the amended Treaty, is not to introduce any new principle into it which has not been affirmed by the Treaty of 1842, but to secure that the rules agreed upon under Article IX of that Treaty, as regards the

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weight of certain evidence, shall be binding on the Courts to which the jurisdiction heretofore exercised by the Mixed Commission Courts is to be transferred; and that the burden of proof as regards the production of such evidence will fall upon the captors under the words proposed to be inserted in the amended Treaty equally as under the Treaty of 1842.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 154.

*The Queen's Advocate to Earl Granville.*—(*Received April* 22.)

*Temple, April* 22, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 12th instant, stating that, with reference to my Report of the 31st August, 1869, and to previous Reports of mine and my predecessors, upon the claim of Mr. F. Andrews to compensation from the Portuguese Government on account of losses sustained by him during the civil war in Portugal in 1833-4, he was directed to transmit to me the accompanying further correspondence which has passed upon this subject between Mr. Mee Mathew, Mr. F. Andrews, Her Majesty's Minister at Lisbon, and the Foreign Office. Lord Enfield was pleased to request that I would take these papers into my consideration, together with the former correspondence, which was also inclosed, and furnish your Lordship with my opinion as to whether Her Majesty's Government would be justified in taking any further steps in the matter.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that Her Majesty's Government would not be justified in urging upon the Portuguese Government any further consideration of Mr. Andrews' claim.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 155.

*The Queen's Advocate to Earl Granville.*—(*Received July* 1.)

*Temple, June* 30, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that, with reference to my Report of the 22nd April upon Mr. Andrews' claim on the Portuguese Government, he was directed to transmit to me a further letter from that gentleman on the subject; and to request that I would furnish your Lordship with my opinion as to whether it contains anything to induce your Lordship to alter the decision not to press Mr. Andrews' claim any further on the consideration of the Portuguese Government.

In obedience to your Lordship's commands I have the honour to report—

That I have read with much attention the correspondence which has taken place on this case since I had the honour of reporting upon it to your Lordship on the 22nd April last, and I have considered very carefully Mr. Andrews' last letter of the 10th June, 1871, in which he has undertaken to present to your Lordship some "virgin" information, but I find nothing in that letter which induces me to alter the opinion which I have already expressed to your Lordship, that your Lordship will not be justified in pressing Mr. Andrews' claim any further on the attention of the Portuguese Government.

I may observe that Mr. Andrews appears to have put upon the conversation of Count d'Avilar with Mr. Lytton in 1865 an interpretation which is not warranted by the language in which Mr. Lytton described that conversation. I agree with the view taken of that conversation by Her Majesty's Minister at Lisbon, that it was not a promise, but a courteous expression of a hope on the part of Count d'Avilar that the question might be settled in a manner not unsatisfactory to Mr. Andrews.

I have, &c.
(Signed) TRAVERS TWISS.

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# Prussia.

### No. 156.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 5.)

*Temple, January* 5, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Arthur Otway's letter of the 4th instant, stating—

1. That he had the honour to transmit to us, by direction of your Lordship, a translation of a despatch from Count Bismarck, stating that, in consequence of alleged violations of neutrality by the Government of Luxemburg, the Prussian Government could no longer consider itself bound to any consideration of the neutrality of the Grand Duchy in the military operations of the German army and in the measures for the security of the German troops against the injuries inflicted on them from Luxemburg. That the Prussian Government, moreover, reserved to itself the prosecution of its claims against the Grand Duchy for the damages done through the non-maintenance of neutrality.

2. That Mr. Otway was also to inclose a copy of a despatch which had been addressed to Lord Augustus Loftus on the subject, and a translation of Count Bismarck's reply, together with a copy of a despatch from Her Majesty's Minister at the Hague (No. 110), forwarding the defence of the Luxemburg Government against the charges brought forward by Prussia.

3. That Mr. Otway was to request that we would take those papers into our consideration and favour your Lordship with our opinion how far the facts as alleged and explained could be considered to justify the proceedings of the Prussian Government.

In obedience to your Lordship's commands we have the honour to report—

That we have considered the papers transmitted to us by your Lordship's directions. Assuming the whole of Count Bismarck's statements to be well founded in point of fact, some of them at least would appear to us to constitute a serious case of breach of neutrality against the Government of Luxemburg. And we are of opinion (always on the same assumption) that the reasoning of Count Bismarck and his claim to act upon existing military necessities could not fairly be controverted.

But, upon a perusal of the careful and elaborate answer of M. de Servais, it seems impossible to make this assumption. The paper of M. de Servais seems to us a complete answer and exculpation of the Government of Luxemburg from the charges brought against it by Count Bismarck, if the facts stated by M. de Servias are at all to be relied upon—facts, it is to be observed, many of them peculiarly within the knowledge of the Luxemburg Government, and as to which it was the peculiar duty of M. de Servais accurately to inform himself.

We cannot avoid remarking that Count Bismarck relies, for justification of proposed or possible present action on the part of his Government, upon matters which, even if correctly stated, have long since past; and, in particular, upon the supply of provisions to Thionville in September last, under circumstances, if M. de Servais be correct, which made such supply probably perfectly justifiable, and certainly deprived it of any character of hostility or bad faith as regards the Luxemburg Government. And, although we should agree with Count Bismarck's doctrine as to present military necessity, it is not, we observe, even suggested by him that at the present time any military necessity exists in fact, such as he relies upon in argument to justify his proposed or suggested course.

With respect to the hypothetical case as to the siege of Longwy, put by Count Bismarck, it is impossible for us to say whether circumstances which have not yet happened, and as to the precise character of which we are, therefore, necessarily ignorant, will or will not justify on the part of the Prussian Government some course which that Government has not yet taken. We can only report upon the present

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papers, that it is for Her Majesty's Government to determine whether they will or will not give credence in point of fact to the explanation of M. de Servais. If Her Majesty's Government do give credence to them, we are obliged to say that what we understand to be the threatened proceedings on the part of the Prussian Government would not, in our opinion, be justified.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 157.

*The Law Officers of the Crown to Earl Granville.—(Received January* 12.)

My Lord, *Temple, January* 11, 1871.

WE were honoured with your Lordship's commands signified in Viscount Enfield's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Digby and Son, representing, on behalf of the owners of the British collier "Chamois," the circumstances under which that vessel had been detained at Rouen by the act of the Prussian authorities, and that it appeared from that statement that the "Chamois" discharged her cargo at Rouen with the permission of the authorities, and was preparing to return, when it was found that the passage of the Seine was blocked by ships sunk across the channel.

That the captain, finding that it was impossible to prosecute his voyage, although, as he alleged, he had no notice of the intention of the Prussians to bar the channel of the river, had it appeared decided to discharge his crew, for whose wages the owners will be held liable as though the return voyage had been completed.

Viscount Enfield was pleased further to state that he was to request that we would favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in founding upon this case representations to the Prussian Government, and in claiming compensation for damages sustained by the owners and crew in consequence of the detention of the vessel.

In obedience to your Lordship's commands we have the honour to report—

That under the circumstances of the navigation of the River Seine being closed in consequence of the exigencies of war, Her Majesty's Government would not be justified in claiming from the North German Government compensation for any damages resulting therefrom to the owners and crew of the "Chamois" from their vessel being unable to descend the river.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 158.

*The Law Officers of the Crown to Earl Granville.—(Received January* 12.)

My Lord, *Temple, January* 11, 1871.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 9th instant, stating—

1. That he was directed by your Lordship to transmit to us an accompanying translation of a note from the North German Ambassador, in which he complained that a Company had been formed, with the sanction of the French Government, for the establishment of a regular postal service between Calais and Cherbourg, and his Excellency stated that that Company had been formed under the auspices of British subjects; that British steamers had been fitted out for the service, and were employed in carrying it on under the French flag; and that the captains and crews were all British subjects under an engagement for home service; and his Excellency further stated that the fitting out of those ships was a breach of the Foreign Enlistment Act, and that the owners had rendered themselves liable to prosecution; and he called upon Her Majesty's Government to put a stop to the further employment of British vessels

on such service, and to take steps to call to account the owners of those already employed.

2. That your Lordship would be glad to be favoured with our opinion as to whether Her Majesty's Government should take any steps in that matter, and as to the answer that should be returned to the Ambassador.

In odedience to your Lordship's commands we have the honour to report—

That the employment of these vessels in carrying the mails between Calais and Cherbourg does not, in our opinion, amount to a violation of the Foreign Enlistment Act, 1870. The North German Ambassador may, we think, properly be told that, although it is no doubt possible that the French Generals may, amongst others, exchange letters through the post, this does not, in our opinion, make the carrying of mail bags between two French ports an employment in the military service of the French Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 159.

*The Queen's Advocate to Earl Granville.—(Received January* 14.)

My Lord, *Temple, January* 14, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 13th instant, stating that he was directed to transmit to me the accompanying translation of a note from Count Bernstorff, stating that the North German Government have decided to revoke their decision not to capture French merchant vessels during the present war, but that, out of regard to the interests of neutrals, who, in consequence of that decision, may have shipped cargoes in French bottoms, they will not make the latter liable to capture until the expiration of four weeks reckoned from the 12th of the present month. A despatch from Her Majesty's Ambassador at Berlin, in which was inclosed the Royal Ordinance of the 18th July last, which proclaimed the exemption of French merchant vessels from capture, and a copy of the Declaration of Paris of 1856 was also inclosed; and Lord Enfield was pleased to state that your Lordship would be glad to have my opinion generally with reference to the Declaration of Paris, upon the question of the renunciation and subsequent resumption by Prussia of her right to capture the merchant vessels of her enemy, and especially as to what answer should be returned to the Ambassador, and as to whether any notification founded upon his Excellency's present announcement should be inserted in the "London Gazette," and if so, what should be the nature of such a notification.

In obedience to your Lordship's commands I have the honour to report—

That it would not be advisable, in my opinion, to insert in the Gazette any announcement on the part of your Lordship of the fact as communicated to your Lordship by Count Bernstorff, until a copy of the Decree, which I presume will be issued by the King of Prussia to suspend or revoke the Decree of the 18th July last, has been received from Her Majesty's Ambassador at Berlin.

With regard to the Decree of the 18th July last, it does not, in my opinion, operate to bind the North German Government to refrain throughout the war from allowing its fleets to capture enemy's vessels. As long, indeed, as the Decree remains in force the Royal Navy of the Confederation would be bound to respect it, and the Prize Courts of the Confederation would be bound to refuse to give effect to any capture made in contravention of it, but upon its repeal the North German naval forces will, in my opinion, be at liberty to resume the exercise of the belligerent right of capture against enemy's vessels, precisely as if the Decree of 18th July last had never been issued. With regard to the operation of the altered resolution of the North German Government, as regards neutral commerce, it may, perhaps, deserve your Lordship's consideration whether, in acknowledging Count Bernstorff's communication and recognizing the desire of the North German Government to act equitably towards neutral merchants, as evinced by his announcement of its intention to suspend the execution of its altered resolution for four weeks, your Lordship should not call the attention of his Excellency to the case of enemy's vessels bringing neutral cargoes from Chinese or other distant ports, to which notice of the altered

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resolution of the North German Government cannot possibly be transmitted in time to prevent the shipment of such cargoes. Your Lordship may perhaps think it right to suggest to his Excellency that complete equity will not be done by the North German Government unless such vessels are allowed to carry forward their cargoes in all cases where they have been shipped by neutral merchants before the revocation of the Decree of the 18th July last; and your Lordship may remind his Excellency that the French Government, during the war of 1854, concurred with the English Government in allowing an extension of the term of grace to enemy's vessels bringing cargoes from the East Indian or other distant territories.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 160.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 17.)

*Temple, January* 16, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 13th January instant, stating that he was directed by your Lordship to state to us that your Lordship would be glad to have our opinion as to whether Her Majesty's Government would be justified, under the circumstances detailed in the letter from a naturalized British subject named Barckhausen, inclosed in the accompanying despatch from Her Majesty's Ambassador at Berlin, in making representations to the French Government respecting the condemnation by a French Prize Court of a cargo belonging to the firm of which Mr. Barckhausen is a representative, captured on board a German vessel bound from Rangoon to Europe.

In obedience to your Lordship's commands we have the honour to report—

That this is not a case in which your Lordship can properly interfere upon the present information furnished to your Lordship.

Mr. H. Barckhausen is described by Her Majesty's Ambassador at Berlin as a merchant of Bremen, who is co-partner in a firm at Rangoon with Mr. B. A. Dieckmann.

Mr. H. Barckhausen appears to have obtained letters of naturalization in India, which give him the privileges of a British subject within Her Majesty's Indian possessions, but not beyond those limits. He would, therefore, not be entitled to the character of a British subject in Europe, and he is probably enjoying the benefits of his native German character in the country of his birth. In fact, it would not be an unreasonable conjecture, from the description given of Mr. H. Barckhausen in the despatch of Her Majesty's Ambassador, that he is also carrying on the business of a merchant at Bremen.

We are not prepared to say that there may not be circumstances under which a natural-born alien, who has obtained letters of naturalization from the East Indian Government, and is resident within Her Majesty's East Indian possessions, would be entitled to claim the assistance of Her Majesty's Government for the recovery of his goods, if they had been captured by a belligerent cruizer on board of an enemy's vessel, as being the goods of a neutral merchant, but before saying so we should require to be satisfied that the claimant had divested himself entirely of his native character, especially if it should happen to be, as in this case, enemy character, and that the goods were not consigned to an enemy merchant, neither of which facts can be presumed from the information at present furnished to your Lordship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 161.

*The Law Officers of the Crown to Earl Granville.*—(*Reeeived January* 18.)

My Lord, *Temple, January* 18, 1871.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 9th instant, stating that he was directed to inform us that the North German Ambassador has recently called your Lordship's attention to the fact that, in September last, he made a representation to the effect that the blockade of the German Baltic ports was not carried on in a manner corresponding with the provisions of the

Declaration of Paris of 1856, as the entry and departure of neutral merchant vessels was not effectively prevented by the belligerent forces of France stationed in the Baltic, and that his Excellency has observed that the North German Government hold that, if one of two belligerents should break any one of the conditions of the Declaration of Paris, that fact would release the other belligerent from the obligation to observe any of the conditions of that Declaration.

That the position thus assumed by the Ambassador appears to embrace two arguments: firstly, that stated above as to the effect upon the obligations of one belligerent which would be produced by a violation of similar obligations by his adversary; and, secondly, the assertion that the fact of a blockade having been instituted by a belligerent, which should in practice prove to be imperfect or ineffective, would constitute a violation by such belligerent of the fourth provision of the Declaration of Paris, even though that provision should be recognized as binding in the Prize Courts and by the Government of the belligerent, which should award damages to vessels captured for breach of blockade, and that your Lordship would be glad to be furnished with our opinion upon the two points thus raised by the Ambassador. For information, the note from his Excellency above alluded to, and a copy of the Declaration of Paris of 1867, was also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That the circumstances of the naval forces of France having neglected to establish a blockade of the North German ports in a manner which would make it binding on neutrals, in accordance with the conditions of the Declaration of Paris, does not, in our opinion, constitute any violation of that Declaration. It simply operates, in our opinion, to relieve the subjects of the neutral States, which are parties to that Declaration, from any obligation to respect the blockade, of which notice was given by the French authorities, whilst at the same time the omission of the French naval forces to make their blockade effective disables the French Prize Courts from enforcing any such blockade against neutral vessels which may be captured. The case, therefore, supposed by his Excellency of a breach of one of the conditions of the Declaration of Paris on the part of the French Government does not in our opinion arise; but assuming for the purpose of his Excellency's argument that one of the belligerents in the present war should break any one of the conditions of the Declaration of Paris, we are of opinion that such a fact would not operate to relieve the other belligerent from the obligation to observe any of the conditions of that Declaration. The observations of his Excellency on this point would imply that no obligations arise under the Declaration of Paris between the parties to it unless they are belligerents, and that the obligations of any such belligerents exclusively regard one another, whereas the object of the Declaration, as appears both from its preamble and the subject-matter of its articles, was obviously to define more precisely the mutual rights and duties of belligerents and neutrals, and to place on record an agreement between the parties to the Declaration, as to an uniform system of exercising the rights of belligerents in restraint of neutral commerce. It would, in our opinion, be contrary to reason to hold that because France had neglected to avail herself of the right to enforce a blockade of the North German ports by complying with the conditions of the Declaration, the North German Government had thereby acquired a right to enforce against neutrals a blockade of the French ports in utter disregard of the Declaration, but to such a conclusion the argument of his Excellency necessarily leads, if the North German Government is from the *laches* of France entitled to disregard any of the conditions of the Declaration.

We have, &c.
(Signed) R. P. COLLIER.
J. D COLERIDGE.
TRAVERS TWISS.

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### No. 162.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 20.)

*Temple, January* 19, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 13th January instant, stating that he was directed by your Lordship to transmit to us the accompanying letter which had been received from the Treasury, inclosing a communication from the Commissioners of Customs, in which they inquire

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whether they would be justified in permitting the transhipment of cargoes from German into neutral bottoms at certain British ports under the following circumstances, viz.—

That it appears, that by an Order dated the 26th April, 1850, of which a copy is inclosed, the Lords Commissioners of the Treasury authorized the transhipment of cargoes from importing into exporting vessels on certain conditions, and, as the Commissioners of Customs state, at certain ports; that the Order was subsequently modified to the extent shown in the accompanying Memorandum and under the Order the Commissioners hold, that their permission is not required for the transhipment of cargoes in ports to which the regulations apply; but that their permission is necessary to authorize such transhipment in any other ports; that cases are now arising in which German vessels which have put into these latter ports and are unable to leave through fear of capture, are anxious to tranship their cargoes, in order that they may be secure of arriving safely at their destination; and the Commissioners inquire whether they would be justified in giving their permission.

Viscount Enfield was pleased to add that it was stated that the permission had already been granted in two cases in which the Commissioners satisfied themselves that the cargoes were the property of neutrals and not contraband of war, and obtained a Declaration to that effect, and that in 1864, during the war between Denmark and Germany, a similar course was adopted as regards a German vessel which put into Falmouth with a cargo for Altona, though it was not stated whether Falmouth is or is not one of the ports to which the Treasury Regulations apply.

Viscount Enfield was also pleased to request that we would favour your Lordship with our opinion; first, as to whether the Commissioners would be justified in giving permits at all for transhipment of cargoes from belligerent to neutral vessels; and secondly, whether such permits, if granted, should be confined to cases in which it should be satisfactorily ascertained that the cargoes are the property of neutrals and not contraband of war.

In obedience to your Lordship's commands we have the honour to report—

That we see not sufficient reason on grounds of international law why permission should not be given for the transhipment of all goods, except contraband of war, from German (or French) into neutral bottoms.

We would accept such goods as are clearly contraband, because although Her Majesty's Government does not undertake to prohibit contraband trade, on the other hand we think that it would be scarcely consistent with the Queen's Proclamation to afford any special facilities for carrying on that trade.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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## No. 163.

*The Law Officers of the Crown to Earl Granville.—(Received January 23.)*

My Lord, *Temple, January* 21, 1871.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 17th instant, addressed to us and the Queen's Advocate, stating—

1. That he had the honour to inclose to us therewith a further note* from the North German Ambassador respecting the case of the "Frei," a German vessel, said to have been captured by the French man-of-war "Dessaix," in British waters off Dungeness; in which his Excellency reiterated his opinion that Her Majesty's Government should not leave that case to the decision of the French Prize Court, but should take steps by diplomatic means to secure the release of the vessel, and to obtain such other reparation as might be thought to be required; and Viscount Enfield was to inquire whether there was anything in the note which would alter or modify the opinion on the case expressed in our letter of the 29th November last, and also what answer we would suggest as a proper one to be returned to the Ambassador's representations.

2. That for our better information Viscount Enfield was to return to us our former opinion to which he had above alluded, and he was also to transmit to us all the papers on the subject which had been received both before and after the date of that opinion.*

In obedience to your Lordship's commands we have the honour to report—

That we, the Attorney-General and Solicitor-General, are not certain as to which of the Reports contained in the letter of the 29th November, 1870, Lord Enfield's question whether we are disposed to alter or modify the opinion expressed in that letter, refers; inasmuch as we recommended diplomatic intervention and submitted that only in that mode could the neutral rights of this country be asserted, whereas the Queen's Advocate was of a different opinion. We, the Attorney-General and Solicitor-General, retain the opinion we then expressed and which we had before expressed in our Report of the 21st November, on general principles, and it still seems to us that diplomatic intervention is proper in such a case as this. We are also inclined to think that the belligerent who suffers by the non-assertion of neutral rights has a fair claim at the least in international comity to call upon the neutral nation to assert them. We can only suggest that, in answer to the present despatch of Count Bernstorff, your Lordship should reply that you will direct Lord Lyons to call the attention of the French Government to the violation of the neutral rights of this country, which, on the assumption of the pilot's account being true, appears to be proved, with a view to requesting reparation. If, however, the French Government should dispute the truth of the pilot's account on reasonable grounds, different considerations will of course arise, and in that case we shall be glad if your Lordship will give us an opportunity of reconsidering this opinion.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.

*Separate Report of the Queen's Advocate.*

That I was unable in my previous Report to agree with the Attorney-General and the Solicitor-General in their recommendation to your Lordship that on general

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* *Count Bernstorff to Earl Granville.*

[Translation.]

My Lord, *Prussia House, January* 13, 1871.

I have had the honour of receiving your Excellency's note of the 26th ultimo, wherein you informed me that, according to a telegram from Lord Lyons, the proceedings in the matter of the German ship "Frei," captured in British waters, would probably come on before the Prize Court at Bordeaux on the 28th of the same month, and in which you also mentioned to me an advocate at Bordeaux.

In expressing my best thanks to your Excellency for that communication, I cannot help returning once more to the legal question.

Now, there are Phillimore, Wheaton, and Ortolan, therefore an English, an American, and a French authority of the highest order, who are uniformly of opinion that the neutral State alone is entitled to contest the capture, on the ground that it took place within the marine jurisdiction of that State. Should this opinion also prevail with the French Prize Court, it is possible that the owner may be repelled with his objection, and that the ship may be condemned, even though the official deposition of the pilot, William Dennes, be not invalidated.

The Government of the King, my most gracious Master, is decidedly of opinion that Her Britannic Majesty's Government has a claim for satisfaction for the violation of English territory, and that that satisfaction must be first of all in the release of the ship. Such a claim, however, cannot be adjudged by the French Prize Court, neither is it to be prosecuted by legal process, but by way of diplomacy, if there has been no possibility of enforcing right on the spot, as was done, for example, by the Portuguese authorities, who forced a French man-of-war, which had captured a German merchantman in the waters of Terceira, to give up its prize. Now it certainly belongs to the Royal British Government alone to decide how far it will enforce its right for its own interests. In the present case, the Government of His Majesty the King considers it, however, to be its right that German ships in neutral territory should enjoy the full protection of the neutrality against every hostile attack. In this case that protection can only be of practical value if all the consequences of the disregard of English neutrality be made retrogressive. The fact of the violation itself is proved by the official evidence, at all events impartial, of the British pilot, and no doubt can be thrown upon its accuracy until it is invalidated by full proof to the contrary.

Your Excellency will agree with me that the principles of international law, which are just as much for the interests of neutrals as for those of the belligerent Powers, can only effectively bind the latter when they know that they are also supported by the neutrals in the practice of those rules which have been introduced for the interests of civilization. The French Government has repeatedly disregarded the principles of international law during this war, as, for example, in the non-effective blockade of the German ports. Nevertheless, the King's Government has, even to the present time, adhered to all the stipulations of the Paris Declaration of 1856. It will, however, be obliged to take into consideration whether by such regard for the neutral Powers it does not injure the interests of Germany, if it cannot reckon that the neutral Powers also will carefully watch over the maintenance of the principles acknowledged by them in common.

With, &c.  
(Signed) BERNSTORFF.

* Law Officers, No. 829; Schedule.

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principles your Lordship would be justified in intervening diplomatically in this case, inasmuch as, according to the practice of this country in analogous cases of disputed prize, diplomatic intervention on the part of a neutral Government would not be admitted by Her Majesty's Government. But since the occasion of my last Report on this subject to your Lordship, I have had an opportunity of examining with some care various decisions of the Conseil des Prises, where claims of neutral territory have been made, and I have found several precedents which show that, although the captured parties themselves in each case made the claim of territory in accordance with the present practice in the French Prize Court, diplomatic representations were also made to the French Minister of Foreign Affairs by the Ambassadors of the neutral Powers, whose territory was alleged to have been violated by the captors, not, indeed, in the sense of claiming the restitution of the prize before the claim had been heard in the Prize Court, but in order to secure that due attention on the part of the Prize Court should be given to the claim of territory. On the authority of these cases, I think your Lordship may, without risk of establishing any inconvenient precedent against this country, intervene diplomatically in the present case so far as to authorize Lord Lyons to make a representation to the Delegate Government at Bordeaux, founded on the statement of the British pilot, and reserving the rights of Her Majesty's Government, as its advocate cannot be heard before the French Prize Court.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 164.

*The Queen's Advocate to Earl Granville.*—(*Received January* 25.)

My Lord, *Temple, January* 23, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 18th instant, stating that, with reference to my Report of the 12th ultimo, on the subject of the claim of Mr. Renner, a British subject domiciled at Altona, to have his sons, who were born in that city, exempted from conscription, he was directed to transmit to me, together with the previous papers, the accompanying Memorandum containing some observations in reference to this case, and to request that I would inform your Lordship whether the views expressed in this Memorandum in any way alter my opinion as already set forth in my Report of the 12th December.

In obedience to your Lordship's commands, I have the honour to report—

That the question whether your Lordship may properly ask the German Government to act in this particular case upon the German law of nationality must depend, in my opinion, upon the answer to the preliminary question, whether the German law of nationality has been promulgated at Altona. If the German law, by virtue of any Decree or otherwise, has superseded the Danish law of nationality, under which Mr. Renner took up his residence at Altona, and has acquired an international domicile there, and has had children born to him there who partake of that domicile, then I think your Lordship might, with reason, ask the German Government to apply the German law to the question of military service, and that it would be equitable, if the children of Mr. Renner have lost the benefits of their native status under the Danish law, that they should be exempt from any burdens which may attach to that status under new Ordinances. But if I do not misapprehend the purport of the reply of the Schleswig-Holstein authorities, it proceeds upon the assumption that the Ordinance of Christianborg of the 15th January, 1776, is still in force at Altona, and that the children of Mr. Renner, in virtue of their status under that Ordinance, are subject to military service according to the instructions for the Military Reserve of the 28th March, 1868. I am unable, therefore, after carefully considering the views expressed in the Memorandum of the 13th December, 1871, to advise your Lordship that you can properly ask the Government of Berlin to apply the principles of German law, as regards nationality, to the case of Mr. Renner's children.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 165.

*The Queen's Advocate to Earl Granville.*—(*Received January* 31.)

My Lord, *Temple, January* 31, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 30th instant, stating that he was directed to transmit to me the accompanying letter from the Admiralty, inclosing correspondence respecting the capture of the French merchant-vessel "St. Marc," by the German man-of-war "Augusta," and the circumstances attending her arrival at and departure from Plymouth with a prize crew on board, short of provisions and sails; and to request that I would furnish your Lordship with any observations which I might have to make on the case.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may, in my opinion, properly approve the proceedings of the Naval authorities at Plymouth in this matter.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 166.

*The Queen's Advocate to Earl Granville.*—(*Received February* 6.)

My Lord, *Temple, February* 6, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 4th instant, stating that, with reference to my letter of the 14th ultimo, in which I stated that it would not, in my opinion, be advisable to notify in the "London Gazette" the revocation by Prussia of her determination, signified in a Decree of the 18th July last, not to capture French merchant-vessels not carrying contraband of war, until the terms of the fresh Decree containing the notification should be in the possession of Her Majesty's Government; he was directed by your Lordship to transmit to me a despatch from Her Majesty's Ambassador at Berlin, inclosing copy and translation of an Imperial Edict dated the 19th ultimo, by which the Decree of the 18th July is revoked from the 10th instant; and he was to request that I would furnish your Lordship, at my earliest convenience, with my opinion as to the form in which Her Majesty's Government should give publicity to this Edict. The former papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That I have prepared a form of notification, which I beg to inclose to your Lordship, and which I think Her Majesty's Government may properly direct to be inserted in the "London Gazette," for the purpose of giving publicity to the Imperial Order of the 19th ultimo.

I have, &c.
(Signed) TRAVERS TWISS.

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### Inclosure in No. 166.

*Notification.*

IT is hereby notified, that the Right Honourable Earl Granville, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, has received from Her Majesty's Ambassador at Berlin a copy of an Imperial order, annulling the Royal order of the 18th July, 1870, which exempted conditionally French merchant-vessels from capture.

The order is as follows:—

"*Vom*, 19 *Januar*, 1871.

"Wer, Wilhelm, von Gottes Gnaden Deutscher Kaiser, König von Preussen &c., verordnen im Namen des Deutschen Reichs, was folgt:—

"Die Verordnung, betreffend die Aufbringung und Wegnahme französischer Handels-chiffe, vom 18. Juli, 1870 (Bundesgesetzblatt, S. 485.), tritt mit dem 10. Februar, dieses Jahres ausser Wirksamkeit.

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"Urkundlich unter unserer Höchsteigenhändigen Unterschrift, und beigedrucktem Kaiserlichen Insiegel.

"Gegeben hauptquartier Versailles, den 19. Januar, 1871.

(L.S.) "WILHELM.

"GR. V. BISMARCK-SCHONHAUSEN."

(Translation.)

"*Vom, January* 19, 1871.

"We, William, by the Grace of God, German Emperor, King of Prussia, &c., in the name of the German Empire order as follows:—

"The order of the 18th July, 1870, relating to the capture and seizure of French merchant-vessels (Federal Statute Book, p. 485), is annulled from the 10th February of the current year.

"Authenticated under our hand and Imperial seal.

"Given at the Head-quarters, Versailles, 19th January, 1871.

(L.S.) "WILLIAM.

"COUNT V. BISMARCK-SCHONHAUSEN."

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## No. 167.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 13.)

My Lord, *Temple, February* 11, 1871.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 4th instant, stating that, upon the receipt of our Report of the 16th ultimo, Her Majesty's Ambassador at Berlin was instructed to inform Mr. Barckhausen that, as his certificate of naturalization as a British subject had been granted to him in India, and was limited to India, and as there was nothing to show that he was not now resident in Germany, Her Majesty's Government could not interfere in respect to the cargo belonging to his firm at Rangoon, which had been captured on board a German vessel, and condemned by a French Prize Court.

That the Ambassador having made a communication to Mr. Barckhausen in the sense of his instructions, that gentleman has replied in a letter, which accompanies the inclosed despatch, that he is not resident in Germany, though he does not state equally positively whether he has renounced his German nationality, and claims that his Indian certificate, being granted to him in the character of a merchant, gives him equal rights with a native-born British merchant resident in India and trading to any part of the world. Lord Enfield was pleased to request that we would consider this letter, and inform your Lordship whether the facts and arguments adduced in it would in any way alter our previous opinion. The former papers were also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That it does not appear from Mr. Barckhausen's further letter that he has been divested of his native German character, either by forfeiture upon naturalization in a foreign country, or by authorization from the Government of his native country. There may be grounds, indeed, in his case, independent of any question of his naturalization, why his goods on board the captured vessel should have been held by the Prize Court at Saigon to be neutral property, namely, that his commercial domicile is Anglo-Indian; but all the facts upon which he relies for exempting his goods from condemnation should have been alleged in the Prize Court of the captors; and if the Prize Court at Saigon had improperly rejected his claim, he should have appealed to the Conseil des Prises.

Unless he has properly submitted his claim in the first instance to the Prize Court, and it has been improperly overruled, we are of opinion that Her Majesty's Government would not be justified in intervening diplomatically on his behalf, independently of the question of his probably owing a double allegiance, of which the French Courts would be entitled to take cognizance, and refuse to restore his property. We may further observe that, as the consignees in the case appear to have been German merchants, the Prize Court might fairly act on the presumption, unless clearly

rebutted, that the goods were enemies' goods, as we presume that the cargo was not shipped during peace.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 168.

*The Queen's Advocate to Earl Granville.*—(*Received February* 17.)

My Lord, *Temple, February* 16, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed to transmit to me the accompanying papers relative to the destruction by the Prussian troops of the house and property of a British subject named Smith at the village of St. Ouen, near Rouen; and to request that I would furnish your Lordship with my opinion as to whether Her Majesty's Government would be justified in claiming in this case pecuniary compensation for the sufferer from the Prussian Government.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Government would not be entitled of strict right to claim compensation from the Prussian Government for the destruction of the house and property of Mr. Lawrence Smith. It would seem, that although Mr. Lawrence Smith is an English subject, he has become the proprietor of a house and farm at St. Ouen, and has established his wife and family there.

Under such circumstances, I am of opinion that he has so incorporated himself into the territory of France as to render it unavoidable, that his family and property should be exposed, like those of native citizens of France resident in the same district, to the evils incident to a state of war. At the same time, as the case is at present represented, the destruction of Mr. Lawrence Smith's property would appear to have been an act of wanton violence on the part of the Prussian troops resulting from lax discipline, and not provoked by any misconduct on the part of the occupants of the house or farm. It would on this assumption be distinguishable from cases where the destruction of property has been an inevitable incident of war, and I think your Lordship may on this view of the case properly instruct Lord Lyons to bring the facts as represented under the notice of the Prussian Government, and to express a hope that they will think it fit to direct an inquiry to be made by the military authorities, and if the statement of Mr. Lawrence Smith should prove to be truthful, the justice of that Government will induce it to award compensation for the injury wantonly inflicted on him and his family.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 169.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 21.)

My Lord, *Temple, February* 21, 1871.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 17th instant, stating that, with reference to our Reports of the 10th and 22nd November and 30th December last, he was directed to transmit to us herewith the accompanying despatches from Her Majesty's Ambassador at Berlin and from Mr. Odo Russell bearing upon the case of Mr. Worth; the further papers were also inclosed; and Lord Enfield was pleased to request that we would furnish your Lordship with any observations we might have to make with respect to this case at its present stage.

In obedience to your Lordship's commands we have the honour to report—

That although it is not clear upon what precise charges Mr. Worth was tried before the court-martial, we think your Lordship is entitled to presume, from the despatch of Count von Bismarck of 3rd December, 1870, to his Excellency Herr von Thile, that there were two substantive grounds of suspicion against Mr. Worth which

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were to be investigated by the court-martial: first, that he was an accomplice in transporting over the German military lines a correspondence punishable by military law; secondly, that he was in the secret service of the enemy, and intended to use the knowledge which he had acquired of the German positions for the advantage of the enemy. Upon the more complete information which we now have of the circumstances under which Mr. Worth was captured, we consider that the German military authorities were justified in instituting a searching investigation on both these heads, and we see no grounds at present for advising your Lordship that the court-martial has in any way abused its powers in interrogating Mr. Worth. If it should be necessary hereafter for your Lordship to consider the use which may have been made before the court-martial of Mr. Worth's intercepted letter referred to in Mr. Harris-Gastrell's confidential correspondence with Her Majesty's Ambassador at Berlin, which, to say the very least, was calculated most seriously to compromise Mr. Worth in the judgment of the belligerent Power against whom the arms which he ordered were to be employed, we should be disposed, as at present informed, to advise your Lordship that the use made of it, as raising a presumption of unneutral animus on the part of Mr. Worth, and calling for explanation on his part, was perfectly legitimate.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 170.

*The Queen's Advocate to Earl Granville.—(Received March 23.)*

*Temple, March* 23, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 18th instant, stating that he was directed to transmit to me the accompanying letter from Mr. Kirkman Hodgson, M.P., inclosing a Memorial praying Her Majesty's Government to interfere to procure from the North German Government compensation for the loss of the British vessel "Gloucestershire," off the River Weser, in consequence, as is alleged, of her not having been able to procure a pilot, and having received wrong directions as to the course which she should shape from a German gun-boat; and to request that I would furnish your Lordship with my opinion as to whether there are any grounds in this case for the interference of Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That if any constraint had been placed upon the master of the "Gloucestershire" by the captain of the Prussian gun-boat to pursue the course which led the "Gloucestershire" on to the Jahde Flats, there might have been equitable grounds for the owners of the "Gloucestershire" asking the North German Government to grant them some compensation; but as the master of the "Gloucestershire" was a free agent, and acted upon his own responsibility in shaping the course of his vessel after he had been advised, as he says, to steer for the pilot-boats, I am of opinion that he has no case against the North German Government, and that your Lordship would not be warranted in interfering to procure him compensation from that Government.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 171.

*The Queen's Advocate to Earl Granville.—(Received March 24.)*

*Temple, March* 23, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 13th instant, stating that he was directed to request that I would take into my consideration the accompanying letter from Mrs. Reid asking for the intervention of Her Majesty's Government to procure from the German Government reparation for the loss of some property belonging to her which fell into the hands of the German troops, and to request that I would furnish your Lordship with my opinion as to whether this is a case in which Her Majesty's Government can properly interfere.

In obedience to your Lordship's commands I have the honour to report—

That this is not a case in which Her Majesty's Government can, in my opinion, properly interfere.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 172.

*The Queen's Advocate to Earl Granville.—(Received March 30.)*

*Temple, March* 28, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 24th instant, stating that he was directed to transmit to me the accompanying letter from Mr. Worth, in which he states that he considers he is entitled to claim indemnity from the North German Government on account of the imprisonment to which he was subjected in consequence of his being captured in a balloon by the German troops. The previous papers were also inclosed, and Lord Enfield was pleased to request that I would inform your Lordship whether I consider that Her Majesty's Government would be justified in placing such a claim before the German Government.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Government would not be justified, in my opinion, in placing before the North German Government any claim from Mr. Worth for an indemnity on account of the imprisonment which he has undergone.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 173.

*The Queen's Advocate to Earl Granville.—(Received May 25.)*

*Temple, May* 24, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 22nd instant, stating that he was directed to transmit to me the accompanying papers respecting an application for advice which has been made to Her Majesty's Embassy at Berlin by a M. Debrunner, who claims to be a British subject.

That M. Debrunner rests his claim on the fact that he has been naturalized in India, and he appears further to state that he has renounced his original nationality as a citizen of Switzerland.

That your Lordship would be glad to be furnished with my opinion as to whether, under these circumstances, his claim to be considered a British subject, and as such to apply to the British Embassy at Berlin for advice and assistance in consequence of his imprisonment at Wiesbaden, can be held to be valid.

That if I should consider that he is entitled to British protection, your Lordship would wish to be further furnished with my opinion as to the answer which should be returned to the questions contained in M. Debrunner's letter to Lord Augustus Loftus inclosed in M. Petre's despatch No. 23 of the 24th ultimo.

In obedience to your Lordship's commands I have the honour to report—

That M. Debrunner should be informed that he is not entitled to the privileges of a British subject elsewhere than within Her Majesty's Indian Possessions, and that he is accordingly not entitled to claim the protection of Her Majesty's Ambassador at Berlin against an arrest for debt at Wiesbaden. The fact of M. Debrunner having, as he states by letter, renounced his Swiss nationality, is immaterial.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 174.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 28.)

*Temple, June* 27, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 20th instant, stating that among the Bills submitted to the Reichstag by the German Government during the recent Session respecting the mode in which the war indemnity to be received by Germany from France should be apportioned was one which has been approved and passed, decreeing that a certain portion of the indemnity should be devoted to compensating the inhabitants of Alsace and Lorraine for war requisitions and for losses of property sustained by them during the war, he was directed to transmit to us a translation of this Bill as it was originally submitted and of the exposé des motifs by which it was accompanied. An extract from a despatch from Her Majesty's Chargé d'Affaires at Berlin, reporting the nature of an amendment which was introduced into it in its passage through the Reichstag, was also inclosed. Lord Enfield was to direct our attention specially to the 4th paragraph of the 1st Article of the Bill as it stands in its amended form. That this paragraph deals with the question of foreigners resident in the provinces, and provides that while as regards war requisitions or losses of real property they shall be placed on the same footing as natives, they shall only receive compensation for losses of personal property, provided that the Government of the country to which they belong undertakes to ensure reciprocity to Germans under similar circumstances. Lord Enfield was pleased to request that we would be good enough to furnish your Lordship with our opinion as to whether this latter provision is in accordance with international law, and as to whether Her Majesty's Government, if called upon to give the required promise of reciprocity in order to enable a British subject to receive compensation, would be justified in complying with the request.

In obedience to your Lordship's commands we have the honour to report—

That we understand that compensation in respect to personal property, as well as real, will be granted to all persons domiciled in the annexed territory irrespectively of their nationality by birth. This being so, we do not think that Her Majesty's Government could of right require that compensation in respect to personalty should be given to British subjects not domiciled in such territory, and that the German Government is entitled by international law to refuse such compensation either absolutely, or without an undertaking on our part of reciprocity to Germans under similar circumstances. In considering whether Her Majesty's Government would be justified in giving such an undertaking, it is necessary in the first place to determine what is meant by such reciprocity. If it means that we are to undertake that in any territory which we may hereafter conquer we are to restore to all Germans non-domiciled therein all personal property which they have lost in the war, the undertaking would be much wider than that of the German Government which applies not to all the territory which they have conquered, but to that only which they have annexed. A reciprocal obligation, therefore, on the part of Her Majesty's Government, would be to restore personal property to non-domiciled Prussians in any territory which we might conquer and annex. It certainly seems improbable that we should ever be called upon to preform such an undertaking, yet, inasmuch as its performance would almost certainly involve a vote of money by Parliament, it would not appear to us safe for Her Majesty's Government to enter into such an undertaking without the sanction of an Act of Parliament. Whether the benefit to be gained is sufficient to require or justify the passing of an Act is a question for the consideration of Her Majesty's Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 175.

*The Queen's Advocate to Earl Granville.*—(*Received July* 20.)

*Temple, July* 19, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 13th instant, stating that he was directed to inform us, with reference to our letter of the 27th ultimo, that further despatches have been received from Her Majesty's Chargé d'Affaires at Berlin inclosing the original text of the Law respecting compensation to residents in the provinces recently annexed to Germany, and a Proclamation explanatory of the law which has been issued by the Prefect of the Lower Rhine.

That it is clear from these papers that it is not intended under the provisions of the law to give compensation for personal property to foreigners not domiciled in the provinces on the 23rd July last, and that the condition of reciprocity on the part of the Government of the foreigner will be required in cases of application for compensation from foreigners, in addition to the condition of domicile required from natives. That the case, then, as it appears by the light of these papers, is this—that a British subject who, on the 23rd June last, declared his intention of making his domicile in Alsace or Lorraine, cannot receive compensation for loss of personal property during the war unless Her Majesty's Government are prepared to promise reciprocity to German subjects under similar circumstances.

That the opinion which we gave in our former letter was given under the impression that the provision as regards reciprocity was directed against non-resident foreigners, and that your Lordship would therefore be glad to be furnished with our opinion as to what answer should be returned to a British subject domiciled in one of the annexed provinces who should apply to Her Majesty's Government to give the promise of reciprocity which would entitle him to receive compensation.

For convenience of reference our previous Report was inclosed.

In obedience to your Lordship's commands we have the honour to report—

That the obligation of reciprocity which the German Government determines to impose upon foreign Governments before compensating subjects of those Governments domiciled or declaring their election to be domiciled in the annexed provinces is an obligation which in this country could not be assumed by the Government without the sanction of Parliament as involving the payment of money, and it is for Her Majesty's Government to determine how far it is desirable to come to Parliament with a Bill for such an object.

I have, &c.
(Signed) TRAVERS TWISS.

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## Russia.

### No. 176.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 11.)

*Temple, August* 10, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence,* containing particulars respecting the expulsion of a Mr. Cohen from Odessa, and he was to request that we would take this case into our consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have taken the case into our consideration, and have the honour to report—

That it appears that Mr. Cohen having taken up his abode in America, renounced his British nationality, and became a naturalized American citizen, was deported from Odessa, with the full concurrence, if not at the request, of the American Consul there, and prohibited to return.

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* Mr. Cohen, June 15; Mr. Abbott, Nos. 29 and 31; to Sir A. Buchanan, No. 102; Sir A. Buchanan, Nos. 147, 150, and 158.

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We infer that in order to enable him to return in spite of this prohibition he made a declaration under section 6 of the Naturalization Act, 1870, and obtained a Foreign Office passport. We suggest that some inquiry should be made on this subject.

It is obvious that Her Majesty's Government have nothing to do with his first deportation, and that his remedy with respect to it, if he has really suffered any grievance, is by a representation to the Government of the United States.

With respect to his second deportation, undoubtedly Her Majesty's Government would be justified if they thought fit in complaining of treatment of a British subject which, if unexplained, would appear to be a breach of international comity, if not of international law; nevertheless, considering that the second appearance of Mr. Cohen in Odessa was in direct violation of a previous prohibition, which the Russian Government had in strictness a right to make, and which, for all we know, may have been justified by the conduct and character of Mr. Cohen; considering also, what appears tolerably evident, that Mr. Cohen's assumption of English nationality was but colourable in order to enable him to evade the prohibition, we do not think that Her Majesty's Government are called upon to interfere in his behalf. At the same time, we think that they are entitled to require, if they deem it advisable, some clearer statement than has been yet given of the grounds of Mr. Cohen's second deportation.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 177.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 24.)

*Temple, August* 23, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 17th instant, stating that with reference to our Report of the 10th instant, he was directed by your Lordship to transmit to us the accompanying despatches which had been received from Her Majesty's Ambassador at St. Petersburgh,* relating to the expulsion of Mr. Cohen from Odessa, and he was to request that we would take the further despatches from Sir A. Buchanan into our consideration, and favour your Lordship with our opinion on the case.

In obedience to your Lordship's commands we have taken the further despatches into consideration, and have the honour to report—

That we do not think your Lordship can properly question the proceedings of the police authorities at Odessa on the occasion of Mr. Cohen's first visit to that port under the protection of an United States' passport, and as it appears clear that Mr. Cohen's object in conforming to certain loose provisions in the recent Statute of Naturalization was to obtain the protection of a British passport for the express purpose of violating the law of Russia, which he knowingly attempted to do, we are of opinion that your Lordship cannot properly object to the police authorities at Odessa restraining Mr. Cohen's conduct in this matter, notwithstanding he was the bearer of a British passport, and compelling him to leave the Russian territory a second time, there being an express declaration in the Treaty of Commerce (of the 12th January, 1859) that British subjects are not exempted from the Russian regulations of police generally applicable to all foreigners.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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* Sir A. Buchanan, Nos. 170 and 172.

## Siam.

### No. 178.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 19.)

*Temple, January* 18, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Otway's letter of the 6th instant, stating that he was directed to transmit to us a letter from Messrs. Shaen and Roscoe respecting Mr. Scott's case, and with reference to our Report of the 24th October, he was pleased to request that we would take this letter into our consideration, together with the previous correspondence, and furnish your Lordship with our opinion as to the answer which should be returned to Messrs. Shaen and Roscoe.

In obedience to your Lordship's commands we have the honour to report—

That it does not appear from any of the papers before us on what grounds Mr. Scott received a pardon from the Crown. We are unable, therefore, to form any opinion whether Messrs. Shaen and Roscoe are correct in saying "that a grievous miscarriage of justice in his case has been admitted by Her Majesty's Government by the free pardon which Mr. Scott has received." But we do find it stated by Mr. Alabaster in his letter to Mr. Hammond of the 3rd February, 1870, that he had found "Mr. Scott's books to be false and fraudulent, that their character increased his difficulties in dealing with the estate, and that it might be necessary that they should remain in safe custody."

Under these circumstances, as Mr. Scott's books have been forfeited to the Crown, we are of opinion that it will be for the public interest that they should not be given up to him. We may add that Mr. Knox at an early period of the inquiry, in his letter of the 14th February, 1867, to Lord Stanley, stated that the convict had destroyed the most important of his books.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## Spain.

### No. 179.

*The Queen's Advocate to Earl Granville.*—(*Received January* 9.)

*Temple, January* 7, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Otway's letter of the 5th instant, stating that he was directed to transmit to me a correspondence relative to a claim preferred by Messrs. Wright and Co. against the Spanish Government, on account of certain fines which have been illegally and vexatiously levied on their vessel, the "Evening Star," by the custom-house officials at Havana, and to

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request that I would take the same into my consideration, and furnish your Lordship with my opinion as to how far Her Majesty's Government would be justified in pressing upon the Spanish Government Messrs. Wright's claim for demurrage, and for other expenses arising out of the proceedings in question.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may in my opinion, if your Lordship thinks fit, hold the Spanish Government bound by the despatch of Señor Sagasta of the 20th June, 1870, in which he states that the administrative agent of the customs in Cuba exceeded his lawful powers in exacting the fine for the non-presentation of a third copy of the ship's manifest, and that he must therefore make good the damages and losses which the parties interested may claim. It must, however, be observed that the decree of the Regent, according to the statement of the agent of Messrs. Wright and Co. at St. Jago de Cuba in his letter of the 16th November, 1870, does not proceed upon the view of the case adopted in Señor Sagasta's despatch, as the decree is represented to be in the nature of a condonation or remission of the fine, "thereby of course precluding any claim for demurrage."

It would appear from this statement, that the Regent has held the fine to have been lawfully imposed, but that under the circumstances of the case it would be equitable to remit it. I am not prepared to advise your Lordship that the view of the case adopted by the Regent is untenable, as Mr. Consul Dunlop states, that there is a standing regulation in the island, which requires the masters of foreign vessels to make out and deliver a third copy of the ship's manifest, although such regulation is in his opinion obsolete, and has been superseded by other regulations since enacted. Assuming the existence of such a regulation, however harsh it might be for the Administrative agent at Cuba to put it in force in the case of the "Evening Star" without previous notice to the master or owners through the Spanish Vice-Consul at Leith, I cannot advise your Lordship that such an enforcement of the regulation would properly be matter for damages, even if the fine were subsequently directed to be remitted on appeal to the superior authorities.

Upon the facts of the case, therefore, I am of opinion that the Spanish Government would have a good answer to make to any application for the payment of demurrage and other expenses to the owners of the "Evening Star," and that your Lordship could not of right insist upon such payment unless your Lordship should hold the Spanish Government to be precluded diplomatically from objecting to such payment by the despatch of Señor Sagasta.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 180.

*The Queen's Advocate to Earl Granville.*—(*Received January* 23.)

My Lord,
*Temple, January* 21, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed to transmit to me the accompanying correspondence relative to the employment of the steam-ship "Hercules" and other vessels registered at Gibraltar in towing out from that port vessels engaged in the contraband trade with Spain, and to request that I would take the same into my consideration, and furnish your Lordship with my opinion as to any further steps that may be taken to put a stop to such proceedings.

In obedience to your Lordship's commands I have the honour to report—

That the charges brought against the "Hercules" and other steamers registered at Gibraltar by the Spanish Government are far too vague to call for any action on the part of your Lordship, and even if it could be established that the "Hercules" is in the habit of towing out of the Port of Gibraltar merchant-vessels, which subsequently land contraband goods in Spain, there would be no legal offence in the owners of the steamers allowing her to be so employed, unless the trade in which the merchant-vessels may be engaged is in contravention of British law.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 181.

*The Queen's Advocate to Earl Granville.*—(*Received March* 20.)

My Lord,
*Temple, March* 17, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that, with reference to my Report of the 20th December last on the subject of the detention of the vessel "Britannia" of Nassau by the Spanish authorities, he was directed to transmit to me the accompanying despatch from Her Majesty's Consul-General at Havana, inclosing the explanations of the Marquis de San Rafael with regard to the grounds upon which the Prize Committee decreed the release of the "Britannia" and her crew without damages; and to request that I would take the same into my consideration, and furnish your Lordship with my opinion thereupon. The previous papers relating to this case were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That it appears from the despatch of the Spanish Admiral that the Prize Committee at Havana has held that the detention of the "Britannia" was justifiable on account of her papers being informal, but what was the nature of the informality is not stated by the Spanish Admiral, nor does Mr. Consul Dunlop furnish your Lordship with any information as to the state of the papers of the sloop. On the other hand, as Mr. Consul Dunlop does not suggest that the Prize Committee was in error in declaring the ship's papers to be informal, I must assume that the finding of the Prize Committee as to their informality was correct, and on that assumption I cannot advise your Lordship that the master and crew have any claim for compensation from the Spanish Government for their detention. They may indeed have been treated by their captors with unnecessary harshness, but the disturbed state of the Island of Cuba offers some excuse for it; and it cannot be impressed too strongly on the masters of these small vessels that if they go to sea without proper papers, or without a proper flag, the Spanish authorities will have a right to detain them if they are found by them in Spanish waters.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 182.

*The Queen's Advocate to Earl Granville.*—(*Received March* 21.)

My Lord,
*Temple, March* 20, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed to transmit to me the accompanying correspondence respecting the seizure of the British vessel "John Gray" off the coast of Cuba by a Spanish gun-boat, and to request that I would take the same into my consideration, and inform your Lordship whether the additional information contained therein is such as to lead me to modify or alter my opinion of the case, as expressed in my Report of the 11th November last. The previous papers were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That it is to be regretted that your Lordship was not furnished in the first instance with the information now supplied in the papers from the British Vice-Consul at St. Jago de Cuba, inclosed in the Colonial Office letter of the 28th February last, from which it appears that the "John Gray" was furnished with a register, crew list, wrecking licence, and a letter from her owner, all of which were before the Havana Prize Court, and upon the vessel's release were delivered up by the Court to Her Majesty's Vice-Consul. The only defect, therefore, in her papers which could well be alleged against her was that she had no clearance for a Cuban port, but this could be satisfactorily explained by her having on board a wrecking licence, indicating her occupation to be such as would not require her to clear for any port. Under these circumstances, I am of opinion that the state of the "John Gray's" papers were such that their inspection ought at once to have satisfied the Spanish authorities of the good faith of the master and crew of the vessel, and that there were no reasonable grounds for imprisoning them and for detaining them for so many months to await a formal examination before a Prize Committee. As the vessel, however, had no national flag,

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and was in Spanish waters when sighted by the Spanish gun-boat, and endeavoured to avoid her, there may have been *primâ facie* grounds for detaining and sending her into a Cuban port to have her papers examined. I cannot, therefore, advise your Lordship that the "John Gray" was wrongfully detained by the Spanish cruizer in the first instance, but I think she was detained for an unreasonable length of time in the port of Baracoa, and if it could be established, which, however, seems only to have been assumed by the master and crew, that she had become wormeaten and unseaworthy from lying in the Harbour of Baracoa for so many months, the owner of the vessel would have an equitable claim upon the Spanish Government for compensation on account of the loss of his vessel.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 183.

*The Law Officers of the Crown to Earl Granville.—(Received April 6.)*

*Temple, April* 4, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed to acquaint us that the Spanish Minister at this Court having informed your Lordship that he was authorized to pay to Her Majesty's Government the sum of 1,500*l.* for distribution among the crew of the "Tornado," he has been requested to forward it to the Foreign Office.* A copy of a letter addressed by your Lordship's directions to the Board of Trade requesting their assistance for the distribution of the money was also inclosed.† Mr. Hammond was also pleased to inclose the letters,‡ which have been received from and on behalf of several of those parties, that the mate, Wyatt, also made a personal application a few days ago at the Office.

That Mr. Forbes Campbell has also claimed that the money, or at all events the larger portion of it, should be paid to him in virtue of a full power, which he holds from the parties claiming to share in the compensation awarded by the Spanish Government, of whom he has given a list, and that he refers to two letters§ from the Foreign Office of the 23rd December, 1869, and of the 28th January, 1870, as recognizing him as the representative of the parties, and, therefore, entitled to receive the money. That we should find these letters at pp. 33 and 36 of the accompanying papers.‖ Mr. Hammond was further pleased to inclose a letter from Mr. Forbes Campbell of the 4th July, 1870, inclosing a copy of his full power, and to request that we would advise your Lordship at our earliest convenience as to the course which it would be proper to pursue to ensure the distribution of the money to the parties entitled to receive it.

In obedience to your Lordship's commands we have the honour to report—

That the first question to be considered appears to be, whether Her Majesty's Government ought to recognize, or would be justified in recognizing, the alleged powers of attorney given to Mr. Forbes Campbell by the officers and crew. Mr. Campbell, writing on the 4th July, 1870, and requesting payment to him of the whole of the compensation money, says—"I inclose a copy of the full powers which I hold from the master, officers, and crew of the 'Tornado,'" and he incloses a copy of a power of attorney dated the 9th April, 1867, with these words at the bottom, "here follow the signatures:" the natural interpretation of this would be that all the officers and crew had signed that document. It now appears by Mr. F. Campbell's own showing that this was not so; it is certain that all did not sign that document, and uncertain how many did. For Mr. Campbell on the 3rd of this month incloses a list of signatures with the following heading—"List of members of 'Tornado' crew who have executed irrevocable powers of attorney in favour of Dugald Forbes Campbell, dated the 9th April, 1870, and the 20th July, 1867." Now for the first time Mr. F. Campbell mentions another power of attorney, the 20th July, 1867, to which he made no reference in his letter of the 4th July, 1870.

It appears that thirty-eight out of fifty-five of the crew executed one or other of these documents; but how many executed the first, how many the second, does not

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* March 30; April 1, 1871.

† April 1 and 3 Inclosures.

‡ Mr. Grieve, March 31; Messrs. Beveridge, March 31; Mr. Samuels, March 30; Mr. Porteus, April 1; Mr. Forbes Campbell, April 1, 1871.

§ List communicated by Mr. Forbes Campbell, April 3, 1871.

‖ Printed Papers No. 1, 1870.

appear. Further, he describes both the powers of attorney as irrevocable; that of the 9th April, 1867, is certainly not irrevocable: what the nature of the second may be it is impossible to pronounce without seeing it, and we think it probable that Mr. Campbell must have had some motive for omitting to mention it before. We observe that Mr. McPherson in his letter to Mr. Grieve of the 30th March, 1870, speaks "of a condition of the power that if Mr. Campbell recovered compensation he was to receive one-third of the party's share." No such condition appears in the powers of the 9th April, 1867, of which alone Mr. F. Campbell has furnished a copy. Before proceeding further, we suggest that Mr. F. Campbell should be requested to furnish a precise copy of the signatures appended to the document of the 9th April, 1867, and further, a copy of what he calls the irrevocable power of attorney of the 20th July, 1867, together with the signatures appended to it. Until he furnishes this information we cannot advise with confidence whether Her Majesty's Government would be justified in paying to him any portion or what portion of the money. We observe that a Mr. Samuel sends an order apparently in the handwriting of the captain for payment of his share to Mr. Samuel, which seems inconsistent with his execution of the powers of attorney, as alleged by Mr. Forbes Campbell. We suggest that Captain Collier, if his address be known, be communicated with and asked for an explanation of his executing two documents apparently inconsistent with each other, and what he knows, if anything, about the powers of attorney to Mr. F. Campbell.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 184.

*The Queen's Advocate to Earl Granville.—(Received April 6.)*

*Temple, April* 5, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that with reference to that part of my Report of the 11th November last, which refers to the treatment of the crew of the British vessel "John Gray" by the Spanish authorities at Baracoa, he was directed to transmit to me, together with the former papers in this case, a despatch from Her Majesty's Consul-General at Havana, inclosing a copy with translation of the explanation of the Spanish Admiral, in which that officer denies that the crew of the "John Gray" were subjected to ill-treatment during the period of their detention in Cuba; and to request that I would take this despatch into my consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the evidence on which the Marquis de Rafael relies in his letter of the 2nd March, 1871, addressed to Her Majesty's Consul-General at Havana, supplies, I think, a sufficient answer to the inquiry, which Her Majesty's Consul-General was instructed in your Lordship's letter of the 21st November, 1870, to address to his Excellency.

Your Lordship's letter, however, was, I presume, founded on my Report of the 11th November, 1870, which was drawn up in answer to a letter from Mr. Hammond of the 4th November, 1870, and your Lordship will preceive that my attention was drawn by the terms of Mr. Hammond's letter to the ill-treatment, which the crew had received at the hands of the Port authorities at Basacoa (Baracoa) to which my Report was confined. I ought, however, to have discovered on reading the protest of the master and crew of the "John Gray," then for the first time inclosed to me, that their more serious complaint referred to the ill-treatment, which they received at Santiago de Cuba, after they had been transferred to that city from Baracoa, as to which no instructions were given to Mr. Dunlop to make inquiry, and respecting which his Excellency has offered no explanation, probably on the grounds that the inquiries of Her Majesty's Consul-General were limited to Baracoa. Your Lordship will be best able to determine, whether it will be proper to instruct Her Majesty's Consul-General to make a further application to his Excellency on the subject of the crew being bound with cords, and imprisoned in the common jail at Santiago de Cuba. As far as I am able to form an opinion, I think the complaint of the crew as to the cords is frivolous. The men were in fact handcuffed two and two, as they marched through the streets. The complaint, however, as to the imprisonment, is *primâ facie*

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more weighty, as they appear to have been confined with common criminals, but this again may admit of explanation.

The point, however, on which the master and crew appear to have just grounds of complaints, is the great length to which the proceedings against the vessel were spun out, their imprisonment being maintained during the whole time of the inquiry, whilst the object of the inquiry itself was simply to verify the master's explanation why he had no British Ensign on board and no clearance for a Cuban port. But as regards this part of the case, the master and crew have in my opinion only an equitable claim against the Spanish Government on the grounds of their long detention being attributable, as far as at present appears, to the want of due and reasonable diligence on the part of the local authorities in bringing the inquiry to an end, the result of the inquiry being entirely favourable to their innocence.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 185.

*The Law Officers of the Crown to Earl Granville.—(Received May 1.)*

*Temple, April* 29, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that with reference to our Report of the 4th ultimo, requesting to be furnished with further documents and evidence from Mr. Forbes Campbell with respect to that gentleman's wish that the indemnity granted by the Spanish Government in the case of the "Tornado" may be made over to him for distribution to the officers and crew of that vessel, he was directed by your Lordship to forward to us a copy of the signatures appended to the power of attorney given to Mr. F. Campbell on the 9th April, 1867, a copy of the power of attorney of the 20th July of the same year, inclosed in a letter from Messrs. Vallance and Vallance of the 14th ultimo, also a further letter from that firm requesting that Mr. G. Ryan's name be added to the list of Mr. F. Campbell's clients, as well as a further letter from Mr. Samuel respecting the share due to Captain Collier. Two further letters from the Board of Trade, in which that Board express their willingness to undertake the distribution of the money in question, and at the same time stating that they have already expended the sum of 400*l.* on account of the crew of the "Tornado," and suggesting either that application should be made to the Spanish Government for payment of this sum, or that the amount be deducted from the 1,500*l.* already granted by them, were also inclosed. That your Lordship conceives that it would be impossible to adopt either of these suggestions, inasmuch as the indemnity received was granted for a specific purpose, and Her Majesty's Government have moreover pledged themselves that the payment of the 1,500*l.* should completely put an end to any further reclamation on their part. That the second letter from the Board of Trade announces the death of Captain Collier, late master of the "Tornado," and of the second mate, Robert Napier. That in taking these various papers into our consideration, Mr. Hammond was pleased to request that, in addition to any general questions arising out of the disposal of the 1,500*l.* in question, we would furnish your Lordship with our opinion as to the propriety of allowing the representatives of those who have died to share in the distribution of the indemnity.

In obedience to your Lordship's commands we have the honour to report—

That the conduct of Mr. Forbes Campbell throughout these transactions has by no means been such as to create implicit confidence in him. The power of attorney of July 1867 is signed by McPherson alone, and the other powers appear to have been given under states of circumstances very different from that which now exists. It would we think be desirable that the Board of Trade should pay over these moneys to the persons entitled to them, or else obtain their sanction to paying them over to Mr. Forbes Campbell. Payment to Mr. Forbes Campbell would hardly in this state of facts be made by a private person, and there is no reason for applying a rule more favourable to him because the payment is to be made by the Government. We agree with your Lordship, both that the Board of Trade ought not to make the proposed reduction, and that further claims cannot now be made by Her Majesty's Government on the Government of Spain. The representatives of those persons who have died ought clearly to share with the survivors in the distribution of the 1,500*l.*

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 186.

*The Law Officers of the Crown to Earl Granville.—(Received May 18.)*

*Temple, May* 17, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that, with reference to our Report of the 29th ultimo, on the subject of the distribution of the 1,500*l.* granted by the Spanish Government to the officers and crew of the "Tornado," he was directed to transmit to us the inclosed further letter from Mr. Forbes Campbell, protesting against the distribution of this sum by the Board of Trade, and to request that we would take this letter into our consideration and furnish your Lordship with our opinion as to the answer which should be returned to Mr. Forbes Campbell. Copies of letters which have been addressed to the Board of Trade and to Mr. Forbes Campbell and other parties since the receipt of our Report of the 29th ultimo were also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That for reasons which we gave before, and to which we could add others, we do not advise that any portion of the money be paid to Mr. Forbes Campbell, and we suggest that it would be enough to inform him that the Board of Trade are authorized to pay it to the survivors of the crew and the representatives of those who are dead.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 187.

*The Law Officers of the Crown to Earl Granville.—(Received May 27.)*

*Temple, May* 27, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that, with reference to our Report of the 17th instant, and to previous Reports with regard to the distribution of the money placed at the disposal of Her Majesty's Government for the officers and crew of the "Tornado," he was directed to transmit to us the accompanying two letters from the Board of Trade, the one inclosing a letter from Messrs. Vallance, protesting, on behalf of Mr. Forbes Campbell, against the course pursued by Her Majesty's Government in regard to this matter; the second, submitting a Memorandum prepared by the Board of Trade, containing the views of that Department with respect to the mode of allotting the sum in question. Mr. Hammond was pleased to request that we would take these letters into our consideration and furnish your Lordship with our opinion as to the answers which should be returned to them.

In obedience to your Lordship's commands we have the honour to report—

That we do not think it necessary to do more than to acknowledge the receipt of Messrs. Vallance's letter. We are of opinion that no reliance can be placed on any assertion of Mr. Forbes Campbell, and that no contract of any kind has been made by Her Majesty's Government either with him or with the officers or crew of the "Tornado." The 1,500*l.* has been placed at the disposal of Her Majesty's Government for distribution among "the sufferers." It is for Her Majesty's Government to determine who are "the sufferers," and in what manner the money may most properly be distributed among them. Mr. Forbes Campbell has no claim whatever to insist on a distribution *pro ratâ*, or on any other mode of distribution; his object obviously is to obtain possession of the whole, or as much as possible, of the money. Although we think that the principle of distribution *pro ratâ* might fairly have been adopted, we also think that the Board of Trade are by no means bound to adopt it, and have a perfect right to distribute the sum by equal shares, if they think fit, and that they may refuse to give any portion of it to the representatives of the master or McPherson, if they think that the master and McPherson were not "sufferers" in the proper sense of the term. We may add that we concur generally in the Memorandum of the Board of Trade.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 188.

*The Queen's Advocate to Earl Granville.*—(*Received June* 20.)

*Temple, June* 19, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 17th instant, stating that he was directed by your Lordship to transmit to me some further papers having reference to the case of the "Eliza Walker," which do not induce me to vary in any way the Report which I have already drawn up, and others containing a Memorial of the South Shields Chamber of Commerce addressed to your Lordship, of the date of the 15th June, and to request that I would take the same into my consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That with regard to the prayer of the Chamber of Commerce of South Shields, that your Lordship would direct Her Majesty's Ambassador at Madrid to use every possible exertion to induce the Spanish authorities to modify their quarantine regulations, I venture to call your Lordship's attention to the fact that Spain did, I believe, send a delegate to an international conference held in Paris, the sittings of which (forty-eight in number) were prolonged from 23rd July, 1851, to 19th January, 1852. A Compte-Rendu of the deliberations of the Conference was, I believe, published at the Imperial Press in Paris, but I have not been able to procure it. A project of an International Sanitary Convention was also, on that occasion, prepared by the conference, and was, in fact, as I understand, ratified between France and Sardinia.

I have not been able to procure a copy of this Convention, but it may be useful to refer to as a precedent, and the Compte-Rendu of the deliberations of the conference will serve to show to what extent, if at all, Spain was disposed to relax her existing regulations. I may observe that the laws of quarantine are delicate matters at all times to handle internationally, as they are grounded upon a primary principle of international right, namely, that of self-preservation, and the presumption is that they are adopted in each case *bonâ fide* for the safety of the nation.

I have, &c.

(Signed) TRAVERS TWISS.

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## No. 189.

*The Queen's Advocate to Earl Granville.*—(*Received June* 20.)

*Temple, June* 19, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 13th instant, stating that the attention of your Lordship has been drawn to the rigorous action of the Spanish authorities in regard to quarantine in the case of British vessels arriving in Spanish ports from ports of the United Kingdom, and from certain ports of France and Africa where smallpox is supposed to be prevalent. That I should perceive, on perusal of the accompanying papers, of which a list was also inclosed, that the hardship and loss occasioned to British shipping by the quarantine regulations now enforced have been the subject of repeated complaint to the Spanish Government on the part of Her Majesty's Minister at Madrid, and that the remonstrances which he has made on the subject have hitherto been unsuccessful in obtaining redress. That the cases which have been brought to your Lordship's notice may be divided into the three following classes:—

1st. That of British vessels arriving from British ports with a clean bill of health, and after a voyage of, in several instances, two or three weeks, which have been placed under a "quarantine of observation" of three days. That in connection with this regulation Mr. Odo Russell was directed to call my attention to Article 30 of the Sanitary Law, a translation of which was inclosed in Mr. Layard's despatch No. 37 of the 21st February last. That this quarantine of observation has been rendered in some cases more grievous, by the fact that it cannot always be performed in the port of destination. That, for example, vessels arriving at Palma in the Balearic Islands have been ordered to repair to a port in the Spanish peninsular for this purpose. That, moreover, quarantine of observation on suspicion of smallpox has been imposed in Spanish ports where that disease is notoriously epidemic, as, for instance, at Teneriffe, where the Consul has procured from the Alcade a certified Report of the existence of the malady, and the number of deaths it has occasioned.

2nd. That the next class of cases is that of vessels arriving from British or foreign ports in which smallpox prevails, and from which, consequently, clean bills of health cannot be procured. That such vessels have been subjected, even when there has been no sickness among the crew, to a quarantine of seven or ten days, and this quarantine must be performed in ports where a Royal Lazaretto is established. That thus a vessel arriving in Bilbao is sent to Santander, a distance of over 100 miles, to remain idle and useless for seven or ten days, paying a fee to the local authorities of $\frac{1}{4}$ real per register ton per day (equal on a vessel of 800 tons to 2*l*. a-day), and then has to return to Bilbao to discharge.

3rd. That the most serious cases, however, as involving the greatest hardship, and apparently an absolute disregard by the local authorities of the municipal laws of their own country, are those of British vessels which, on first arrival, have been placed in quarantine of observation for three days, and have been subsequently dispatched to perform full quarantine elsewhere. That two examples of this description are that of the "Favourite," which occurred as far back as January of this year, and that of the "Janie," which occurred as recently as May. But that probably the case which shows the most inconsistency on the part of the Spanish authorities is that of the "Eliza Walker," which vessel had actually discharged her cargo in the port of her destination, San Sebastian, after a quarantine of observation of three days, and which, when sent in ballast to Bilbao, was dispatched from thence to Santander to perform full quarantine of seven days, because the bill of health given in Liverpool for the voyage, which terminated at San Sebastian, was foul. Mr. Odo Russell was pleased to state that he was directed to request me to take all these cases, and others of which details will be found in the papers transmitted herewith, into my consideration, and in view of the fact that Mr. Layard, in his most recent despatch (No. 115 of the 8th instant) states that he has hitherto failed in all his endeavours to obtain redress from the Spanish Government. Mr. Odo Russell was pleased to beg that I would, at my early convenience, furnish your Lordship with my opinion as to the steps which Her Majesty's Government may properly take in the matter, first, with respect to any claims for compensation which may be rightly preferred, and secondly, with regard to further remonstrances on the subject with the Spanish Government.

In obedience to your Lordship's commands I have the honour to report—

That quarantine regulations are a branch of municipal law, in regard to which each State is supreme, so long as it does not seek to enforce them beyond its territorial jurisdiction. Such regulations may be vexatious or unreasonable, but so long as all States have notice of them, the merchant-vessels of other States come within the jurisdiction of the State which imposes them, under an obligation to conform to them. There is, however, one condition to which the administration of such laws is subject, namely, that they shall be enforced against the merchant-vessels of every nationality alike, if they come within the jurisdiction of the State which imposes them, under the same circumstances. (1) The owners of British vessels would accordingly, in my opinion, suffer no international wrong if their vessels should be subjected in Spanish ports to no other detentions or delays under the pretext of protecting the public health than French or German vessels would be subject on their arrival from the same ports; and as regards vessels arriving from British ports where the smallpox prevails, if all such vessels are at present subject to an observation of three days for sanitary purposes on their arrival in a Spanish port your Lordship would, in my opinion, have no right to complain of British vessels being equally subject to such an observation. The case, however, would be different if British vessels are subject to any exceptional treatment in this respect, as that would constitute an unfair administration on the part of the Spanish authorities of their own municipal law in reference to British subjects, and would be a just matter of complaint, and might give rise to claims for compensation. The circumstance that smallpox is epidemic at Teneriffe, although it may render a quarantine of observation unreasonable, if such quarantine were intended to prevent the introduction of the disease into the island, does not affect the right of the Spanish authorities to impose such a quarantine, and it may not be altogether vexatious if it is intended to check the increase of the disease. (2) With regard to vessels arriving in Spanish ports with a foul bill of health, the requirements of Spanish law may be burdensome, but if vessels of every nationality coming from the same ports are equally required to perform a quarantine of seven or ten days in ports where a Royal Lazaretto is established, I am of opinion that no international wrong is done in enforcing the same requirement against British vessels. (3) Cases of wrong, however, may arise from the wilful administration by the Spanish local authorities of

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their quarantine regulations in the case of British vessels, and several complaints have been addressed to your Lordship, the circumstances of which are mentioned in Mr. Odo Russell's letter, and which I shall proceed to examine.

I have not before me any extracts from the Sanitary laws of Spain except Article 30 and a Circular of the Spanish Minister of the Interior of the 16th January, 1871, both of which are inclosed in Mr. Layard's despatch of 21st February, 1871. The latter does not appear to apply to vessels coming from British ports, whilst Article 30 applies to all vessels coming from abroad with a clean bill of health, which vessels are to be admitted forthwith to free pratique, unless some contagious disease has developed itself at the place or port wherever the vessel came. It is obvious that under this law British vessels coming from British ports where the smallpox prevails would not be entitled to free pratique, notwithstanding they have on board a clean bill of health. There would, therefore, be no maladministration of the law by the Spanish local authorities, if they have been in the habit of refusing free pratique to British vessels coming from British ports where smallpox prevails. Whether those authorities are empowered by some other law to impose a quarantine observation of three days in such cases I am not informed, nor am I informed as to the provisions of the 38th Article of the Spanish Sanitary Code, which the Chairman of the North of England Steam Shipowners' Association asserts to be violated by the modern practice of the Spanish authorities sending their vessels, in consequence of smallpox prevailing at Shields, to some port where a Royal Lazaretto is established, for seven days strict quarantine. With regard to the three cases mentioned in Mr. Odo Russell's letter, if it is correctly stated by Her Majesty's Consul at Bilbao, as I presume to be the fact, that the 38th Article of the Spanish Quarantine Law enacts, with regard to the diseases of smallpox and typhus, that vessels having no sickness on board are only to be subjected to three days' observation in the port at which they arrive, I am of opinion that the conduct of the Spanish authorities at Bilbao in constraining the master of the British vessel "Favourite," after he had fully satisfied the above provision of the Spanish Municipal Law, to proceed with his vessel to Santander and perform full quarantine, is *primâ facie* a case of maladministration on the part of the local authorities, which would warrant your Lordship in claiming compensation from the Spanish Government for any losses incurred by the owners of the "Favourite" in consequence of the perverse conduct of the local authorities at Bilbao. As regards the second case of the "Eliza Walker," I am not quite satisfied at present that her owners are entitled to compensation for any losses which they may have incurred by their vessel being placed in full quarantine. It appears that the "Eliza Walker" arrived at San Sebastian with a foul bill of health from Liverpool, notwithstanding which she was admitted to free pratique after three days' observation, and she was allowed to discharge her cargo. That she thereupon proceeded in ballast to Bilbao with her foul bill of health on board, in consequence of which she was placed in full quarantine at Bilbao. The question which at once suggests itself is by whose fault did the master of the "Eliza Walker" omit to obtain a clean bill of health for his vessel before leaving San Sebastian for Bilbao? It is not stated that the master applied for a clean bill of health, and that his application was rejected by the local authorities. The fault may have rested with the master of the "Eliza Walker" in neglecting to apply for a clean bill of health, and unless the owners of the "Eliza Walker" can satisfy your Lordship that the fact of the "Eliza Walker" proceeding from San Sebastian to Bilbao with her foul bill of health still on board was the fault of the local authorities at San Sebastian, and in no way the fault of the master of the vessel, I should hesitate to advise your Lordship that the enforcement of full quarantine against this vessel on her arrival at Bilbao with a foul bill of health would entitle her owners to claim damages from the Spanish Government. The third case is that of the "Janie." It is not stated by Her Majesty's Consul at Bilbao whether this vessel had a clean bill of health on board or not on her arrival at Bilbao, but merely that she was ordered to the quarantine station to undergo three days' observation, and on the following day was ordered away to Santander to undergo strict quarantine. This is not an identical case with that of the "Favourite," in which the quarantine of observation and the full quarantine were accumulated, the latter being ordered after the first had been completed, whereas in this case the full quarantine was substituted for the quarantine of observation. If the facts of this case, when more fully reported to your Lordship, should bring the "Janie" within the class of cases provided for by the 38th Article of the Spanish Sanitary Law as recited by Her Majesty's Consul at Bilbao, and which recital appears to me on the face of it to be imperfect, I should be of opinion that there has been an abuse of authority in this case on the part of the Local Board of Health at Bilbao, and that the owners of the "Janie" will be entitled to compensation for their maladministration of the law; but fuller information is desirable.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 190.

*The Queen's Advocate to Earl Granville.*—(*Received August* 29.)

My Lord, *Temple, August* 28, 1871.

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 24th instant, stating that with reference to my Report of the 19th June upon the subject of quarantine imposed upon British vessels in Spanish ports, he was directed to transmit to me herewith a despatch and its inclosures from Her Majesty's Consul at Bilbao, containing further details upon the points with which I desired information. Mr. Odo Russell was pleased to request that I would at my early convenience furnish your Lordship with such observations as I might have to offer upon the inclosed papers, and especially with my opinion as to any illegalities on the part of the Spanish local authorities which would justify Her Majesty's Government in making an official remonstrance to the Spanish Government.

In obedience to your Lordship's commands I have the honour to report—

That there appears to have been a harsh administration of the law as regards the "Favourite," but I am not prepared to advise your Lordship that as regards that vessel or the "Janie" the conduct of the Spanish authorities in enforcing a full quarantine against those vessels was in excess of the requirements of their own municipal law. A clear distinction, however, exists in my opinion between the case of these two vessels and that of the "Eliza Walker." It may be fairly contended by the Spanish authorities that the preliminary detention of the "Favourite" and the "Janie" at Bilbao, before they were sent to Santander, was deliberative, and ought not properly to be regarded as a quarantine of observation, whereas in the case of the "Eliza Walker" the certificate of the port authorities at St. Sebastian is conclusive that her detention in that port was a quarantine of observation, which was complete in all its formalities, upon which she was admitted to free pratique and discharged her cargo. I am of opinion that Her Majesty's Government will be justified in bringing this case officially to the notice of the Spanish Government, as it is clear, from the second indorsement on her bill of health, that the port authorities at Bilbao reported to the Director-General of Health that the "Eliza Walker" had not undergone a quarantine of observation at Santander, contrary to the fact as certified by the authorities of the latter port. I am also of opinion that Her Majesty's Government will be entitled on principle to remonstrate against a British vessel, which has once been admitted to free pratique and allowed to discharge her cargo in a Spanish port, being compelled on arriving at another Spanish port to undergo a full quarantine, as if she came direct from an infected port, provided always that meanwhile she has not exhibited any symptoms of infection. There are circumstances also, as regards the "Favourite" being compelled to put to sea in boisterous weather, when she was not in a seaworthy state, which may I think be properly made a subject of official remonstrance to the Spanish Government, as such a proceeding, seeing the vessel was not infected, was under the circumstances a violation in my opinion of the spirit if not of the letter of the 38th Article of the Organic Sanitary Law of the 28th November, 1855.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 191.

*The Queen's Advocate to Earl Granville.*—(*Received September* 9.)

*Temple, September* 8, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 6th instant, stating that he was directed to transmit to me the accompanying correspondence* respecting the case of the "Tyne Queen," a British vessel, to which, under the circumstances therein set forth, pratique was refused at Huelva in October last, and he was to request that I would take these papers into consideration, and report my opinion as to the course which it would be proper for Her Majesty's Government to take in this matter.

In obedience to your Lordship's commands I have the honour to report—

That it would be desirable, as the Board of Health at Huelva ignores the act of the Carabinero who refused free pratique to the "Tyne Queen," that some declaration should be obtained from the Spanish pilot who had charge of the "Tyne Queen" to the effect that the Carabinero in question was an officer of the Board of Health, and that it was in consequence of his orders to the master of the "Tyne Queen" that she was taken out to sea again by the pilot. The agent of the owners at Huelva ought to have no difficulty in ascertaining the name of the pilot, as I presume he must have given a receipt to the master for his pilotage fee, as the master states that he was excused paying for a pilot a second time. Assuming that it can be established beyond dispute that the Carabinero in question was an officer of the Board of Health at Huelva, I am of opinion that the authorities at Huelva are responsible for his refusal, as recorded in the ship's protest, to look at the ship's bill of health, and for his mistake, if he made it, in supposing the "Tyne Queen" came from the Levant. With regard to compensation, I am of opinion that the owners of the "Tyne Queen" may properly ask for compensation from the Spanish Government for the direct losses entailed upon them by the unjustifiable conduct of the Carabinero, for instance, for the loss of time and the expenses of the vessel (including coal consumed) in going to Cadiz and returning to Huelva, and for the port charges and expenses in Cadiz; but as regards the other items of loss set out in the master's protest, a claim for compensation on their account may with some show of reason be disputed by the Spanish Government, and I should not advise their being pressed. With regard to extra coals, the proper measure of compensation, in my opinion, will be the quantity, as already suggested, actually consumed in the extra voyage to and from Cadiz, which, if not already included, may be properly added to the account, in place of the item for coals as subsequently purchased in Huelva.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 192.

*The Queen's Advocate to Earl Granville.*—(*Received October* 20.)

*Temple, October* 19, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to transmit to me the inclosed despatch from Her Majesty's Chargé d'Affaires at Port-au-Prince,† reporting the particulars of a gross outrage committed by a Spanish ship of war on the English sloop "E. Beckwith" within Haïtian waters, and forwarding copies of the correspondence which has passed between him and the Spanish Consul in Haïti upon the subject, and to request that I would take this matter into my consideration, and furnish your Lordship with my opinion as to the proper course to be pursued by Her Majesty's Government in this case.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship is, in my opinion, entitled to demand from the Spanish Government some apology or expression of regret for the conduct of the Commander of the Spanish war-steamer. It is an axiom of the law of nations that no belligerent right of any kind can be exercised against an enemy's vessel within neutral waters. *A fortiori* this is true as regards a neutral vessel, and there is this further difference, that whilst in the former case the exercise of belligerent right is only an outrage against the sovereignty of the neutral Power within whose waters it takes effect, in the latter case it is an affront both to the territorial Sovereign and to the sovereignty of the nation under whose flag the vessel is sailing. Both the one and the other, in the latter case, are, in my opinion, entitled to resent it.

I have, &c.
(Signed) TRAVERS TWISS.

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* Messrs. Girvin and Slater, June 22; Consul Reade, No. 4, August 21, 1871.

† Mr. St. John's No. 20, September 17, 1871.

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### No. 193.

*The Queen's Advocate to Earl Granville.*—(*Received November* 8.)

*Temple, November* 8, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 3rd instant, stating that he was directed to transmit to me a despatch, with its inclosure, from the Acting British Consul-General at Havana, together with a letter from Messrs. Baring Brothers and Co., respecting a claim of the latter firm on the estates of Don Miguel de Aldama, which have been confiscated by the Spanish Government, and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the instructions which should be addressed to Her Majesty's Minister at Madrid on this subject.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may, in my opinion, instruct Her Majesty's Minister at Madrid so far to support the claim of Messrs. Baring Brothers and Co. *officiously*, as to request that the legality of their claim may be inquired into with as little delay as possible. I have not sufficient information at present as to the circumstances under which the property of Señor Aldama has been taken possession of by the Spanish Government, so as to be able to advise your Lordship whether that Government is entitled to repudiate all claims of creditors upon it.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 194.

*The Queen's Advocate to Earl Granville.*—(*Received November* 21.)

*Temple, November* 20, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 14th instant, stating that he was directed to transmit to me the correspondence marked in the margin* relative to the salvage of the British ship "Saxony" and its cargo at Garrucho, and questions which have arisen in connection therewith, and he was to request that I would take the inclosed papers into my consideration, and report to your Lordship my opinion as to the merits of the case, and the course which Her Majesty's Government should pursue with regard to it.

In obedience to your Lordship's commands I have the honour to report—

That the case is extremely complicated. The first question, however, and that which lies at the root of the case, appears to me to be whether the local Judge of Garrucha had or had not by Spanish law *jurisdiction on questions of salvage*. If he had such jurisdiction, then I think it is to be regretted that Her Majesty's Vice-Consul at Garrucha did not defer to the citation of the Judge to attend at what is termed in the Report to the Spanish Ministry of Grace and Justice (No. 4 in Mr. Layard's No. 125) the "Acto de Conciliacion," even if he appeared under protest. The latter, in my opinion, would have been the proper course for Her Majesty's Vice-Consul to have adopted if he deemed himself to be improperly *cited* before the Judge. The further question as regards Her Majesty's Vice-Consul, whether he was properly *fined* by the Judge for contumacy, appears to have been carried by Her Majesty's Vice-Consul by appeal before a Superior Court; but it may be observed that there is a further question underlying the legal question of the Judge's authority,

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* Mr. Layard, No. 104, Commercial, May 29; No. 113, Commercial, June 8; No. 119, Commercial, June 14; Board of Trade, July 4; Mr. Layard, July 8; to Board of Trade, August 15; to Mr. Ffrench, No. 78, Commercial, August 5; Board of Trade, August 8; Mr. Ffrench, No. 14, Commercial, August 20; Mr. Layard, No. 175, Commercial, October 16; No. 143, Commercial, November 2, 1871.

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which it may be important for Her Majesty's Government to raise, if the Court of Appeal should pronounce for the Judge's authority, namely, whether that authority was not exercised by the Judge without due regard to *comity*, considering the official character of Mr. Pecket.

Thus much I venture to submit to your Lordship as regards Her Majesty's Vice-Consul's conduct. I do not know under what authority he may have acted in this case, or whether Her Majesty's Consular Officers have any general instructions from your Lordship to interfere on behalf of British interests in cases where British vessels are stranded or cast away within their respective districts. Mr. Pecket seems to have acted for the best, as he believed, in order to protect the property of British subjects, and I think he so far deserves your Lordship's support, more particularly if there is a confederation of parties at Garrucha, as he represents, to prevent the due administration of justice in this case by the local Judge.

The question of salvage remains, which is a question apart from the conduct of Her Majesty's Vice-Consul, and, as I understand from the letter of the Board of Trade, will have to be determined ultimately by a Spanish Tribunal. I concur in the opinion of the Board of Trade* that the property should not be abandoned to the parties who have appeared before the local Judge at Garrucha, and asserted that they have a right to the vessel and her cargo, on the ground that they had saved her when derelict.† Upon no principle of salvage law, as administered *inter gentes*, can such a claim be successfully maintained. It may be just, indeed, that a higher remuneration than 50 dollars, as agreed by parole, should be awarded to the salvors, for it appears from Mr. Pecket's letter of 16th December, 1870, inclosed in Mr. Layard's No. 113, Commercial, that the work of salvage was both difficult and dangerous. The most advisable course, in my opinion, for Her Majesty's Government to pursue in this case will be to instruct Mr. Layard to concert, if possible, with the Spanish Minister of Foreign Affairs, that an end shall be put to the proceedings as regards Her Majesty's Vice-Consul, on the ground that, assuming the jurisdiction of the local Judge at Garrucha over the question of salvage to be well founded, he did not exercise his authority with the comity due to the official character of Mr. Pecket; and that the question of the proper remuneration due to the actual salvors of the "Saxony" shall be referred without delay to the proper Tribunal for adjudication; meanwhile, Mr. Pecket to hold any proceeds which he may have from the sale of the hull or cargo of the "Saxony," subject to the salvage award.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 195.

*The Queen's Advocate to Earl Granville.*—(*Received November* 24.)

*Temple, November* 24, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 22nd instant, stating that he was directed to transmit to me the correspondence relative to a sum of money improperly levied by the Customs Authorities of Cuba, by way of duty upon Messrs. Morrison Brothers, and subsequently returned, and in regard to which a claim for interest is now made by Messrs. Morrison for the period during which the money was retained by the Cuban authorities, and Lord Enfield was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to whether Messrs. Morrison's claim for interest can properly be supported by Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that the claim of Messrs. Morrison Brothers for interest may be fairly pressed on the Spanish authorities by Her Majesty's Government, as Messrs. Morrison Brothers would have had the benefit of that interest, if they had not been deprived of the use of their capital by the wrongful exaction of the Spanish Custom-house Authorities.

I have, &c.
(Signed) TRAVERS TWISS.

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* Mr. Layard's opinion, not Board of Trade's.—(Mr. Layard, July 5.)

† No. 24 in Mr. Layard's No. 125.

## No. 196.

*The Attorney-General to Earl Granville.*—(*Received December* 10.)

*Temple, December* 10, 1871.

My Lord,

I AM favoured with your Lordship's commands signified in Mr. Hammond's letter of to-day addressed to me and Mr. Solicitor-General, stating—

1. That he was directed by your Lordship to transmit to us therewith a letter from the Spanish Minister at this Court with the answer returned to it respecting information that had reached him of a vessel being fitted out in some port of the United Kingdom for the service of the insurgents in Cuba.

2. That the Board of Treasury were immediately requested to cause inquiry to be made, and on Saturday evening the letter sent therewith was received from the Treasury, containing a police Report respecting a suspicious vessel in the River Thames.

3. That this morning, however, Mr. Hammond had received from one of the Commissioners of Customs the inclosed copy of a Report from the Customs Authorities at Dundee, calling attention to a vessel named the "Francesco Calderon" recently sold to foreigners, and about to proceed from that port to Shields, if she had not already done so.

4. That as a measure of precaution, orders had been sent this morning to Shields by telegraph desiring the Customs Authorities not to permit any packages or goods to be shipped on board the "Francesco Calderon" till further orders.

5. That Mr. Hammond was directed to request that we would take the papers and the circumstances which he had stated into our immediate consideration, and report our opinion as to the course which it would be proper to take to prevent any violation of the Foreign Enlistment Act, if such should be contemplated.

In obedience to your Lordship's commands I have taken the papers into consideration, and have the honour to report—

That it is impossible to say that with regard either to the "Francesco Calderon" or the scud, there is within the fair meaning of section 23 of 33 and 34 Vic., cap. 90, reasonable and probable cause for believing that a ship is about to be dispatched contrary to the Act. The information of the Spanish Minister is vague, and apparently from the importance of the subject is clothed in exaggerated language; nor does the evidence furnished to the Treasury from the Custom-house officer amount to any real or substantial evidence against either ship. The Government will probably have to pay damages for the detention of either ship, or both if it is determined to detain them. If, however, the Government have no objection to run the risk, which it is undoubtedly considerable, it may be well to detain the "Calderon" at any rate for a few days, that further inquiries may be made concerning her. There is one circumstance connected with that vessel, her being built for extreme speed, which, as she is professedly a trader, certainly seems to show that she is built to be employed for some questionable object. This detention must be the act of the local authority, as I am unable to advise the Secretary of State that he could say that at present there was reasonable cause for his warrant. The warrant, as has been more than once done, may be issued afterwards under section 24.

I have, &c.
(Signed) J. D. COLERIDGE.

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## No. 197.

*The Queen's Advocate to Earl Granville.*—(*Received December* 13.)

*Temple, December* 12, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 7th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Consul at Cadiz, inclosing a declaration which he was instructed to procure, in accordance with the suggestion in my Report of the 8th September, in order to establish the fact that the officer who ordered the "Tyne Queen" to leave Huelva, notwithstanding her clean bill of health, was acting under the orders of the health authorities.

That I should perceive that the declaration is not made by the pilot who had charge of the vessel, as suggested by me, but by the Captain of the Port.

Lord Enfield was also pleased to inclose a further letter from Messrs. Girvin and

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Slater, from which it appears that the refusal to allow the "Tyne Queen" to remain at Huelva was occasioned by a mistake in certain written orders issued by the Lieutenant-Colonel of the Coast-guard to the officer in command of the detachment at the entrance of the river.

The other papers connected with this case were also inclosed, and Lord Enfield was pleased to request that I would again take it into my consideration, and furnish your Lordship with my opinion whether I consider the preliminary point of the responsibility of the health authorities for the occurrence in question sufficiently established to warrant a claim for compensation to the extent pointed out in my Report being made on the Spanish Government by Her Majesty's Government, on behalf of the owners of the "Tyne Queen."

In obedience to your Lordship's commands I have the honour to report—

That the declaration of the Captain of the Port of Huelva renders it unnecessary to obtain a declaration from the pilot, as it establishes the fact that the "Tyne Queen" was ordered by the corporal of carabineers to go to a lazaretto of observation, contrary to what was required by the sanitary regulations then in force at that port. I am of opinion that your Lordship may properly instruct Her Majesty's Minister at Madrid to make an official representation to the Spanish Government on the subject, and to claim compensation for the owners of the "Tyne Queen" to the extent pointed out in my Report of the 8th September last past.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 198.

*The Queen's Advocate to Earl Granville.*—(*Received December* 22.)

*Temple, December* 21, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th instant, stating that, with reference to my Reports of the 8th September and the 12th December, he was directed to transmit to me a despatch from Her Majesty's Minister at Madrid, dated the 9th December, 1874, inclosing a copy and translation of a note from Señor de Blas, stating that the captain of the "Tyne Queen," having left the port of Huelva, when ordered away by the health authorities, without entering into explanations as to the port from which he sailed, is not entitled to receive any compensation for the detention caused in this case. That it is to be remarked, however, that in the protest of the captain, a copy of which would be found inclosed in Mr. Layard's despatch of the 2nd November, 1870, it is stated that the officer who ordered the "Tyne Queen" out of the river, refused to inspect the ship's papers or to listen to any explanations, Lord Tenterden was pleased to request that I would take Mr. Layard's despatch into my consideration, and inform your Lordship whether the note of Señor de Blas causes me to alter my opinion as to the nature of the instructions which should be sent to Mr. Layard.

In obedience to your Lordship's commands I have the honour to report—

That assuming the facts of this case to be correctly stated in the protest of the master of the "Tyne Queen," I am of opinion that the letter of Señor de Blas does not furnish a sufficient answer to the complaint of the master; but as it raises an issue of fact it would be of importance, I think, that the evidence of the pilot who was in charge of the "Tyne Queen" should be obtained to settle that issue before Mr. Layard presses any further on the Spanish Government the claim of the owners of the "Tyne Queen" to be indemnified for the wrongful act of the officer who ordered the "Tyne Queen" out of the river.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 199.

*The Attorney-General and the Queen's Advocate to Earl Granville.*—(*Received December* 24.)

*Temple, December* 24, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd instant, stating that he was directed to transmit to us herewith the accompanying correspondence, which has passed between the Foreign Office, the Board of Treasury, and the Spanish Minister at this Court, with reference to two vessels now lying in the Mersey, and which it is supposed may be intended for the service of the Cuban insurgents, Lord Tenterden was pleased to request that we would take these papers into our immediate consideration, and furnish your Lordship with our opinion at our earliest convenience, as to whether Her Majesty's Government can take any, and, if so, what measures, with regard to these vessels.

In obedience to your Lordship's commands we have the honour to report—

That there are not, in our opinion, sufficient grounds at present for your Lordship to issue a warrant under the 23rd Section of the "Foreign Enlistment Act, 1870," to seize and detain the two steam-vessels, which, from the Spanish Minister's letter of the 22nd December, 1871, appear to be lying in the Birkenhead Docks, and not in the River Mersey. We presume, from the Reports of the Custom-house authorities at Liverpool, that the two vessels are not in a fit condition to go to sea, and that it is contemplated removing them from the docks to a building-yard, for the purpose of making certain alterations in them. Your Lordship may, in our opinion, immediately on such removal of the vessels being reported to your Lordship, issue a warrant under the 25th section of the Foreign Enlistment Act, and authorize inquiry to be made as to the destination of the two vessels, with a view to their being detained if the Report should be unsatisfactory. We ought, however, to add that your Lordship, before issuing the warrant, must be satisfied that, in the words of the Act, the vessels "appear to you to be intended to be employed in the naval service of a foreign State," contrary to the Act. For ourselves, we should have some difficulty, upon the present information, in saying that we were so satisfied; but this is a matter for your Lordship rather than for us.

We have, &c.
(Signed) J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 200.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 25.)

*Temple, December* 24, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that, with reference to our Report of this date respecting the ships at Liverpool suspected of being about to be dispatched contrary to the provisions of the "Foreign Enlistment Act, 1870," he was directed to transmit to us the copy of a letter, which he has in consequence addressed to the Collector of Customs of Liverpool, and Mr. Hammond was pleased to request our opinion at our earliest convenience: whether the Collector of Customs might not be instructed, even in the present stage of the business, to ask the parties connected with the vessels in distinct terms for what purpose or employment they are designed.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to the Collector of Customs of Liverpool being instructed to make the inquiry suggested in Mr. Hammond's letter of this day. He should make it, however, as from himself alone, as there is nothing in the "Foreign Enlistment Act, 1870," which authorizes him to put such a question as a matter of law.

We have, &c.
(Signed) J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 201.

*The Queen's Advocate to Earl Granville.*—(*Received December* 28.)

*Temple, December* 27, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd instant, stating that, with reference to my Report of the 28th December, 1870, and to further Reports on the subject of the seizure of the British

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schooner "John Grey" near the coast of Cuba, and of the treatment of the crew by the port authorities at Baracoa, he was directed to transmit to me herewith a letter from the Board of Trade, requesting to be informed whether a claim for the recovery of the expenses incurred on account of the crew can be properly made on the Spanish Government. That the Board of Trade, as I should observe, at the same time require similar information with regard to the crew of the vessel "Britannia," of Nassau, on which case I reported on the 17th of March last, and also with regard to the schooner "Star," belonging to the Cayman Islands. A Memorandum relating to these cases, together with all the correspondence, was also inclosed, and that I should perceive that, as regards the "John Grey" and "Britannia," the cases as regards the owners have been satisfactorily arranged. That the case of the "Star," however, is still in abeyance, and has not, as yet, been referred to me. Lord Tenterden was pleased to request that I would take the question of the expenses incurred on account of the relief of the crews of the two former ships into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to the Board of Trade.

In obedience to your Lordship's commands I have the honour to report—

That a claim may, in my opinion, be properly made against the Spanish Government for the recovery of the expenses incurred by Her Majesty's Vice-Consul on account of the crew of the "John Grey," by reason of their prolonged detention. With regard to the master and crew of the "Britannia," I am of opinion that no claim can properly be made on their account against the Spanish Government. With regard to the master and crew of the "Star," I am not informed of the precise circumstances under which that vessel was detained by the Spanish cruizers.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 202.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 29.)

My Lord, *Temple, December* 29, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating that, with reference to the Report of the 10th instant (Attorney-General's), he (Mr. Hammond) was directed by your Lordship to transmit to us the accompanying letter from the Treasury,* inclosing a further Report from the Board of Customs, relative to the vessels "Scud" and "Francesco Calderon," which are under the suspicion of being fitted out for the service of the insurgents in Cuba, and that he was to request that we would take the same into our immediate consideration and favour your Lordship at our earliest convenience with our opinion as to whether Her Majesty's Government can take any, and if so, what measures with regard to those vessels.

In obedience to your Lordship's commands we have the honour to report—

That the further information supplied by the Custom-house authorities as regards these two vessels does not appear to us to be sufficient to bring either case within the 23rd Section of the Foreign Enlistment Act so as to justify your Lordship in issuing a warrant to detain either of them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSELL.
TRAVERS TWISS.

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* Treasury, December 1871.

## Switzerland.

### No. 203.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 11.)

My Lord, *Temple, January* 10, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating—

1. That he was directed by your Lordship to transmit to us an accompanying letter from Mr. Gould, now Her Majesty's Secretary of Legation at Berne, inclosing a copy of a letter which had recently been addressed to him by the solicitors of Dr. William Stewart, late of Paraguay, calling upon Mr. Gould to give evidence in a suit to be tried before the Court of Sessions in Scotland, the questions drawn up by Dr. Stewart's solicitors as the subject for his examination having reference to political matters in which Mr. Gould was engaged in his official capacity, whilst employed on a special Mission at the seat of war in Paraguay in the year 1868.

2. That Mr. Hammond was to request that we would take that application, on the part of Dr. Stewart's solicitors, into our consideration, and favour your Lordship with our opinion as to the course which should be pursued by Mr. Gould under the circumstances, and keeping in view the fact of his official position, which alone had connected him with the transactions to which the suit in question relates.

In obedience to your Lordship's commands we have the honour to report—

That it appears to us that the questions bear upon matters with which Mr. Gould has only become acquainted through his official position as British Chargé d'Affaires to the President of Paraguay. Some of the questions are clearly improper in themselves, and it appears to us that it would be prejudicial to the public service for Her Majesty's Chargé d'Affaires to answer at all upon matters which are really not of a private character, and with which he has only become acquainted in his official capacity.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 204.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 10.)

My Lord, *Temple, February* 10, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed to transmit to us a despatch which your Lordship had received from Mr. Bonar, Her Majesty's Minister at Berne, inclosing correspondence which has taken place with the President of the Swiss Confederation respecting a British subject, John Scott, whose extradition is claimed by the French Government on a charge of theft said to have been committed at Dijon, and to request that we would furnish your Lordship with our opinion at our earliest convenience as to the course which should be pursued in this matter.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that no objection should be raised by Her Majesty's Government to the extradition of Scott. A British subject voluntarily taking up his residence in a foreign country subjects himself to the laws of that country, and among them to its extradition laws. We may add that, inasmuch as the offence charged against Scott is not one of those for which, though committed abroad, a British

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subject is triable in this country, to prevent his extradition, would be merely to secure impunity for his crime.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 205.

*The Queen's Advocate to Earl Granville.—(Received February* 21.)

*Temple, February* 20, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 18th instant, stating that he was directed to transmit to me a despatch from Her Majesty's Minister at Berne, inclosing a copy of one from the Acting Consul at Geneva, in which it is stated that among the officers and soldiers of the French army escaped into Switzerland are several British subjects. That Mr. Bonar is anxious to know what is the position of such persons as regards any application they may make for passports or visas to enable them to leave the country, or any claim they may advance to the protection or interference on their behalf of Her Majesty's Legation or Consulate.

Lord Enfield was pleased to request that I would take this matter into my consideration, and report to your Lordship my opinion as to whether these persons have, under the circumstances, forfeited their claim to British protection.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship may, in my opinion, properly distinguish, as regards the operation of the Foreign Enlistment Act, between the case of British subjects, who have voluntarily sought service in the French armies during the present war, and those who being resident within French territory have been liable by the law of France to take part in the defence of the country. The former may, I think, be properly held by your Lordship to have forfeited all claim to British protection, whilst the war lasts, but the latter can hardly be held to have contravened the statute, unless by a strained interpretation of its provisions. On the other hand, as regards both of the above classes of British subjects, your Lordship may, I think, properly instruct Mr. Bonar that a passport should not be granted, whilst the war last, to any British subject who was serving as an officer or soldier in the French army when it escaped into Switzerland, and has been interned.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 206.

*The Queen's Advocate to Earl Gronville.—(Received May* 6.)

*Temple, May* 5, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that he was directed to transmit to me a despatch, which your Lordship has received from Her Majesty's Minister in Switzerland, relative to the claim made by the authorities of the Canton de Vaud to succession duty on the property of Miss England, deceased, at Lausanne, not only on that part which at the time of her death was within the canton, but also upon that part (being the bulk of the property) which was in this country. That on this subject he was to refer me to my Report of the 14th September, 1869, in which, with reference to an application from Messrs. Dawes and Son, stating that, although Miss England had resided in the Canton de Vaud for many years, she had never lost her original domicile as an Englishwoman, I gave it as my opinion that as this was a conclusion of law depending upon a variety of facts, Messrs. Dawes and Son might properly be required to satisfy your Lordship that their view of the law, as applicable to Miss England's case in regard to her domicile, was well founded. That it would be in my recollection that Messrs. Dawes and Son subsequently proposed to your Lordship that, with a view to meet the case of Miss England, Her Majesty's Government should sign with the Swiss Government a declaration on the subject of the property of subjects and citizens of either

country dying in the other, similar to one which had been signed between the Swiss and Russian Governments. That acting on the opinion stated in my Report of the 28th September, 1870, that such a declaration would not meet cases of this description, your Lordship declined to adopt that course, and since then Her Majesty's Minister in Switzerland has been in communication with persons of influence in that country, with a view, if possible, of discovering some method of arranging this difficult question. That it would, however, appear, from Mr. Bonar's recent despatch, that the local authorities of the Canton de Vaud had in years past actually abandoned their claim to imposts on Miss England's fortune or income, because she maintained that she was not domiciled there. That under these circumstances, your Lordship would be glad to receive my opinion, whether your Lordship could properly make a representation to the Federal Government of Switzerland on behalf of the estate of Miss England, on the ground that the authorities of that part of the Canton de Vaud where she resided had admitted her claim as non-domiciled, and that, therefore, a claim cannot properly be made to succession duty on any part of her property beyond that which was in the canton at the time of her death. The former correspondence was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That the fact of the local authorities of the Canton de Vaud having on the occasion mentioned in the letter of Advocate König admitted the claim of Miss England to be non-domiciled in Switzerland would not be in my opinion a conclusive argument against them, if it stood alone, that Miss England was not domiciled in the Canton de Vaud at the time of her death. But as it is coupled with the fact that the same authorities never made any further attempt to tax her during her life-time, I think it is a conclusive argument that they accepted her protest as rebutting any presumption of an intention on her part to change her domicil arising out of her *modus vivendi* in Switzerland. Your Lordship may therefore in my opinion properly make a representation to the Federal Government on behalf of the estate of Miss England, grounded upon the double fact of the authorities of the Canton de Vaud having deferred to her protest, and having made no further attempt to tax her down to the time of her death.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 207.

*The Queen's Advocate to Earl Granville.—(Received August* 18.)

*Temple, August* 17, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 11th instant, stating that, with reference to the claim of the authorities of the Canton de Vaud to succession duty on the property of the late Miss England, which formed the subject of my Report of the 5th May last, as well as that of the 14th September, 1869, he was directed to transmit to me some further correspondence which has taken place upon the subject between your Lordship and Her Majesty's Minister in Switzerland. That I should perceive that Mr. Bonar, in his despatch No. 73 of the 27th June last, has submitted a draft of declaration to be proposed to the Swiss Government for the regulation of the question of succession duty on the property of subjects of the one country dying in the territories of the other, with a view of preventing the tedious and costly litigation which now arises from time to time in consequence of claims advanced by the authorities of the Canton de Vaud to succession duty on the entire property, wherever situate, of British subjects dying in the Canton de Vaud. That such duty, at all events, in respect of property not situate within the canton, could (if your Lordship rightly understands the question) be claimable only in case the legal or principal domicil of the deceased had been established in the Canton de Vaud at the time of his death, and that, from Mr. Bonar's despatch No. 75 of the 29th June, it appears that the law of the Canton de Vaud requires that, in order to constitute legal domicil, certain conditions must be fulfilled; that is to say, the intention to create in the canton the fixed (principal) establishment must have been formally declared to the authorities, or, that fixed (principal) establishment must have been virtually already transferred to the canton for the space of an entire year. But that, in the case of Miss England, the claim to duty on the entire property of the deceased was advanced by the authorities of the canton, notwithstanding these conditions, prescribed by their own law, had not been fulfilled. That

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a declaration such as that suggested by Mr. Bonar would probably put a stop to such claims, and be satisfactory as far as regards British subjects in the Canton de Vaud. But that your Lordship feels doubt whether Her Majesty's Government could engage that the "same principles" should be applied in the case of a citizen of the Canton de Vaud dying in this country; and your Lordship would be glad to be furnished with my opinion on this point and on the draft of declaration generally.

In obedience to your Lordship's commands I have the honour to report—

That there would be a difficulty in the way of Her Majesty's Government giving effect on precisely the "same principles" to the proposed Convention, as regards the property of citizens of the Canton de Vaud dying within British territory, inasmuch as, according to the decisions of British Courts, it would not be requisite for a citizen of Vaud to have made a formal declaration before a British authority as a condition precedent to his acquiring a British domicile for testamentary purposes. A citizen of Vaud might have acquired such a domicile by residence alone in the United Kingdom, coupled with the intention of abandoning his native home, and such an intention may properly be inferred from circumstances given in evidence after his death. There might also be a difficulty as regards a citizen of Vaud dying within a British Colony, as in such a case the Colonial Treasury might put in a claim for legacy duty on the ground of the deceased having a colonial domicile, such a distinction being admitted by the British Courts. The only way by which reciprocity of obligation might be made the basis of a declaration between the two Governments, as the law of England now stands, would be by adopting words of a more general character. I have drawn up a draft of such a Convention to be submitted for your Lordship's consideration, and I should observe that the preamble of the draft Convention, as proposed, requires some modification, as the Convention is to regulate the succession or legacy duty to be levied on the property of the citizens and subjects of either of the contracting parties dying within the territory of the other, when not domiciled therein.

I have, &c.
(Signed) TRAVERS TWISS.

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### Inclosure in No. 207.

*Draft of Declaration.*

THE Government of Her Britannic Majesty and the Federal Council of the Swiss Confederation, acting in the name of the Canton de Vaud, have agreed to apply the following principles to the succession or legacy duty, to which the property of a subject or citizen of either of the two contracting parties dying within the territory of the other contracting party, when not domiciled therein, shall be subject.

Section 1. The domicile of a subject of Her Britannic Majesty shall not be considered to be established in the Canton de Vaud unless such British subject shall have complied with all the requirements of the law of the said canton applicable to domicile; and reciprocally the domicile of a citizen of the Canton de Vaud shall not be considered to be established in the dominions of Her Britannic Majesty unless such citizen of the Canton de Vaud shall have complied with all the requirements of the law of such dominions applicable to domicile.

Sec. 2. In the event of the decease in the Canton de Vaud of a British subject who shall not have complied with all the requirements of the law of the canton necessary to establish his legal domicile therein, succession or legacy duty shall be levied only on the property, real or personal, which the deceased may, at the time of his death, have possessed within the canton, but shall not be due on any property whatsoever situated out of the territory of the canton.

Sec. 3. It is likewise understood that in the event of the decease within Her Majesty's dominions of a citizen of the Canton de Vaud, who shall not have complied with all the requirements of the law of such dominions necessary to establish his legal domicile therein, succession or legacy duty shall be levied only on the property, real or personal, which the deceased may, at the time of his death, have possessed within such dominions, but shall not be due on any property whatsoever situated out of such dominions.

Sec. 4. All the other cantons of Switzerland may adhere to the present declaration by a declaration made to that effect, which the Federal Council of the Confederation will communicate to the Government of Her Britannic Majesty.

T. T.

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### No. 208.

*The Queen's Advocate to Earl Granville.—(Received August 31.)*

*Temple, August* 30, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 28th instant, stating that with reference to former cases of demands made by the authorities of the Canton de Vaud for succession duty on the property of British subjects dying in the canton, he was directed to transmit to me a despatch which your Lordship has received from Her Majesty's Minister in Switzerland* respecting a demand made by the authorities of the Canton of Geneva upon the widow of Mr. Reynolds, late British Vice-Consul at that place, for a return of the property left by her husband, for the purpose of its being submitted to succession or legacy duty. Lord Enfield was pleased to request that I would take the same into my consideration, and report to your Lordship my opinion, whether on any of the grounds stated in Mr. Bonar's despatch, Mrs. Reynolds can object to furnish the required return, and whether Her Majesty's Government would be justified in interposing in the question. The Consular Convention between Switzerland and Brazil, to which reference is made in Mr. Bonar's despatch, was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That the grounds upon which legacy duty is claimed by the authorities of the Canton of Geneva in this case is, as appears from the Report of the Director of Registration inclosed in Mr. Bonar's despatch, that the late Mr. Vice-Consul Reynolds was domiciled at Geneva at the time of his death. If this fact be established, I am of opinion that his character of British Vice-Consul would not exempt his widow from making the required return. No such exemption would be admitted in England as regards the personal property of a foreign Consul or Vice-Consul dying in England whilst in active service, if he was domiciled in England at the time of his death.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 209.

*The Law Officers of the Crown to Earl Granville.—(Received September 22.)*

*Temple, September* 20, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Russell's letter of the 8th September instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Berne (No. 85, August 27) relative to marriages solemnized by English clergymen in Switzerland; and to request that we would take the matter into consideration, and favour your Lordship with our opinion as to the answer which should be returned to the inquiries contained in Mr. Bonar's despatch.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Bonar may be properly informed that his interpretation of the marriage law of England is correct.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 210.

*The Queen's Advocate to Earl Granville.—(Received October 10.)*

*Temple, October* 9, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that, with reference to my Report of the 30th August last, on the subject of a demand made by the authorities of the Canton of Geneva upon the widow of Mr. Reynolds, late British Vice-Consul of that place, for a return of the property left by her husband, for the purpose of being submitted to succession or legacy duty, he was directed to transmit to me a despatch from Her Majesty's Minister at Berne, replying to the despatch that was addressed to him in the sense of that Report, and to request that I would take the same into consideration, together with the previous papers, which were also inclosed, and furnish your Lordship with my opinion as to any further instructions which should be sent to Mr. Bonar on this matter.

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* Mr. Bonar, No. 83, August 14, 1871.

In obedience to your Lordship's commands I have the honour to report—

That upon the facts stated in Mr. Acting-Consul Auldjos' letter of 20th September, 1871, assuming that evidence will be forthcoming as to the intention of Mr. Vice-Consul Reynolds to resume his residence in England, I am of opinion that an English Court would adjudge Mr. Vice-Consul Reynolds not to have abandoned his domicile of origin at the time of his death, and would hold his property to be distributable according to English law. I should observe, however, that the English Courts have regard always to domicil according to the law of nations, whereas the Swiss Courts, in causes of succession, would probably hold themselves bound by the definition of domicil given by the law of the canton, which, if I mistake not, constitutes residence *de facto* for a certain number of years, irrespective of intention, the criterion.

Assuming such to be the case, there can be no valid objection to the Swiss Courts applying their municipal law to property which is within their jurisdiction, but the Genevese authorities claim to apply their municipal law to all the personal property of the deceased in this case, wheresoever situated; and this, I apprehend, they are not entitled to do upon the plea of the deceased having died domiciled in the Canton of Geneva, according to their municipal law, except that law coincides with the law of nations.

I should advise your Lordship that Mr. Bonar should be instructed to inform the proper Swiss authorities that he does not make any claim of immunity as regards the requirements of Genevese law, for the property of Mr. Vice-Consul Reynolds, on the ground of his official character, but that he asserts the right of his widow to open the succession in England.

That as regards the statement in the Report of the Genevese Director of Registration, that Mr. Vice-Consul Reynolds had no other known domicile than that which he had acquired by his residence with the Canton of Geneva for a certain number of years, he may observe that residence alone, without an intention to abandon his domicile of origin, would not be sufficient to divest Mr. Vice-Consul Reynolds of his English domicile according to the law of nations, and to withdraw his personal property from the jurisdiction of the English Courts. Mr. Bonar may further state that in asserting the right of the widow of Mr. Vice-Consul Reynolds to open the succession to her deceased husband's property in England, he claims no more than would be granted by an English Court to the widow of a Swiss citizen dying in England under similar circumstances of residence, without the intention of abandoning his native country.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 211.

*The Queen's Advocate to Earl Granville.*—(*Received December* 27.)

*Temple, December* 26, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd instant, stating that with reference to my Reports on the subject of the claims raised by the authorities of the Canton de Vaud to succession duty on the property, wherever situate, of British subjects dying in the canton, and more especially to my Reports of the 30th August and 9th October last, he was directed to transmit to me a despatch from Her Majesty's Minister in Switzerland, inclosing the draft of a declaration which the Federal Government are willing to sign with him for the settlement of the question. Lord Tenterden was pleased to request that I would take the same into my consideration, and report to your Lordship my opinion whether Mr. Bonar may be instructed to sign the proposed declaration, and a similar one with regard to the Canton of Geneva, if it can be obtained.

In obedience to your Lordship's commands I have the honour to report—

That there is no objection in my opinion to the declaration which the Federal Government is willing to sign.

With regard to the declaration which Mr. Bonar proposes to sign, I would suggest that an uniformity of expression should be maintained throughout as regards the acquisition by citizens of Vaud of a domicile in Her Majesty's dominions, and that in lieu of the varied phraseology which is employed in Article I, "shall have complied with the requirements of the law of such dominions applicable to domicile:" and in Article II, "shall not have complied with all the requirements laid down by the law of such dominions necessary to establish his legal domicile therein;" and again, in Article II, "unless he shall have fulfilled all the conditions required by the laws of these dominions necessary to establish his legal domicile therein," there should be substituted an uniform phraseology, viz., "unless he shall have fulfilled (or shall not have fulfilled, as the case may be) all the requirements of the law of such dominions necessary to establish his legal domicile therein." I may add that there is apparently a slight clerical error in Article II, which should be amended, and in the place of the words "the formal declaration here aforesaid," "the formal declaration hereinbefore mentioned" may be used.

I have, &c.
(Signed) TRAVERS TWISS.

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## Tripoli.

### No. 212.

*The Queen's Advocate to Earl Granville.*—(*Received June* 27.)

*Temple, June* 26, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 23rd instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Consul-General at Beyrout, and he was to request that I would take into consideration and report my opinion as to what answer should be returned to the application therein inclosed from Mr. Vice-Consul Mercer respecting the extension of British protection to his adopted son.

In obedience to your Lordship's commands I have the honour to report—

That under the peculiar circumstances of this case, it may be advisable for your Lordship to direct inquiry to be made whether the *lex loci* at Tripoli recognizes the adoption of children, and if so, whether Mr. Mercer has complied in the present instance with the formalities required by the *lex loci*, so that Mr. Mercer's adopted son would by the law of Tripoli have all, and if not all, what right of a natural and legitimate child.

I have, &c.
(Signed) TRAVERS TWISS.

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## Tunis.

### No. 213.

*The Queen's Advocate to Earl Granville.*—(*Received July* 19.)

*Temple, July* 18, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 15th instant, stating that he was directed to transmit to me a correspon-

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dence* with Her Majesty's Agent and Consul-General at Tunis, relative to the right of the Bey of Tunis to the proceeds of fisheries of sponge and polypi beyond the distance of three miles from the shore. That I should perceive that the question was first raised by a British firm as affecting the payment of dues levied by the Bey, Mr. Odo Russell was pleased to request that I would take the matter into my consideration, and furnish your Lordship with my opinion as to the instructions which should be addressed to Mr. Wood on the subject.

In obedience to your Lordship's commands I have the honour to report—

That there is no objection on principle to the Bey of Tunis asserting an exclusive right to the *fructus* of the banks off the coast of Tunis, to which sponges and polypi attach themselves, although the banks in question are at a greater distance than three miles from the coast line, provided the Bey can show a prescriptive enjoyment of such *fructus*. Vattel, l. 1, c. 23, s. 287, admits that nations may acquire a right of property in such *fructus* founded on long-continued and exclusive enjoyment, and there are on record many instances of the enjoyment of such right of property. Amongst others Her Majesty's Government exercise at present such an exclusive right as regards the *fructus* of the pearl fisheries off the coast of Ceylon, having received it as a tradition from the previous Sovereigns of the island, notwithstanding the principal bank to which the pearl oyster attaches itself is at a distance of more than twenty miles from the coast. The prescriptive use on the other hand of such a right is a question of fact which must be established, or may be impugned, like other facts. If it can be shown, indeed, that within the memory of living persons fishermen of various nationalities were accustomed to take sponges and polypi from the banks in question freely and without the permission of the Bey of Tunis, I should be of opinion that the claim of prescriptive right on his part failed, but this, as I have observed, resolves itself into a question of fact. With regard to the exclusive right of the Bey to the *fructus* of any banks which are inclosed within a line drawn across the mouths of bays, the headlands of which are not more than ten miles apart, I am of opinion that the Bey is justified in asserting an exclusive right to such *fructus*.

I have, &c.
(Signed) TRAVERS TWISS.

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## Turkey.

### No. 214.

*The Queen's Advocate to Earl Granville.*—(*Received February* 28.)

My Lord, *Temple, February* 27, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed by your Lordship to request that I would report to your Lordship my opinion whether the Egyptian Government can, under the circumstances stated in the accompanying despatch from Colonel Stanton, be held responsible for damage done to property by an explosion of gun cotton in one of their magazines at Alexandria.

In obedience to your Lordship's commands I have the honour to report—

That in the absence of any suggestion that the explosion of the magazine in question was the work of design, I am of opinion that the Egyptian Government cannot be held responsible for the damages caused by the explosion to life or property in the neighbourhood of the magazine.

I have, &c.
(Signed) TRAVERS TWISS.

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* Mr. Wood, No. 5, Commercial; to Mr. Wood, No. 6, Commercial; Mr. Wood, No. 9, Commercial, 1871.

### No. 215.

*The Queen's Advocate to Earl Granville.*—(*Received March* 28.)

My Lord, *Temple, March* 27, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 22nd instant, stating that he was directed to transmit to me a letter from Mr. Joseph Williams, requesting the assistance of Her Majesty's Government in procuring the revision of a sentence of imprisonment for fifteen years, pronounced against him by a Turkish Tribunal for the manslaughter of a watchman at Constantinople. Two despatches from Her Majesty's Consul-General and Judge of the Supreme Court at Constantinople reporting his opinion on the case were also inclosed, and Lord Enfield was pleased to request that I would take these papers into my consideration, together with the previous papers, and furnish your Lordship with my opinion as to the validity of the sentence recorded against Joseph Williams, and as to the instructions which should be sent to Sir P. Francis, if I should coincide in his opinion as to the illegality of the judicial procedure in this case.

In obedience to your Lordship's commands I have the honour to report—

That the trial of Mr. Joseph Williams has not been conducted in accordance with the capitulations between Her Majesty and the Porte, and the sentence pronounced upon him involves, in my opinion, a breach of the capitulations. Further, it is open to Her Majesty's Government to contend that the preliminary inquiry conducted in the Court of the "Zaptieh," upon which the sentence of the Supreme Council was founded, has not been conducted in accordance with the Firman of the Sultan of February, 1854, and is therefore invalid according to Turkish law.

The trial and condemnation of Mr. Williams would thus appear not merely to involve an international wrong, but an irregularity as regards the law regulating the procedure of the "Zaptieh," which vitiates the proceedings and will entitle Her Majesty's Government to protest against them as altogether invalid. Under these circumstances Her Majesty's Government would be entitled, in my opinion, to demand of strict right that a new trial of Mr. Williams should be had according to the capitulations between Her Majesty and the Porte, the binding effect of which is recognized in the Firman of the Sultan; and it will be for your Lordship to consider whether it would not be proper, as a warning to the Turkish authorities against repeating such glaring violations of their Treaty obligations, to demand, as suggested by Sir P. Francis, that Mr. Williams should be handed over to the British authorities, there being a precedent for such course, and it being contrary to British principles of criminal jurisprudence, when the proceedings of a Court of Justice in a criminal trial have been found to be invalid, for the accused party to be placed a second time in peril of his life for the same offence.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 216.

*The Queen's Advocate to Earl Granville.*—(*Received May* 17.)

*Temple, May* 16, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 13th instant, stating that, with reference to my Report of the 27th March last, he was directed to transmit to me, for such further observations as I might have to offer thereupon, the accompanying despatch from Sir H. Elliot, reporting his proceedings in the case of Joseph Williams. The previous papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That the course proposed to be adopted by Her Majesty's Ambassador at Constantinople in regard to procuring the liberation of Joseph Williams, in preference to insisting upon his undergoing a new and more formal trial, in accordance with the capitulations, may be properly approved by your Lordship.

I have &c.
(Signed) TRAVERS TWISS.

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## No. 217.

*The Law Officers of the Crown to Earl Granville.—(Received May 25.)*

My Lord, *Temple, May 24, 1871.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating—

1. That with reference to our Report of the 19th ultimo, respecting the right of a Mixed Commission which had been formed for the improvement of the navigation of the Pruth to levy certain dues on vessels frequenting that river, he was directed by your Lordship to transmit to us the accompanying Memorandum, which had been drawn up in the Foreign Office, on a question which had been raised, whether, as no reference was made to the affluents of the Danube in the XVth Article of the Treaty of Paris of 1856, which applied the Vienna regulations to that river, they might be considered to be applicable to the Pruth.

2. That your Lordship requested we would take that point into our consideration, and inform you whether, in our opinion, the Pruth was intended to be included in the wording of the XVth Article of the Treaty of 1856, which declared that the principles of the Congress of Vienna of 1815 respecting the navigation of rivers was to be applied to the Danube and its mouths.

3. That Mr. Hammond also inclosed copies of the Treaties of Vienna, Paris, and London, together with Colonel Stokes' despatches Nos. 16, 17, and 19, on which our Report of 19th April was founded; also two further despatches from that gentleman, (Nos. 21 and 22); and one from Her Majesty's Agent and Consul-General at Bucharest (No. 40), inclosing copies of the Convention for the navigation of the Pruth, together with Protocols of the Mixed Commission of the Pruth, and the Regulations and Tariff exacted by them.

4. That Mr. Hammond was to request that we would take those papers into our consideration, and favour your Lordship with any observations which we might have to offer thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That the XVth Article of the Treaty of 1856 declares that the principles established by the Act of the Congress of Vienna for the regulation of the navigation of rivers which separate or traverse different States "shall in future be equally applied to the Danube and its mouths." Amongst those principles we find it laid down in Article CX of the Act of Vienna that "the system which shall be established, as well for the levying of dues as for the maintenance of the police, shall, as far as possible, be the same for the whole course of the river, and shall extend, unless there be particular circumstances in the way, to those of its branches and confluents which in their navigable course separate or traverse different States."

We are, on the whole, of opinion that the Treaty of Paris brings the River Danube and its mouths within the principle laid down in the above Article, and that unless there be particular grounds for excepting the Pruth from the operation of that principle of which we are not aware, we think that the Pruth, as a navigable confluent of the Danube separating different States, falls within it. We have assumed that the Pruth separates or traverses in its navigable course Turkish or Roumanian, Russian, and Austro-Hungarian territory.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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## No. 218.

*The Queen's Advocate to Earl Granville.—(Received July 18.)*

My Lord, *Temple, July 17, 1871.*

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed to transmit to me the accompanying correspondence which has taken place between the Foreign Office, the parties concerned, and Her Majesty's Agent and Consul-General at Bucharest, relating to a claim of Messrs. Ward and Rivolta against the Roumanian Government for the restitution of the caution money deposited by him in 1864, to obtain a concession from the Moldo-Wallachian Government for the construction of railways in Wallachia.

That I should perceive from the correspondence that the steps taken by Her Majesty's Agent and Consul-General at Bucharest have failed to obtain a satisfactory settlement of Messrs. Ward and Rivolta's claim, and that Mr. Green states that unless stronger measures are taken, he sees no prospect of obtaining any settlement. That under these circumstances Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the course which should now be taken in this matter.

In obedience to your Lordship's commands I have the honour to report—

That the question of right in this case depends upon the conditions of the concession, whether, according to those conditions, the Roumanian Government was entitled, on the 10th May, 1865, to annul the concession and declare the caution money to be forfeited to the State. There is no copy of the concession amongst the papers submitted to me, and Mr. Ward does not appear to have prepared any memoir in support of the claim of himself and Mr. Rivolta to have the caution money refunded to them, notwithstanding Mr. Green's request at an early stage of the proceedings.

On the other hand it would appear from the memoir drawn up in defence of the course pursued by the Roumanian Government, which is inclosed in Mr. Green's despatch of 18th March, 1870, that the Roumanian Government* justifies the course which it has adopted by reference to Articles 7 and 8 of the Concession. As far as I am at present informed, I am of opinion that the Roumanian Government have the letter of the Concession in their favour, and that Her Majesty's Government cannot claim of right on behalf of Messrs. Ward and Rivolta that the caution money should be refunded to them.

I have, &c.  
(Signed) TRAVERS TWISS.

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## No. 219.

*The Queen's Advocate to Earl Granville.—(Received August 31.)*

My Lord, *Temple, August 30, 1871.*

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 29th instant, stating that, with reference to my Report of the 26th June, he was directed to transmit to me the accompanying Report from Mr. Consul-General Eldridge, relative to Mr. Vice-Consul Mercer's application for permanent protection to his adopted son.† That Mr. Eldridge's previous despatch was likewise inclosed. Lord Enfield was pleased to request that I would take this matter again into my consideration, and furnish your Lordship with my opinion as to the course which it would be proper to pursue with regard to this application.

In obedience to your Lordship's commands I have the honour to report—

That under the circumstances of this case, as the adoption of children amongst the Christian inhabitants of Tripoli is fully recognized by the Lex Loci, I am of opinion that your Lordship may properly extend to the adopted son of Mr. Mercer the same degree of protection which would be granted to a natural son of a British subject born within the Ottoman dominions.

I have, &c.  
(Signed) TRAVERS TWISS.

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## No. 220.

*The Law Officers of the Crown to Earl Granville.—(Received September 4.)*

*Temple, September 2, 1871.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 30th ultimo, stating that he was directed to transmit to us for consideration at our early convenience, with the papers inclosed in his letter of the 21st ultimo, a futher letter from Sir E. Hornby, relative to the suggested consolidation of Orders in Council and rules for Extra-Territorial Courts.

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* No. 38 of June 15, 1871.

† No. 24, Consular.

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In obedience to your Lordship's commands we have the honour to report—

That if we are to regard Sir E. Hornby's letter as submitted to us in connection with the papers on the Turkish order in Council and rules, on which we have lately advised, it does not appear to us that as far as that Order and those rules are concerned, we need trouble your Lordship with any further observations. The letter, however, raises large and important questions of a general character, not confined to one country only, which our own knowledge and the information now before us are not sufficient to enable us usefully to discuss; against the general good sense and prudence of Sir E. Hornby's recommendations there seems nothing to be said, but we need more local and detailed information to be able to say how far they can be practically applied, as he desires, with a prospect of good results. We would suggest that before anything is done in the way of drafting either an Order in Council or Rules of Procedure, the gentlemen or some of them mentioned by Sir E. Hornby should be consulted, and their opinion obtained as to the course proposed by him. Expense, and in the end time, will probably be saved by doing this in the first instance. We may perhaps properly inform your Lordship, that as to those of the gentlemen mentioned by Sir E. Hornby, with whom we are acquainted, we entirely concur in his estimate of them, and with some we have not the honour of being acquainted.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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## No. 221.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 8.)

*Temple, September* 7, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 1st instant, stating that in reference to our Report of the 30th August, 1871, he was directed by your Lordship to state that your Lordship also wished to obtain our opinion, whether the information in the possession of the Foreign Office, as shown in the inclosed papers, was sufficient to deal in a satisfactory manner with the questions therein adverted to as to irregularities of Judicial proceedings and charges on the part of British Vice-Consuls in Turkey, and complaints as to the Consular Court system, or whether further inquiry was needed; and if so, in what manner we would recommend it should be made.

And that now the subject was under consideration your Lordship wished that it should be placed on a throughly satisfactory footing; and that he (Mr. Odo Russell) was to request that we would be so good as to take this point into consideration and favour your Lordship at our earliest convenience with our opinion thereupon.

In obedience to your Lordship's commands we have taken this point into consideration and have the honour to report—

That we are of opinion that the information in the possession of the Foreign Office is not sufficient to enable your Lordship to deal in a thoroughly satisfactory manner with the questions adverted to in the inclosed papers. We think it would be desirable for your Lordship to require a return from each Vice-Consul in Turkey of the number and nature of the cases, in which he has been called upon during the last three years to exercise jurisdiction, distinguishing where he has been required, as he conceives by custom, to exercise jurisdiction *in invitos*, and where he has exercised it with consent of parties. Your Lordship will thus be enabled to ascertain what are the requirements of British subjects in Turkey, as regards the action of British Vice-Consuls in settling their disputes, and when those requirements are ascertained, we shall be better able to advise your Lordship both as to the nature of the jurisdiction, if any, which should be conferred on Vice-Consuls, and the charges which may be properly imposed upon those who may have recourse to it.

We have, &c.  
(Signed) R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

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## No. 222.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 23.)

My Lord, *Temple, September* 23, 1871.

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 7th instant, stating—

1. That he was directed by your Lordship to request that we would favour you with our opinion upon the merits of the existing controversy between the Rouman Government and the holders of Rouman railway bonds.

2. That the questions in dispute are based upon a Convention signed in 1868, by which a concession was granted to Dr. Strousberg and his associates, who undertook to construct, within three years, certain lines of railway. The capital for the construction of the lines was to be provided by the issue from time to time, in exchange for certificates showing sums actually expended upon the works, or upon other conditions specified in the Convention, of bonds bearing interest at the rate of 7½ per cent., such interest being as the bondholders hold, immediately, or as the Rouman Government hold, provisionally, guaranteed by Roumania.

3. That the three years specified in the Concession have now expired; the works of the railways have been only partially and imperfectly executed; the Concessionnaires, notwithstanding this, have succeeded, owing to the complicity, it is asserted, of the agent appointed in the interests of Roumania, in issuing bonds to the full value of the capital estimated for the whole amount of the lines, completed and uncompleted; the interest upon these bonds has not been paid; and the bondholders have called on Roumania to act upon her guarantee. This appeal has been met by the passing of a law the effect of which is to repudiate all responsibility for the interest, and to offer to the bondholders, in liquidation of their claims, the value of the completed works.

4. That the case of the Rouman Government would be found amply detailed in the Memorandum furnished by that Government to the Porte, which accompanied the inclosed despatch from Sir H. Elliot (No. 307). The case of the bondholders is sketched in the Memorandum communicated by the German Chargé d'Affaires, which was transmitted therewith.

5. That there is a further point connected with this controversy upon which your Lordship would also be glad to be favoured with our opinion.

6. That the bonds that were issued were principally taken up in Germany, though a certain portion of them found their way to this country and elsewhere. The German Government has taken up the case in the interests of its subjects, and holds, as we would see from the Memorandum above referred to, that as the Rouman Government has no international *status*, the remedy of the bondholders would lie in an appeal to the Porte as Suzerain.

7. That in a despatch therewith inclosed (No. 71), which Mr. Odo Russell addressed to Her Majesty's Chargé d'Affaires at Berlin, he pointed out that if the Porte, in answer to such an appeal, were to intervene in the matter, she could not support her intervention by force without the consent of the Powers parties to the Treaty of 1856; but the point has also to be considered whether the case might equitably be met by an action brought by the representatives of the bondholders in a Turkish Court of Law, and it is upon this point that your Lordship would wish to have our opinions.

8. That in order to put us in possession of the sources of information upon which a judgment could be formed, Mr. Odo Russell transmitted to us—

(1.) The Capitulations between Great Britain and Turkey, signed in 1809, in which he would specially call our attention to Article 24.

(2.) A Memorandum drawn up in the Foreign Office relative to the application to Roumania of Treaties between Turkey and foreign Powers.

(3.) The Treaty of Paris of 1856.

(4.) The Convention of 1858 relative to the organization of Roumania with.

(5.) An Annex to that Convention signed in 1864.

(6.) The Treaty of Commerce between Great Britain and Turkey concluded in 1861, by which existing Capitulations or Treaties were confirmed.

9. That Mr. Odo Russell observed that as Germany has engagements with Turkey equally binding as regards the interests of her subjects with those held by this country, the position of German and British bondholders in this case would be in the main identical.

In obedience to your Lordship's commands we have the honour to report—

That upon the general question submitted to us in Mr. Odo Russell's letter, we

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beg to report to your Lordship that the Roumanian Government may, in our opinion, be properly held to have guaranteed, under the terms of the Concession voted by the Roumanian Chambers in 1868, the payment of interest to the bondholders at the rate of 7½ per cent. annually from the date of the issue of each bond.

We agree also in the view taken of this guaranty by M. de Krause, that the Roumanian Government cannot with right claim what civilians term *beneficium ordinis et excressionis*; in other words, cannot require that each bondholder shall sue to judgment the parties in whose names the bonds are issued before he can claim from the guaranteeing Government payment of the interest in accordance with the notification on the face of each bond.

Upon the particular question raised in Mr. Odo Russell's letter, whether the case might equitably be met by an action brought by the representatives of the bondholders in a Turkish Court, by which we presume Mr. Odo Russell to mean by a suit brought at the Sublime Porte under the provisions of Article 24 of the Capitulations of 1809, to which our attention has been specially invited, we are unable to advise your Lordship with any confidence, as we have not any certain information as to the privileges and immunities of the two Principalities as guaranteed by the parties to the Convention of Paris of the 19th August, 1858. In the absence, however, of such information, we are disposed to advise your Lordship that it would be a violent construction of the 24th Article of the Capitulations of 1809 to seek to apply the letter of it to the present case. We consider that the intention of that Article was to protect British subjects from unfair litigation on the part of Ottoman subjects as plaintiffs, and that if the latter part of the Article has not fallen into total disuetude, it would be a disadvantage to British merchants resident within the Principalities for Her Majesty's Government to maintain that it applies to all cases where they may have causes of action as plaintiffs against Roumanian merchants for an amount exceeding the value of 2,000 aspers. We think it right also to point out to your Lordship that as the bonds in question are limited in value to 100 thalers, which is specified in the notification on the face of them, it might possibly be contended by the Roumanian Government that if the bondholders should seek a remedy at law against that Government on its guaranty, they must sue separately on each bond, which would take their case entirely out of the scope of the 24th Article of the Capitulations of 1809 as regards the right of being heard at the Sublime Porte.

We have, &c.

(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 223.

*The Law Officers of the Crown to Earl Granville.—(Received September 25.)*

*Temple, September* 25, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th September instant, stating—

1. That he was directed by your Lordship to transmit to us the accompanying papers respecting Mr. Petherick's claims against the Egyptian Government arising out of certain measures adopted by the Governor-General of Soudan in 1863, which compelled him to break up his trading establishments on the White Nile, and entailed serious loss upon him. The answer of the Egyptian Government to the representations made to them on Mr. Petherick's behalf was that the measures of the Governor-General were directed against the Slave Trade, in which Mr. Petherick (as they alleged) was extensively engaged, and that they therefore repudiated his claim entirely.

2. That we would observe that for some time Her Majesty's Government declined to lend their official support to Mr. Petherick's claim, but that in 1867 the present Lord Derby, then Secretary of State for Foreign Affairs, after an investigation of the whole case, and in consultation with the Law Officers of the Crown, determined to support his claim for the modified amount of 3,839*l.* 13*s.* 5*d.*, as a fair assessment of his losses, with interest at the rate of 5 per cent. per annum till such time as the claim was satisfied.

3. That after considerable pressure the Egyptian Government have now lodged in the hands of Her Majesty's Government Bonds to the value of 5,151*l.* 16*s.* in satisfaction of this claim, together with copies of the evidence upon which they rely

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## No. 224*.

*The Queen's Advocate to Earl Granville.*—(*Received November* 1.)

*Temple, October* 31, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that he was directed to transmit to me a letter from Messrs. Lake and Co., requesting that certain documents, forming part of the archives of the Foreign Office, may be produced at a trial which is about to take place in connection with the affairs of Mr. Finn, late Her Majesty's Consul at Jerusalem; and to request that I would furnish your Lordship, at my earliest convenience, with my opinion as to the answer which should be returned to Messrs. Lake's application. The correspondence above referred to was also transmitted.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. Lake and Co. should be informed that, upon due notice, a gentleman will attend from the Foreign Office to exhibit the original letters referred to, but that no person can attend, as requested, to prove Mr. Finn's handwriting to other documents.

I have, &c.
(Signed) TRAVERS TWISS.

for the substantiation of their allegation that Mr. Petherick was concerned in the Slave Trade, on the understanding that Her Majesty's Government would adjudicate upon the case, and deal with the money in accordance with the decision they might arrive at.

4. That Mr. Hammond was accordingly to request that we would examine into the whole case, and into the evidence for and against Mr. Petherick, and favour your Lordship with our opinion, whether or not the Egyptian Government had successfully established their charges against Mr. Petherick, and with the reasons for the decision at which we might arrive; or if we required any further evidence from Mr. Petherick, Mr. Hammond was to request that we would indicate the points upon which he should be required to furnish further information.

In obedience to your Lordship's commands we have the honour to report—

That if the evidence is to be taken as uncontradicted, the Egyptian Government have in our opinion very clearly established their case against Mr. Petherick, but it seems to us to be only just that Mr. Petherick should, before your Lordship arrives at any determination of the case, be furnished with copies of the evidence in support of the charges made against him by the Egyptian Government, and be invited to send at his earliest convenience to your Lordship such observations, if any, as he may think proper to make upon that evidence, and any evidence which he may be able to furnish in refutation of the specific charges.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 224.

*The Queen's Advocate to Earl Granville.*—(*Received November* 1.)

*Temple, October* 31, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th instant, stating that with reference to previous correspondence on the subject of the claim of Messrs. Ward and Rivolta against the Roumanian Government, he was directed to transmit to me the accompanying further letter received from Mr. Rivolta, inclosing a statement of particulars relating to the Railway Concession granted by the Roumanian Government in April 1864 to himself and his associates; and Mr. Hammond was pleased to request that I would acquaint your Lordship whether there is anything in the papers now laid before me which would cause me to alter the opinion expressed in my Report of the 17th July last. The previous papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That in addition to the information already supplied Mr. Rivolta should be requested to furnish your Lordship with copies of Articles 8 and 10 of the Concession, the latter being the Article under which the Roumanian Government claimed the right of forfeiting the caution money for the non-observance of Articles 7 and 8, and also with a copy of the petition presented to the reigning Prince by Mr. Ward, referred to in the Journal of the Council of Ministers of the 4th June, 1868. It would be desirable, in my opinion, for your Lordship to have a copy of the latter petition before you with a view to consider whether it will afford just ground for instructing Her Majesty's Agent to press upon the attention of the Roumanian Government the fact that the appeal in the action-at-law against the Roumanian Government was stayed by Mr. Ward on the faith of the Decree of the Council of Ministers in answer to his petition.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 225.

*The Queen's Advocate to Earl Granville.*—(*Received December* 5.)

My Lord,

*Temple, December* 4, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that with reference to my Report of the 31st ultimo, on the subject of the claim of Messrs. Ward and Rivolta against the Roumanian Government, he was directed to transmit to me the accompanying letter from Mr. Rivolta, forwarding the additional information requested by me, and Mr. Hammond was pleased to request that I would again take this case into my consideration and report to your Lordship my opinion as to the course which should be taken in the matter.

In obedience to your Lordship's commands I have the honour to report—

That upon a very careful consideration of the correspondence in this case, and of the representations of Messrs. Ward and Rivolta as to the proper interpretation to be given to the Concession of $\frac{9\text{th}}{21\text{st}}$ May, 1864, the text of which is now before me, I am unable to arrive at any other conclusion than that, which I have already reported to your Lordship, viz., that the Roumanian Government has the letter of the Concession in its favour. Under Article X of that Concession it appears, that the Roumanian Government has the right to declare the caution money forfeited if the works of the railway are not commenced within five months after the grant of the Concession, but under Article VII there is power given to the Roumanian Administration to extend that period in case of revolution, war or other circumstances of *force majeure*, subject always to an Arbitration. It appears that circumstances of *force majeure* did arise and the period for commencing the works was extended under an Arbitration with the consent of all parties. In consequence, however, of a rise in the money market Messrs. Ward and Rivolta claimed to have recourse to a second Arbitration on the subject of the rate of interest to be paid them by the Roumanian Government under Article XXI of the Concession. The Roumanian Government declined to be a party to any such Arbitration, as being beyond the proper scope of Articles XXXIV and XXXV of the concession, which provide for Arbitrations, and I am of opinion that the Roumanian Government was entitled to object to an Arbitration on such a subject. Messrs. Ward and Rivolta, notwithstanding the refusal of the Roumanian Government to have recourse to arbitration, constituted an *ex parte* Board of Arbitrators under the letter of the Treaty, and it is upon the decision of this second Arbitration that Messrs. Ward and Rivolta have to rely, as suspending the power of the Roumanian Government to declare the caution money forfeited. I am of opinion that Messrs. Ward and Rivolta are not entitled to rely on this second Arbitration for any such purpose, and that they have only an equitable claim against the Roumanian Government in consequence of the unexpected rise of the money market, which disabled them, as they allege, from commencing their works within the further period granted to them under the first Arbitration.

With regard to their equitable claim I am of opinion that Messrs. Ward and Rivolta have a strong and equitable claim, inasmuch as the Roumanian Government has admitted by its subsequent Concession to the Moldavian Railway Company, that $8\frac{1}{2}$ per cent. was a fair rate of interest under the altered conditions of the money market, whereas the Concession of $\frac{9\text{th}}{21\text{st}}$ May, 1864, stipulated only for interest to be paid to Messrs. Ward and Rivolta at the rate of $6\frac{1}{2}$ per cent., with an addition $\frac{1}{4}$ per cent. for a sinking fund.

Messrs. Ward and Rivolta in their last communication to your Lordship seem to be of opinion that "the sole issue before your Lordship consists simply in the redemption of a solemn pledge and engagement of the Roumanian Government for the return of the caution money and interest." I have before me the text of the petition on behalf of Messrs. Ward and Rivolta addressed to the reigning Prince of Roumania, as well as the official answer returned to it, but I fail to find any support in them for the statement of Messrs. Ward and Rivolta, that there was any such solemn pledge and engagement on the part of the Roumanian Government. It may indeed be justly contended by them, that the Roumanian Government engaged itself to bring the question of the repayment of the caution money before the Roumanian Chamber, and also that the reigning Prince may have expressed his own opinion that the caution money ought in fairness to be repaid to Messrs. Ward and Rivolta, inasmuch as the Roumanian State had suffered no damage from their default, but I cannot advise your Lordship that the Roumanian Government has at any time engaged itself to Her Majesty's Government to return the caution money and interest to Messrs. Ward and Rivolta, so as to warrant your Lordship in instructiong Mr. Green to insist officially on the redemption of such engagement. It may also deserve your Lordship's attention that under the Concession of $\frac{9\text{th}}{21\text{st}}$ May, 1864, which Mr. Ward signed on behalf of himself and Messrs. Rivolta and Cox, it is provided by Article VIII that the legal domicile of the company shall be Roumanian, and by Article XXXIII that the grantees shall not be entitled to claim any foreign protection in their disputes with the Roumanian Administration on the subject of the Concession. Your Lordship may be disposed to hold generally that British subjects, who accept grants from a foreign power under such conditions, preclude themselves from appealing to the protection of Her Majesty's Government in any dispute, which they may have with the foreign power on the subject of such grants, whilst the Roumanian Government may in the present case justly contend that any disputes between themselves and Messrs. Ward and Rivolta on the subject of the Concession are by the terms of the Concession expressly precluded from being made a subject of international intervention, and may accordingly decline to entertain any official representation from Mr. Green on such a subject.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 226.

*The Queen's Advocate to Earl Granville.*—(*Received December* 12.)

My Lord,

*Temple, December* 11, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 5th instant, stating that he was directed to transmit to me the accompanying letters from the Danube and Black Sea Railway and Kustendjie Harbour Company, complaining of certain proceedings, the particulars of which are therein stated, on the part of the Turkish Government and local anthorities at Kustendjie, and he was to request that I would report to your Lordship my opinion as to the course which it would be proper for Her Majesty's Government to take in the matter.

In obedience to your Lordship's commands I have the honour to report—

That, as regards the port of Kustendjic, it would appear from the Convention of the 10th October, 1870, that the Railway Company has ceded to the Ottoman Government all its rights of property over the quays and jetties subject indeed to a right on the part of the Company to make use of them gratuitously during the period stipulated in the Concession of the Railway. The latter Concession is not before me; but it would appear from the Extract No. 5 in Mr. Price's letter, purporting to be a copy of Article 17 of the Danube and Black Sea Railway Concession, dated 15th July, 1857, that it is a different Concession from that of the Port of Kustendjie, which is annulled by Article I of the Convention of the 10th October, 1870, and which bore date 1st September, 1857. It is possible, therefore, that Article 17 of the Railway Concession may properly apply to some of the questions at issue between the Railway Company and the Ottoman Government as regards the drainage of the land over which the railway passes and the proposed alterations in the line of railway, and that upon these questions Her Majesty's Ambassador at Constantinople may properly use his good offices to procure the reference of the dispute between the Railway Company and the Ottoman Government to a Commission in accordance with Mr. Price's request; but as regards the rights of the Company over the Port of Kustendjie I am not prepared to advise your Lordship, without further information as to the provision of the Railway Concession as well as of the Concession of the Port, that Mr. Price is entitled to demand that the dispute which has arisen between the Railway Company and the Ottoman Government in reference to the use of the quays and jetties by the Agents of that Government shall be referred to a Commission in accordance with Article 17 of the Railway Concession.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 227.

*The Queen's Advocate to Earl Granville.*—(*Received January* 2, 1872.)

*Temple, December* 30, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that he was directed to transmit to me the accompanying communication which has been received from Mr. Rivolta, in reply to a letter which was addressed to him on the 14th instant, founded on my Report of the 4th instant, on the subject of his claim against the Roumanian Government, and Mr. Hammond was pleased to request that I would report to your Lordship my opinion as to the answer which should be returned to Mr. Rivolta's letter. The former papers in this case were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Rivolta may be informed that his claim against the Roumanian Government is, in your Lordship's opinion, only an equitable claim, to which Her Majesty's Agent has been instructed to give from time to time his unofficial support; that the Roumanian Government has never promised to Her Majesty's Agent, as supposed by Mr. Rivolta, that the caution money should be repaid to Mr. Ward, but has limited its promises to bringing the question before the Legislative Chamber, as announced to Mr. Ward himself by the Decree of the Council of Ministers of the 4th June, 1868, in answer to Mr. Ward's Petition of the 22nd February, 1868; that the Roumanian Government has in respect of such promises fulfilled its engagement, but its proposal has been rejected by the Legislative Chamber, with which body, under the political constitution of the Roumanian State, the ultimate decision of the question rested. That your Lordship cannot accede to Mr. Rivolta's view: that there is any outstanding engagement of a distinct and formal character made to Mr. Rivolta through Her Majesty's Agent, the fulfilment of which may be officially insisted upon by Her Majesty's Government; but that your Lordship will be happy to instruct Her Majesty's Agent to give his unofficial support to any further representation which Mr. Rivolta may be disposed to instruct Mr. Ward to make on his behalf in the sense indicated in your Lordship's last communication to Mr. Rivolta. I may venture to observe that in the draft of your Lordship's last letter to Mr. Rivolta it is stated that Mr. Green cannot interfere further officially in regard to his claim. I had thought that Mr. Green's action in the question had been throughout unofficial. If I am in error on this point, the word "unofficial" should be omitted in the answer to be returned to Mr. Rivolta's last letter.

I have, &c.
(Signed) TRAVERS TWISS.

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## United States.

### No. 228.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 10.)

*Temple, February* 9, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 31st ultimo, stating—

1st. That he was directed by your Lordship to transmit to us two letters from the Treasury, inclosing Reports from their legal adviser on Slave Trade matters:—1st, Upon the Convention recently concluded with the United States of America for the abolition of the Slave Trade Mixed Commission Courts; 2nd, Upon the draft of a similar Convention which is now under negotiation with the Government of Portugal.

2nd. That with respect to the Convention with the United States, Viscount Enfield was to state that while it appeared to your Lordship that the difficulties pointed out by Mr. Rothery in carrying out the Convention as it at present stands are, *primâ facie,* of vital importance; on the other hand he thinks it very objectionable and hardly creditable to have to propose to the United States' Government the revision of a Convention within so short a time after its conclusion, if it can be avoided.

3rd. That your Lordship requested to be favoured with our opinion, after reading Mr. Rothery's Report, whether we considered it absolutely necessary that the Convention should be revised, and, if so, your Lordship would be glad if we would indicate the minimum amount of alteration necessary to carry it into effect in accordance with British law.

4th. That as regards the Draft Convention with Portugal, there was not the same strong objection to some revision of a Treaty which was not yet signed, and in case we concurred in Mr. Rothery's views, Viscount Enfield was to inclose for our consideration and opinion a revised Draft of the Convention, in which the alterations that Mr. Rothery considered absolutely necessary were marked in red ink, and that we would also observe that Mr. Rothery objected to the form of the proposed Bill for carrying the United States' Convention into effect, and suggested that it would be more simple if the powers it grants were conveyed by the Bill itself, and not by the subsequent issue of Orders in Council; and your Lordship would be glad to be favoured with our opinion upon that point, which was, however, of a secondary consideration to that of remodelling the Convention.

5th. That Viscount Enfield was to annex copies of the two Conventions and of the Draft Bill referred to.

In obedience to your Lordship's commands we have the honour to report—

1st. With respect to the American Treaty:—

That, although we are unable to concur in the estimate which Mr. Rothery has formed of the difficulties of carrying the Convention into effect, we so far agree with him as to think it desirable that the procedure in cases of Slave Trading should be substituted for that in matters of maritime prize, and that a supplemental Convention should be entered into, modifying Article 2 in that sense.

We do not advise the proposed omission of so much of that Article as relates to adjudication and rules of evidence, and we think the proposed alterations in Article 3 and in the instructions unnecessary. If the above modification of the procedure be adopted, that portion of the Bill which authorizes the issuing of Orders in Council may be dispensed with.

2nd. With respect to the Portuguese Treaty:—

That we think a similar alteration as to the mode of procedure desirable, if the Portuguese Admiralty Courts take cognizance of slave captures and there is an established order of procedure in such matters.

We observe that in this Treaty the words "rules of evidence to be applied," which are to be found in Article II of the American Treaty, are omitted. The effect of them is to throw in certain cases the burden of proof on the master or owner of the slaver. We think them important for the protection of the captors, and advise their insertion.

We have further to observe that, with regard to the provision of Article III for the release of any negroes found on board a captured vessel, the principle adopted in the Draft Convention differs from that of the Convention with the United States. Mr. Rothery's suggestion introduces another principle altogether. By the Convention with the United States the negroes in all cases are to be handed over to the nearest British authority. Under the Draft Convention with Portugal, they are to be handed over to the nearest authority of the Government whose cruizer has made the capture. Mr. Rothery proposes that they shall be taken to the port of adjudication and given up to the Government of the country in which they are landed. This is entirely at variance with Article II of Annex C of the Treaty of 1842. It throws the burden of releasing and supporting the negroes on the country of the vessel engaged in the Slave Trade, instead of the country of the captor. The advantage attending the provision as it stands is that it insures to the capturing State the liberation of the negroes, whilst the punishment of the slave dealers will be left to the country to which they belong. Upon Mr. Rothery's suggestion both duties will devolve on the latter State, and if it should be supine, the labour of the captors, as regards the liberation of the negroes, will have been in vain. For these reasons we prefer the Treaty as it stands to the proposed alteration of it.

With regard to the word "Declaration," it is the term used in the instructions

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annexed to the Convention of 1842, and has probably acquired an interpretation by use, which renders it perfectly intelligible.

We do not concur in the objection that the Bill embodies the principal clauses of the Treaty. This is the form in which many similar acts giving effect to Treaties have been drawn, and we think it the correct one.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 229.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 25.)

*Temple, February* 24, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, regarding the circumstances attendant upon the death of Elizear Goulet, a citizen of the United States, and that he was to request that we would take the papers into consideration at our earliest convenience, and favour your Lordship with our opinion as to the steps which should be taken in the matter.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That, in the present state of the Province of Manitoba, it would probably be difficult to secure the punishment of all the persons who may have been in various degrees guilty of criminal conduct in connection with this case. But, as it appears from Mr. McConville's Report that the Magistrates were, and probably continue, ready to issue a warrant against at least one person who took a prominent part in pursuing Goulet, we should advise proceedings to be taken against that person at all events. It will probably turn out that there is no evidence forthcoming which would justify a conviction of any offence known to the law, but the Government will at least have done all in its power to vindicate the administration of justice. We may observe that, judging from these papers, the observations of Mr. Fish, upon which Sir E. Thornton comments, appear to be entirely unwarranted and uncalled for, particularly if it be true that Goulet was one of the persons mainly engaged in bringing about the state of things from which he suffered and of which Mr. Fish complains. But it is for your Lordship to judge how far this is a matter to be notice in any communication you may see fit to address to Sir E. Thornton.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 230.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 21.)

*Temple, March* 21, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that with reference to his letter of the 15th instant, and to the consultation which was subsequently held in our presence at the Cabinet on the following day, Mr. Hammond transmitted to us therewith by your Lordship's direction the instruction subsequently sent to Her Majesty's Commissioner by telegraph, and we would notice in those instructions, that, after disposing of the first three points of the American proposal, the telegram proceeded to object to the fourth, and that the further telegram from the Commissioners, which he then inclosed, replied to those objections by furnishing further explanations as to the intention of the American Commissioners in making that proposal, and Mr. Hammond was to request that we would consider the proposal as then explained, and report to your Lordship our opinion at our earliest convenience as to the effect of the proposal so explained, and as to the expediency or otherwise of acceding to it, either in its present shape, or in any other form which we might think advisable and safe to be adopted as a rule for the future.

In obedience to your Lordship's commands we have the honour to report—

That the further telegram by no means removes the objections which we entertain to Article IV. The effect of the first part of that Article is to impose upon Her Majesty's Government an obligation of a most onerous character, nowhere hinted at by any writer of authority on International Law. It would become a duty on the part of the authorities in every port in the Queen's dominions, say, for example, the Port of Hong Kong, on a ship of war of a belligerent Power entering that port, to ascertain and determine at once, without reference to the Home Government—1st, Whether she had departed from some British port in violation of the Foreign Enlistment Act? and, secondly, Whether, after such departure, she had been "duly and lawfully commissioned?" and on determining the first of these questions in the affirmative, the second in the negative, to detain her, whatever might be her force. Should the local authority wrongly determine either of these questions (for the determination of which it will, in nine cases out of ten, have no materials whatever) Her Majesty's Government will incur liability, whether the vessel be detained or not; her non-detention will be treated as a grievance, resulting in damages by one belligerent, her detention, probably, as a cause of war by the other. The mere statement of this proposition appears to us to push the duties of neutral Powers, so far beyond what either principal or precedent would warrant, that we are unable to advise that the IVth Article, either in its present form, or in any form which it occurs to us to suggest, would be safe to be adopted as a rule for the future.

We should have thought it unnecessary to stipulate that, assuming Her Majesty's Government to be answerable for negligently permitting the departure of a vessel in violation of our neutrality, we could purge ourselves of that liability, or in any way lessen it, merely by receiving such a vessel into one of our ports. If this is all that the United States' Government desire, there could be no difficulty in agreeing to its being expressed in plain terms. We think it, however, improbable that this is all they desire, and it appears to us that, under the latter part of the IVth Article, in its present form, opportunities might arise for raising questions very embarrassing to a neutral Power, for the raising of which it does not appear to us expedient to afford facilities.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 231.

*The Law Officers of the Crown to Mr. Hammond.*—(*Received March* 27.)

*Temple, March* 27, 1871.

Sir,

WE have the honour to return the original telegrams from Her Majesty's Commissioners, inclosed in your letter of the 26th instant, in case that Earl Granville should wish to see them before the meeting of the Cabinet to-day. We have attended the Lord Chancellor this morning according to your request, and shall wait upon the Cabinet to-day at 2 o'clock.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 232.

*The Law Officers of the Crown to Earl Granville.*—(*Received April* 1.)

*Temple, April* 1, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed to transmit to us a further telegram from the High Commissioners at Washington, dated March 30th, containing the answer of the United States' Commissioners to the amended propositions respecting the "Alabama" arbitration, which were sent from this country on the 27th of March,

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and which, together with previous telegraphic correspondence on the same subject, were also inclosed; and he was to request that we would take this last telegram into our consideration, and furnish your Lordship with any observations that we might see occasion to make upon it.

In obedience to your Lordship's commands, we have the honour to report—

That with respect to the omission of "as above" after "carry on war," we do not think the omission should be insisted on, inasmuch as the words seem almost necessary to explain the sense in which the words "cruize or carry on war" are intended. With respect to the insertion of "as above" after "warlike use," this involves the question whether Her Majesty's Government think fit to insist on limiting the meaning of "special adaptation" to "fitting out, arming, or equipping," or whether they are content to agree that it shall be wider. We have to observe that the form in which it is now suggested, that the commencement of Clause 4 shall stand, imposes the obligation on a neutral of detaining any vessel "specially adapted" to warlike use, with intent, &c., which may have departed, without negligence on the part of the neutral, at any port in the neutral dominions which she may enter, if there be reasonable grounds of believing that she may have "so departed," *i.e.*, without negligence. We certainly prefer the words which we understood to be adopted by the Cabinet, "in violation of the obligations under Articles I, II, and III," or words to that effect. It may indeed be right that, if a ship equipped for war has escaped from our ports by a stratagem which no reasonable diligence could prevent, she should be detained if she subsequently enters our waters; but we fear that such a stipulation might be used in this arbitration to make Her Majesty's Government liable in respect of the "Alabama" for her reception at the Cape if the case against Her Majesty's Government as to her original departure failed. We suggest that the qualification of "having reasonable cause to believe" should extend to the question of the commission of the vessel, as well as of her illegal departure. We should prefer the insertion of the words "as above" after the words "any liability" in the IVth Article; but we do not advise Her Majesty's Government to insist upon their insertion if the words which we understood to be adopted by the Cabinet are introduced in the earlier part of the Article.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 233.

*The Law Officers of the Crown to Earl Granville.*—(*Received April* 5.)

*Temple, April* 3, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th ultimo, stating that he was directed to transmit to us a letter which has been received at the Foreign Office from the Colonial Department, inclosing a Memorandum and Papers prepared in Canada respecting a portion of the boundary between the British and American territories in North America under the VIth Article of the Treaty of Ghent. Mr. Hammond was also pleased to inclose a Memorandum which has been prepared in the Foreign Office on the subject, and to request that we would take these Papers into our consideration, and report to your Lordship our opinion whether the objection raised by the Canadian Government to the authority of the maps prepared by the Commissioners under the VIth Article of the Treaty of Ghent is one which could be sustained.

In obedience to your Lordship's commands we have the honour to report—

That we are unable to agree to the proposition that "maps are not receivable in evidence of the exact position of the boundary line determined by the Commissioners," or that (as put by Captain Cameron) "if the description given in the Commissioners' Report be held to support the accuracy of their map, then their decision, being contrary to the intent of the Treaty of 1783, is subject to reconsideration, for the Commissioners were only authorized to act in conformity with the true intent of the said Treaty." The latter proposition amounts to this—that their award is not to be conclusive, but may be questioned by either party at any time. The duty of the Commissioners to "designate the boundary by a Report or Declaration" does not, in our opinion, preclude them from declaring the boundary by means of a map, if they think fit to do so. We, however, so far agree with the Canadian Government, considering the character of the Report and of the reference to the map, as to think that the map can only be referred to as illustrating the Report, and that if the Report and the map should be found in any particular at irreconcilable variance, the Report must prevail. We cannot but observe, however, that it appears improbable that the Commissioners, intending no doubt to illustrate and explain their meaning by a map, should have drawn their map altogether at variance with their Report, and the conclusion that the one contradicts the other should not be arrived at except on the most cogent grounds. We are not altogether satisfied that such a case of contradiction has been established.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 234.

*The Law Officers of the Crown to Earl Granville.*—(*Received April* 5.)

*Temple, April* 4, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that with reference to his letter of the 24th ultimo, respecting the boundary between the Dominion of Canada and the United States at the mouth of the River St. Clair, he was directed by your Lordship to transmit to us a further letter on the subject, with its inclosures, which had been received from the Colonial Office;* and he was to request that we would take the same into our consideration in connection with the papers inclosed in his other letter.

In obedience to your Lordship's commands we have the honour to report—

That, by the first Report of Mr. McMicken, dated August 1st, 1870, it would appear from tracings, probably accurate, of the maps referred to in the Report of the Boundary Commissioners, "quite evident that the whole of the Canal now being constructed is within Canadian waters." It appears, however, that on Mr. McMicken subsequently employing Mr. Forster, who is represented as a gentleman of the highest competence, to make an accurate survey, Mr. Forster reports on the 22nd November, 1870, that, according to the map, a small portion only of the Canal is in Canadian waters.

On the principles applicable to the construction of the Report of the Commissioners we have nothing to add to our former remarks, and have only to observe that it still seems to us very difficult to contend that the Report and the map are irreconcilable, and that in our opinion, where the written description of the boundary is vague, as it certainly is in many places, the map referred to by the Commissioners must be looked to for its clear definition.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 235.

*The Law Officers of the Crown to Earl Granville.*—(*Received April* 17.)

*Temple, April* 14, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter, with its inclosure, from the Colonial Office, relating to the case of Richard Baker Caldwell, who was surrendered to the United States' Government under the Extradition Treaty on the charges of forgery and uttering forged paper, and who appeared to have been subjected to legal proceedings in the United States for an offence under the laws of that country for which he was not surrendered, and for which he was not liable to surrender under the Treaty in question; and Mr. Hammond was to request that we would take those papers into our consideration and favour your Lordship with our opinion thereupon.

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* From Colonial Office, March 30, 1871, two Inclosures and three Maps.

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In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That this is not a case in which Her Majesty's Government would, in our opinion, be justified in reclaiming the surrender of the petitioner from the United States' Government. The obligation of Great Britain under the Convention of 1842 is qualified by no other condition than that evidence of a definite kind shall be forthcoming of the fugitive having committed one of the crimes enumerated in the Convention. It appears that such evidence was produced to the satisfaction of the Canadian authorities, and the petitioner was thereupon surrendered to the United States' Government. It further appears, from the decision of the Judge of the Circuit Court of the Southern District of New York upon the demurrer of the petitioner, that he has been duly indicted for the offence by reason of which he was surrendered, and, apparently, is to be tried for it. We are of opinion that there is nothing in the Convention which would preclude the United States from indicting the petitioner for an additional offence which is not enumerated in the Convention, so long as such proceedings are not substituted in place of due proceedings against him on the charge by reason of which he was surrendered.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 236.

*The Queen's Advocate to Earl Granville.*—(*Received April* 29.)

My Lord, *Temple, April* 28, 1871.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 22nd instant, stating that he was directed to transmit to me the accompanying letter from the United States' Chargé d'Affaires in London to the United States' Consular Agent at Swansea, in regard to the case of Alfred S. Williams, a British subject, who is stated to be imprisoned for desertion from the United States' army, and suggesting steps to be taken to procure his release. Lord Enfield was pleased to request that I would take this matter into my consideration and furnish your Lordship with my opinion thereon.

In obedience to your Lordship's commands I have the honour to report—

That I see no objection to your Lordship instructing Her Majesty's Minister at Washington to bring the case of Alfred S. Williams to the attention of Mr. Fish officiously, and I should advise that a communication should be made to the Rev. Lewis Williams, the father of the young man, requesting him to forward a memorial to your Lordship stating the grounds upon which he believes that the prolonged imprisonment of his son may prove fatal to his life.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 237.

*The Law Officers of the Crown to Earl Granville.*—(*Received May* 13.)

My Lord, *Temple, May* 11, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating—

1. That he was directed by your Lordship to transmit to us the accompanying letter, with its inclosures, from the Colonial Office respecting the alleged murder by the master and certain of the crew of the American vessel "Montezuma" of Antoine Anthony, a British subject, at Portsmouth, Dominica, on the 8th of March last, and requesting to be informed what instructions should be given to the authorities in Dominica or other British islands with a view to procure the punishment of the persons implicated.

2. That Mr. Hammond was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the course to be pursued in the matter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That it does not appear that there is much chance of the "Montezuma" coming within British jurisdiction, so as to allow of the parties, against whom the verdict of the Coroner's inquest stands out, being taken into custody.

We therefore think it desirable that the attention of the American Government should be called to the case, and a request be made to them to cause the accused to be apprehended whenever they come within American jurisdiction, with a view to their extradition.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 238.

*The Law Officers of the Crown to Earl Granville.*—(*Received May* 30.)

My Lord, *Temple, May* 30, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th instant, stating that notice has been given of a question to be asked Mr. Gladstone on Thursday next, the 1st June, in the House of Commons, viz.: "Whether the existing law is sufficient to enable the Government to carry out the rules specified in Article VI of the Treaty of Washington of the 8th May, 1871, and if not, whether the Government will introduce a measure this Session to give them the authority necessary for the purpose?" Mr. Hammond was pleased to inclose a copy of the Treaty, the ratifications of which, however, have not yet been exchanged, and he was to request that we would take the point proposed to be raised by the question into immediate consideration, and at our earliest convenience report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we think it right to point out, that although the Foreign Enlistment Act (by sec. 10) gives the power of punishing any person concerned in increasing the warlike force of any ship coming into our ports, it does not give the power of detaining such a vessel solely on account of such augmentation. This question was considered when the Foreign Enlistment Act of the last Session was being prepared, and great difficulties were felt in the way of detaining ships, which were neither built, nor equipped in, nor dispatched from our ports, but which merely came to a British port to take in (for example) a supply of coals, which might under circumstances be construed as "augmenting their warlike force," especially if such ships were ships-of-war. We have the undoubted power, independently of legislation, to forbid any ships, whether public or private, entering our waters, and to require any ship immediately to depart which is found to be using them for armament or enlistment, or in any other respect as a "base of naval operations;" and we have the express power by statute of punishing any person within our jurisdiction assisting in such operations. We are on the whole inclined to think that the existing law is sufficient to enable us to carry the rules into effect according to their fair and reasonable interpretation, and suggest that the question should be so answered. We have thought it desirable, however, to submit the above observations for the consideration of Her Majesty's Government.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 239.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 17.)

*Temple, June* 17, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating—

1. That Mr. Hammond was directed by your Lordship to transmit to us accom-

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panying drafts of despatches, which it is proposed to address to Sir Edward Thornton for the purpose of carrying out the provisions of the Treaty of Washington on the 8th May.

2. That such drafts inclosed forms of notes to be submitted for the concurrence of the Government of the United States with regard to the appointment of arbitrators upon the Alabama claims under the Ist Article, the reference of the San Juan Water Boundary to the arbitration of the Emperor of Germany under the XXXIVth Article, and the invitation to other maritime Powers to accede to the rules laid down in the VIth Article, and that he was to request that we would take those drafts with the form of notes inclosed in them into our consideration, and favour your Lordship with our opinion thereupon at our earliest convenience.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That the draft despatches and forms of notes are in our opinion proper and suitable for the purpose of carrying into execution the provisions of the Treaty of Washington. We have suggested in the margin one or two formal additions for the sake of greater clearness.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 240.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 17.)

*Temple, June* 17, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating—

1. That he was directed by your Lordship to transmit to us therewith the draft of a notification, which it was proposed to publish on Tuesday next in the "London Gazette," respecting the Mixed Commission to be established under the XIIth and following Articles of the Treaty of Washington of the 8th May, 1871, for the settlement of the outstanding claims of the subjects and citizens of the respective countries therein described, and he was to request that we would take the same into consideration, and report to your Lordship at our earliest convenience whether the same was proper to be published.

2. That Mr. Hammond inclosed a copy of the Treaty, and we should find on referring to Volume X of "Hertslet's Treaties," page 661, that the inclosed draft was framed on a similar notification issued with respect to the Claims' Convention with the United States of 1853.

In obedience to your Lordship's commands we have the honour to report—

That we have considered carefully the draft notification, and the same is, in our opinion, proper to be published.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 241.

*The Law Officers of the Crown to Earl Granville.*—(*Received June* 30.)

*Temple, June* 29, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that with reference to our Report of the 17th instant he was directed by your Lordship to transmit to us a draft of a further notification respecting the appointment of an Agent at Washington to receive and classify British claims, together with a draft of the instructions which it had been proposed to address to Mr. Howard appointing him Agent for that purpose, and to attend the Commissioners under the XIIIth Article of the Treaty of Washington.

Mr. Hammond was pleased to inclose copies of the notification issued in pursuance of the Claims' Convention of the 8th February, 1853, together with copies of the Treaty of Washington, and of the first notification approved by us in our above-named Report.*

And that we would observe the present draft notification differed in some degree from the notifications issued in 1853-54, paragraphs having been inserted stating that all the papers relating to the British claims would be forwarded to Washington, and that Her Majesty's Government did not pledge themselves by receiving the claims to support them nor admit their validity.

And Mr. Hammond was further pleased to add that your Lordship would be glad to be favoured with our opinion, at our earliest convenience, whether that notification and the draft instructions were right and proper, as it was desirable that the appointment of the Agent should be carried out with as little delay as possible.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That with regard to the proposed notification, we should advise that in page 1, line 4, of the draft notification, the words "the five next" should be inserted before the words "following Articles," and after the word "Agent," in page 1, line 16, the words "for Her Majesty's Government and is authorized."

We think the meaning of the concluding words of the 4th paragraph open to some doubt. We should be disposed to read them as engaging that Her Majesty's Government would receive all claims and present them to the Commission, without pledging themselves to support any claim which they might think invalid. We collect, however, from the instructions to the Agent, that this is not intended, inasmuch as he is directed not to present any claims unless the Counsel advises their presentation. We suggest that it would be advisable to make it clear (if it be so intended), that Her Majesty's Government, though receiving all claims for the purpose of presentation, do not undertake, as a matter of course, to present them.

We have further to report with regard to the draft instructions proposed to be addressed to Mr. Howard, that we are of opinion that he should be instructed to issue a public notice of the locality of his office, after he has opened it, as the place to which the statements of claims to be submitted by him to the Commissioners should be addressed, as we observe in the notification proposed to be issued by your Lordship that Her Majesty's Legation at Washington is the place specified for the transmission of such claims to Mr. Howard.

We have further to observe that no instructions are conveyed to Mr. Howard as to the circumstances under which Counsel is to be heard before the Commissioners. We incline to the opinion that according to the Treaty the requirement in each case that Counsel should be heard should be made by Her Majesty's Agent. Your Lordship's instructions state that Counsel will be hereafter appointed to draw up the written cases in support of the several claims, and to argue them before Commissioners. We think it would be desirable that some precise instruction should be given to Mr. Howard on this head, either that he should always make such requirement whenever Counsel advised it, which would be in accordance, we think, with the general view which your Lordship has adopted of the Counsel's responsibility, or that he should exercise a discretion in each case, unless the claimants prayed that Counsel should be heard in support of their claim.

We have no additional suggestion to offer to your Lordship, and we think in all other respects the draft instructions are proper and suitable for the object.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 242.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 16.)

*Temple, August* 15, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us the accompanying drafts of instructions, which it was proposed to address to

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* August 20, September 19, 1853; January 20, August 24, 1854.

Mr. Russell Gurney, Her Majesty's Claims' Commissioner, under the XIIth Article of the Treaty of Washington; and to Mr. Carlisle, who had been appointed Counsel for British claimants; and that he was to request us to take the same into our consideration, and favour your Lordship with our opinion, at our earliest convenience, whether the instructions were right and proper to be sent.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That, as regards the instructions proposed to be addressed to Mr. Russell Gurney, we have suggested in the margin one or two slight alterations in the text, and, subject to such alterations, we are of opinion that they are right and proper to be addressed to him.

We have also made two or three slight alterations in the text of the instructions proposed to be addressed to Mr. Carlisle, so as to secure uniformity of expression between them and the instructions to Mr. Russell Gurney, and we have suggested one special alteration, so as to render it clear beyond a doubt that it is the intention of Her Majesty's Government that all the claims received by Her Majesty's Agent for submission to the Commissioners, which are not barred by the XIIth Article of the Treaty, should be presented to the Commissioners; and that the discretion of Mr. Carlisle is to be exercised in determining the degree of support to be given to each claim by further statement or argument on his part. In all other respects, we are of opinion that these instructions are right and proper.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 243.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 18.)

My Lord, *Temple, August* 18, 1871.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 17th instant, stating that he was directed to transmit to us the accompanying letter from the Colonial Office relative to the Canadian Fishery question, and he was to request that we would take the same into our consideration, and furnish your Lordship with our opinion, at our earliest convenience, on the points raised therein.

In obedience to your Lordship's commands we have the honour to report—

That, with respect to the question raised in the letter of Sir J. Macdonald to Lord Lisgar, it certainly appears to us that it would be reasonable and proper that such formal and official assurance (as is suggested by Sir John Macdonald) should be given, to the effect that the Imperial Government would give notice to the Government of the United States of the termination of the Fishery arrangements at such time after the period fixed by the Treaty as they should be requested to give the notice by the Government of the Dominion. This, however, is rather a matter of policy than of law, and we offer our opinion only because we are invited to express it by your Lordship.

As to the other question, on which our opinion is desired, we think that as the XXXIIIrd Article of the Treaty seems to contemplate the possible endurance of the Fishery arrangements beyond the ten years and the two years of notice, it would hardly be expedient to suspend the laws of the Dominion for the period of twelve years only. It might seem to indicate an unfriendly feeling towards the United States, and a foregone conclusion, to put an end to the Fishery arrangements at the first moment possible consistently with the Treaty. The payment of the compensation in a lump sum may be, indeed, a very good reason for putting an end, in fact, to the arrangement when the time, for which the compensation may be considered adequate, has run out. But we suggest that it would be better if the Government of the Dominion were content, as before, to suspend the Fishery Laws for the period of the duration of the Treaty. This would not prevent them from giving the notice, through the agency of the Imperial Government, when the ten years have run out, if they thought fit to do so. But it would leave them free to act as they might think best when the time came, and would remove all possible imputation of unfriendliness from the Government of the Dominion.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 244.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 18.)

My Lord, *Temple, September* 16, 1871.

WE are honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us therewith a letter from the Secretary to the Association for the Protection of Commercial Interests respecting the claims of British subjects on account of the losses inflicted by the "Alabama" and other Confederate cruizers during the late Civil War in America; and that he (Mr. Russell) was to request that we would take that letter into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That Mr. Heathcote may properly be thanked for the communication addressed to Lord Tenterden, and be assured that the point raised by his letter will not be forgotten or disregarded; and that if the occasion arises for making use of such information, as is in Mr. Heathcote's possession, an application shall be at once made to him to furnish it.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 245.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 25.)

My Lord, *Temple, September* 25, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter (dated the 15th September), with its inclosures, from Mr. Samuel Goddard, respecting the claim of his firm for compensation on account of the losses they sustained through the acts of the "Alabama," and he was to request that we would favour your Lordship with our opinion as to the answer which should be returned to Mr. Goddard.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may, in our opinion, properly reply in this case, that Her Majesty's Government is not prepared to admit claims of this description as being properly made upon it, even supposing that claims of this sort are within the scope of the Treaty of Washington. If they are so, they should be prosecuted before the Tribunal appointed for the consideration of them. But Her Majesty's Government must not be understood to express any opinion that such claims as these are in fact within the scope of the Treaty. We may venture to call your Lordship's attention to the probability that claims by British subjects will be made in considerable number, and to the importance of the Government determining, as a Government, in what way they are to be dealt with.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 246.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 25.)

My Lord, *Temple, September* 25, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th September instant, stating that with reference to his letter of the 26th June, he was directed by your Lordship to transmit to us a letter which your Lordship had received from Mr. Stewart, making inquiries as to the evidence which it will be requisite for him to produce before the Claims Commission at Washington in support of his claim against the United States Government.

Mr. Hammond was also pleased to transmit to us the draft of an answer which your Lordship proposes to return to Mr. Stewart, and to request that we would favour your Lordship with our opinion as to whether it is right and proper.

In obedience to your Lordship's commands we have the honour to report—

That the answer which your Lordship proposes to return to Mr. Stewart is, in our opinion, right and proper.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 247.

*The Law Officers of the Crown to Earl Granville.*—(*Received October* 7.)

My Lord, *Temple, October* 6, 1871.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th September ultimo, stating—

1. That he was directed by your Lordship to transmit to us the accompanying letter (dated the 18th September), with its inclosures, from Mr. Tarrant, respecting his claim against the United States' Government.

2. That he also transmitted to us the previous correspondence with that gentleman, together with a letter from Sir E. Thornton (dated the 25th September), to whom the matter was referred, and a Memorandum by Lord Tenterden (dated the 27th September), as well as the answer which your Lordship proposed to address to Mr. Tarrant; and Mr. Hammond was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to whether, under the circumstances, that is the course which should be taken in the matter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we see no objection to the answer that your Lordship proposes should be addressed to Mr. Tarrant.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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### No. 248.

*The Queen's Advocate to Earl Granville.*—(*Received October* 10.)

My Lord, *Temple, October* 10, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed to transmit to me the accompanying letter from Mr. Huntley, inclosing a copy of a protest and claim made by the captain of his barque "Grace," on account of an outrage committed on that vessel by negro officials at Doboy in the United States. Mr. Hammond was pleased to request that I would take this case into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to Mr. Huntley.

In obedience to your Lordship's commands I have the honour to report—

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## No. 248*.

*The Law Officers of the Crown to Earl Granville.*—(*Received October* 12.)

*Temple, October* 12, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating:—

1. That with reference to our Report of the 25th ultimo, on Mr. Goddard's claim for losses sustained by the acts of the "Alabama," he was directed by your Lordship to state to us that your Lordship thought it might on the whole be better to adopt a general form of answer to be given to that letter and to other letters of the same description, such, for instance, as that from Messrs. Bircham and Co., therewith inclosed, which might thereafter be received; and Mr. Hammond was accordingly to submit for our consideration the following terms, in which your Lordship considered such answer might be couched.

After acknowledging their letters, respecting claims for losses sustained by them by the proceedings of the "Alabama," go on to say: "I am to state to you, in reply, that the claims for depredations committed by the 'Alabama' are not admitted by Her Majesty's Government; and that Her Majesty's Government cannot therefore entertain, or support, or advise upon any claims of British subjects, arising out of such depredations, or maintain any claims upon the Government of the United States arising out of acts committed against the persons or property of British subjects during the period between the 13th April, 1861, and the 9th April, 1865, inclusive, other than those coming within the XIIth and five next following Articles of the Treaty of Washington of the 8th of May, 1871."

2. That Mr. Hammond inclosed the papers which we had already had before us, with memoranda on the front referred to.

In obedience to your Lordship's commands we have the honour to report—

That the general form of answer proposed to be given to letters of the description mentioned in Mr. Hammond's letter may in our opinion be properly adopted by your Lordship.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

That your Lordship may, in my opinion, properly instruct Her Majesty's Minister at Washington to give his official aid to Captain Irvine, in the manner which he thinks best calculated to procure redress, for what appears from the protest of Captain Irvine to have been a gross abuse of official authority on the part of the Negro Ordinary at MacIntosh County, and that Mr. Huntley should be informed accordingly.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 249.

*The Law Officers of the Crown to Earl Granville.*—(*Received October* 20.)

*Temple, October* 20, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us therewith a copy of a telegraphic despatch from Mr. Henry Howard, the Secretary to the British Commission at Washington, requesting to be informed whether he was to present all claims of British subjects which he might receive from the Foreign Office or from Her Majesty's Legation at Washington, without waiting to hear from the claimants themselves.

That he was to transmit to us the three notifications which had been published in the London "Gazette" in regard to the presentation of claims under the Treaty of the 8th May; and he was to request us to favour your Lordship at our earliest convenience with our opinion as to the course which Mr. Howard should pursue.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That Mr. Howard may, in our opinion, be properly instructed by your Lordship not to present to the Commissioners any documents which may have been transmitted to him from the Foreign Office or the Legation on behalf of any claimant, until such claimant shall have filed in the Office of the Commission the formal statement of his claim, as required by Rule 1 of the Commissioners. We think it right at the same time to call your Lordship's attention to the fact that the introductory part of Rule 1, which requires the additional memorial to be filed in the Office of the Commissioners, does not appear in the text of the rules and regulations of the Commissioners as published in the "Times" newspaper of the 17th October, 1871.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 250.

*The Law Officers of the Crown to Earl Granville.*—(*Received October* 21.)

*Temple, October* 21, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that, with reference to our Report of that day's date, he was directed to transmit to us the accompanying draft of a notification which, for the distinct information of claimants, your Lordship proposes to publish in regard to the presentation to the Commissioners at Washington of claims of British subjects, and Mr. Hammond was pleased to request that we would furnish your Lordship with our opinion as to whether this notification is right and proper.

Mr. Hammond was also pleased to add that the introductory part of Rule 1, to which we adverted as not appearing in the text of Commissioners' Rules and Regulations, published in the "Times" newspaper of the 17th instant, is rightly published in the issue of that paper of the 19th instant.

In obedience to your Lordship's commands we have the honour to report—

That the proposed notification is, in our opinion, right and proper for the occasion.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 251.

*The Law Officers of the Crown to Earl Granville.*—(*Rechived October* 24.)

*Temple, October* 23, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th October instant, stating that, with reference to our Report of the 6th instant respecting Mr. Tarrant's claim against the United States' Government, he was directed by your Lordship to transmit to us a further letter from that gentleman upon the subject, and to request that we would take the letter, together with the previous correspondence in the matter therewith returned to us, into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to Mr. Tarrant.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That Mr. Tarrant may be properly informed that, notwithstanding the reason alleged by him in his last communication to your Lordship, he ought, in your Lordship's opinion, to have preferred his claim before the Court of Claims; but, as Mr. Tarrant has deliberately declined to submit his claim in any way to the proper Tribunal, your Lordship cannot undertake to make it a subject of diplomatic intervention.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 252.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 2.)

*Temple, October* 31, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th October ultimo, stating that, with reference to our letter of the 20th October ultimo, he was directed by your Lordship to transmit to us the accompanying telegraphic despatch which had been received from Mr. Howard, the British Agent to the Claims' Commission sitting at Washington, and Mr. Hammond was to request that we would take that despatch into our consideration, and favour your Lordship, with as little delay as possible, with our opinion as to what answer should be returned to Mr. Howard.

In obedience to your Lordship's commands we have the honour to report—

That all claims made by British subjects, notwithstanding they may have declared their intention to obtain American naturalization, may be properly presented by Her Majesty's Political Agent, but that claims made by persons who were British subjects during the war, but have since become naturalized American citizens, should not be presented.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 253.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 7.)

*Temple, November* 6, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st October ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letters from Messrs. Leech, Harrison, and Forwoode, and from Messrs. Ellman, Raper, and Ellman* respecting their claims against the United States' Government, and he was to request that we would favour your Lordship, at our earliest convenience, with our opinion as to the answer which should be returned to those parties.

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* October 20 and 26.

In obedience to your Lordship's commands we have the honour to report—

That Messrs. Ellman, Raper, and Ellman may properly be informed that the claim of Mrs. Mary Cassin cannot be dealt with under the Treaty of Washington, and that inquiry will be made by your Lordship as to the steps which were taken as regards this claim by Sir Frederick Bruce in 1865, to which reference is made in their letter to your Lordship.

That Messrs. Leech, Harrison, and Forwoode should be informed that their claims are not within the scope of inquiry assigned to the Washington Commission under the Treaty of the 8th May, 1871, and they should be requested to inform your Lordship whether their claims were sent in to the United States' State Department in 1865, and if not, why not?

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

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## No. 254.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 28.)

*Temple, November* 27, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st November instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Leech, Harrison, and Forwoode (dated November 14, 1871), in reply to the letter which was addressed to them in accordance with the suggestion contained in our Report of the 6th instant, and to request that we would favour your Lordship with our opinion as to the steps which should be taken in the matter.

Mr. Hammond was also pleased to say that he inclosed the previous correspondence for reference if required.*

In obedience to your Lordship's commands we have the honour to report—

That Messrs Leech, Harrison, and Forwoode may properly be informed that your Lordship is of opinion that, notwithstanding the reasons alleged by them, they ought to have sent in their claims to the United States' Commissioners in 1865, and that Her Majesty's Commissioners cannot undertake to lay them before the Government of the United States, as they are clearly not within the scope of the Treaty of Washington.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 255.

*The Law Officers of the Crown to Earl Granville.*—(*Received November* 28.)

*Temple, November* 27, 1871.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd November instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Stewart in regard to the rule adopted by the Claims Commissioners at Washington requiring that memorials shall state "the place or places of the claimant's residence between April 1861 and April 1865."

Mr. Hammond also stated that he was to inclose a copy of the Treaty of Washington, and copies of the rules laid down by the Commissioners, as notified in the "Gazettes" of the 13th and 24th October and the 17th November, and to request that we would take the papers into our consideration and favour your Lordship with our opinion as to the answer which should be returned to Mr. Stewart.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

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* Messrs. Leech, Harrison, and Forwoode, October 20; to Messrs. Leech, Harrison, and Forwoode, November 10, 1871.

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That we venture to suggest to your Lordship that before any answer is given to the question addressed to your Lordship by Mr. Stewart he be requested to inform your Lordship whether or not he is a claimant against the Government of the United States, and if not, on whose behalf, and for what purpose, he has addressed himself to your Lordship. If your Lordship should be satisfied that his question is not impertinent, we are of opinion that he may properly be informed that the residence of a claimant may be an important element in particular cases for deciding a question of domicile or of identity, or even of the *bona fides* of the claims, and that your Lordship is of opinion that the Commissioners have exercised a sound discretion in settling the rule which is objected to by Mr. Stewart.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 256.

*The Queen's Advocate to Earl Granville.*—(*Received December* 9.)

My Lord, *Temple, December* 9, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th October last, stating that he was directed to state to me that Rear-Admiral Prevost, who acted as Her Majesty's Commissioner in the year 1857 in an endeavour to determine the water boundary under the Oregan Treaty of 1846, has been engaged for some time in collecting materials for the case to be presented to the Arbiter under the XXXIVth Article of the Treaty of Washington of the 8th May last, and that he had made such progress that the time had now arrived at which the case itself might be drawn. Mr. Hammond was therefore pleased to request that I would place myself in communication with Admiral Prevost, who occupies a room in the Foreign Office, with a view to prepare, in concert with him, the draft of such a case as I might consider best calculated to set forth and support the claim on the part of Her Majesty's Government, and which, with the accompanying evidence, must be laid before the Emperor of Germany, who has accepted the office of Arbitrator within six months from the 17th June, the date of the exchange of the ratifications of the Treaty.

In obedience to your Lordship's commands I have the honour to report—

That, with the assistance of Admiral Prevost, I have drawn up such a case as I consider best calculated to set forth the claim on the part of Her Majesty's Government, with an Appendix containing such evidence as I thought might fitly accompany it. I have also, with the assistance of Mr. Hamilton, of the Legation at Paris, settled a French translation of the case for the use of the Arbitrator, to assist him in understanding any technical expressions in the case of Her Majesty's Government which should, however, be considered as submitted to him for his arbitration and award in the English language only.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 257.

*The Law Officers of the Crown to Earl Granville.*—(*Received December* 13.)

My Lord, *Temple, December* 12, 1871.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us, together with the previous correspondence on the subject, a letter from Mr. Ashworth in regard to certain claims of his clients against the United States for seizure and destruction of cotton and also to the claim of Major Longley on account of his arrest,* and he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the reply which should be sent to Mr. Ashworth.

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* November 30; Mr. Ashworth, September 6; to Mr. Ashworth, September 12; Mr. Ashworth, September 15 and November 20; to Mr. Ashworth, November 27, 1871.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That Mr. Ashworth should be informed that as Major Longley's claim appears, from Mr. Ashworth's last letter, to be within the Treaty period, Major Longley should lose no time in communicating the particulars of it in accordance with the notifications, of which copies have been already forwarded by Mr. Ashworth to Her Majesty's Agent for claims at Washington, but as regards the claims of Mr. Ashworth's other clients for the destruction of their cotton, they are clearly not within the scope of the Washington Commission, and that your Lordship regrets that Mr. Ashworth's clients did not take the proper opportunity to submit them to the State Department of the United States.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## Venezuela.

### No. 258.

*The Queen's Advocate to Earl Granville.*—(*Received February* 4.)

My Lord, *Temple, February* 3, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed to transmit to me a despatch from Her Majesty's Chargé d'Affaires at Caracas, relative to the establishment of a war tax upon houses in that capital, and he was to request that I would take this despatch into my consideration, and, with reference to Señor Guzman's declaration, that "foreigners were, in his opinion, in no way exempt from the payment thereof either by their privileges as such or by any Treaty stipulations whatever," will furnish your Lordship with my opinion as to the instructions that should be sent to Mr. Middleton. And Mr. Hammond was also pleased to inclose for convenience of reference copies of the Treaties referred to in Mr. Middleton's despatch.

In obedience to your Lordship's commands I have the honour to report—

That the house tax in question is not, in my opinion, within the exemptions secured to British subjects in Venezuela under the Treaties of 1825 and 1834. I think it is immaterial for what necessity of the State this tax may be required, if it is levied equally and generally on all houses inhabited by their owners, and British subjects pay no greater tax than is paid by Venezuelan citizens, your Lordship may, I think, properly instruct Her Majesty's Chargé d'Affaires at Caracas not to raise any question of Treaty privilege on behalf of British subjects as regards this particular tax.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 259.

*The Queen's Advocate to Earl Granville.*—(*Received May* 26.)

My Lord, *Temple, May* 25, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed to transmit to me the accompanying

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despatch from Her Majesty's Chargé d'Affaires at Caracas, inclosing copy and translation of a Decree issued by the present Government of Venezuela, instituting a blockade of part of the coast of that Republic, which remains in the hands of the party opposed to the Government. Mr. Hammond was pleased to request that I would take this despatch into my consideration, and furnish your Lordship with any observations which I might have to make thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the Decree in question purports to establish an effective blockade of the coasts of the States of Cumona and Maturin, but under what circumstances this blockade has been established I have no information, so to enable me to advise your Lordship whether the blockade is to be regarded as a belligerent blockade, more particularly as Her Majesty's Chargé d'Affaires at Caracas does not state that the fact of the blockade has been in any manner notified officially to himself and the representatives of other foreign Powers accredited to the Government of Venezuela.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 260.

*The Queen's Advocate to Earl Granville.—(Received June 2.)*

*Temple, June* 1, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Caracas, inclosing a correspondence which has passed between him and the Venezuelan Minister for Foreign Affairs relative to certain British subjects residing in Caracas having been deprived of their certificates of nationality. Mr. Hammond was also pleased to inclose the previous papers referred to by Mr. Middleton, and to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the instructions which should be addressed to Mr. Middleton upon the subject.

In obedience to your Lordship's commands I have the honour to report—

That I am unable to understand from the papers submitted to my consideration upon what precise principle certificates of British nationality have been granted by Her Majesty's Legation at Caracas. Señor Guzman in his despatch of the 28th April, 1871, addressed to Her Majesty's Chargé d'Affaires, states that "the certificate of nationality is a document, which grants certain rights and immunities to an individual within the Venezuelan territory." If this be a correct statement of the object of the certificate, which it would seem to have been the practice of Her Majesty's Legation at Caracas to issue from time to time to persons born within the Venezuelan territory of British parentage, it may deserve your Lordship's consideration whether such practice should be continued under the altered state of the Venezuelan law, or if it should be desirable to continue the practice for reasons known to your Lordship, whether the language of the certificate should not be modified, so as to bring it within the principles laid down in the despatch of Lord Stanley of the 8th July, 1868, under which persons born within Venezuelan territory, although of British parentage, would not be entitled to claim of right British protection against the Venezuelan authorities. With regard to the question immediately at issue between Her Majesty's Chargé d'Affaires and Señor Guzman, I am of opinion that the mode of proceeding on the part of the Venezuelan authorities in forcibly depriving persons born of British parents within Venezuelan territory of their certificates of British nationality is open to strong remonstrance. The proper course of that Government, it appears to me, would have been either to request Her Majesty's Chargé d'Affaires to call in all such certificates, in cases where parties holding them were no longer entitled under the altered state of the Venezuelan law to the privileges of foreigners within Venezuelan territory, or to issue a Proclamation declaring that in such cases the certificates should no longer entitle the bearers by reason of their foreign origin to any exemption from the obligations imposed by Venezuelan law on all natural-born citizens of the Republic. There is, however, another class of cases, according to Mr. Middleton's despatch of the 22nd April, 1871, in which it would appear that parties have been deprived by the Venezuelan authorities of their certificates of British nationality, who are under no obligation of native allegiance to the Republic of Venezuela. In such cases two courses are open to your Lordship, either to instruct Mr. Middleton to insist upon restitution being

made of such certificates, or if that be impracticable from the insurbordination of the military chiefs, then to authorize him in all cases where he has no doubt of the parties who have been deprived of their certificates, having been born of British parents in British possessions to issue to them fresh certificates of British nationality precisely as, I presume, would be the course of proceeding, if the original certificate had been accidentally destroyed or lost.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 261.

*The Queen's Advocate to Earl Granville.—(Received June 15.)*

*Temple, June* 15, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that, with reference to my Report of the 1st instant upon the subject of the proceedings of the Venezuelan authorities in forcibly depriving certain British subjects resident in that country of their certificates of nationality, he was directed to transmit to me the accompanying draft of a despatch founded on my Report, which has been prepared for transmission to Mr. Middleton, and also a further despatch upon this subject which has been received from Her Majesty's Chargé d'Affaires at Caracas; Mr. Hammond was pleased to request that I would take this despatch into my consideration, together with the former papers, which were also inclosed, and furnish your Lordship with any observations I might have to make thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the despatch prepared by your Lordship may, in my opinion, be properly transmitted to Mr. Middleton, as it appears from the correspondence received from Her Majesty's Minister at Caracas that the certificate of the British nationality* of Volcan, who is stated to have been born in Jamaica, has not been restored to him.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 262.

*The Queen's Advocate to Earl Granville.—(Received June 28.)*

*Temple, June* 28, 1871.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that with reference to my Report of the 25th ultimo, upon the subject of the blockade by the present Government of Venezuela of part of the coast of that Republic which remains in the hands of the party opposed to the Government, he was directed to transmit to me the accompanying letter from the Colonial Office, inclosing further correspondence relating to this matter, and also to the seizure by a ship of war of the Venezuelan Government of the British vessel "Unison" for alleged infraction of the blockade, and of the British vessels "Helen" and "Sophie" by the Insurgent Government. That the despatch from Mr. Middleton already submitted to me is also inclosed, together with some further correspondence relating to the same subject. Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the course which should be pursued in the matter.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that a state of war exists between the Republic, of which the President has issued a notification of the blockade of certain Venezuelan ports, and the insurgents, who are in possession of those ports, and that the Government of the Republic has made known the existence of hostilities to Her Majesty's Chargé d'Affaires at Caracas in a manner sufficient to entitle it to the exercise of belligerent rights against British commerce. Her Majesty's Government will consequently not be justified in objecting to the capture of British vessels on the high seas by the blockading squadron, but it may properly insist upon such vessels being sent forthwith before a Prize Court for the purpose of judicial inquiry, whether they have in any way infringed the belligerent rights of the captors. It follows also that the insurgents will be also entitled to the exercise of belligerent rights against neutral commerce, subject to the responsibility of making compensation, where the capture shall prove to be unjustifiable. I have so little information as to the circumstances under which the "Helen" was captured, that I am unable to form an opinion whether her capture and detention would have proved on inquiry to have been justifiable, as much would depend upon the nature of the cargo on board the "Helen" and her destination, respecting which facts no information is given in the letter of Mr. George Wuppermann, as Mr. W. Ehlers has effected his escape, and the "Helen" has also been carried away by her captain and crew, there is in my opinion nothing for Her Majesty's Government to do in the matter of this vessel. As regards the "Sophie," it is not clear from the same gentleman's letter whether she has been sunk or not by her captors, but the letter states that she was pillaged, which was clearly unjustifiable. Further information may properly be required by your Lordship as to this vessel, but I fear that no claim can be made on the Government of the Republic for compensation. The insurgents are the parties responsible to neutral Powers for any abuse of belligerent right by persons acting under their authority. With regard to the capture of the "Unison," upon the statement submitted to Her Majesty's Government her capture was clearly unjustifiable, and unless clear evidence is forthcoming from the Venezuelan captors to rebut the affidavit made by the master and owner of the vessel at the harbour-master's office at port of Spain, Her Majesty's Government will be justified in my opinion in demanding from the Venezuelan Government the restitution of the vessel, and full compensation for any losses incurred by the owners of the vessel, and of her cargo, and by her master and crew.

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* It has been. See postscript in Mr. Middleton's No. 25.

I am of opinion that the view of this case taken by Governor Longden is sound, and that Her Majesty's Government will be justified in insisting upon the restitution of the vessel and her cargo, or a full inquiry before a proper Court as to the question whether or not she was captured within British waters. I venture to suggest to your Lordship that it is desirable that such seizures in British waters should be prevented in future by the presence of a British vessel of war.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 263.

*The Queen's Advocate to Earl Granville.*—(*Received July* 5.)

My Lord, *Temple*, *July* 4, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that, with reference to my Report of the 28th ultimo upon the subject of the blockade by the Government of Venezuela of part of the coast of that Republic which remains in the hands of the party opposed to the Government, he was directed to request that I would furnish your Lordship with my opinion as to whether Her Majesty's Government should notify the blockade in question in this country. The previous correspondence relating to this matter was also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that it will be a proper precaution on your Lordship's part, in the interests of British commerce, to direct an announcement to be made in the "London Gazette" that your Lordship has received from Her Majesty's Chargé d'Affaires at Caracas a copy of a Decree of the Provisional President of the Republic of Venezuela, declaring the coasts of the States of Cumana and Maturin from the Port of Rio Caribe to the mouth of the Puampiche in the Gulf of Paria to be in a state of blockade.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 264.

*The Queen's Advocate to Earl Granville.*—(*Received August* 9.)

My Lord, *Temple*, *August* 8, 1871.

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 7th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affaires at Caracas, reporting the forcible seizure of a British subject named Peter P. Thorncroft by the Venezuelan authorities, to be recruited as a soldier in the army of that Republic. Mr. Odo Russell was pleased to request that I would take this despatch into my consideration, and furnish your Lordship with my opinion as to the instructions which it would be proper to send to Mr. Middleton in this case.

In obedience to your Lordship's commands I have the honour to report—

That the information as to the status of Peter P. Thorncroft is not sufficient for me to advise your Lordship that Mr. Middleton should be positively instructed to demand his release. Mr. Middleton states that Peter P. Thorncroft is "a British subject, but not a British-born subject." Mr. Thorncroft may, consistently with this statement, be a native of the State which has forcibly recruited him for its military service. The question which would then arise would be a question of Venezuelan law, whether Mr. Thorncroft was liable to be forcibly recruited or not, which Mr. Middleton asserts to be determined in the negative by the 14th Article of the Constitution of Venezuela. If this should be a correct exposition of the law of Venezuela, I am of opinion that Mr. Middleton may, under any circumstances, use his good offices in favour of Mr. Thorncroft, with a view to obtain for him, as a British subject by origin, a just administration of the law to which he is by birth subject. On the other hand, if it should prove that Mr. Thorncroft owes no natural allegiance to the Venezuelan Republic and is by origin a British subject, then I should be of opinion that Mr. Middleton may be properly instructed, if your Lordship thinks fit, to demand his release unconditionally.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 265.

*The Queen's Advocate to Earl Granville.*—(*Received August* 17.)

My Lord, *Temple*, *August* 16, 1871.

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 15th instant, stating that he was directed to transmit to me a further despatch from Her Majesty's Chargé d'Affaires at Caracas, containing copies of correspondence with Señor Guzman, respecting the forcible enlistment of Peter Thorncroft, a British subject, in the Venezuelan Army, and to request that I would take this despatch into my consideration and furnish your Lordship with my opinion whether it contains any further information which might induce me to alter my Report of the 18th instant on this case. The previous papers were also inclosed for convenience of reference.

In obedience to your Lordship's commands I have the honour to report—

That assuming the *status* of Peter P. Thorncroft to be such as is described in Mr. Middleton's letter of the 21st July last, namely, that he is a native of Venezuela, although of British origin by his father's side, I am of opinion that your Lordship cannot claim for him, unless under some Treaty engagement, any exemption of right from the obligations of military service, which attach to all native citizens of Venezuela under the law of that country.

I have, &c.
(Signed) TRAVERS TWISS.

1871

## No. 266.

*The Queen's Advocate to Earl Granville.—(Received August 18.)*

My Lord, *Temple, August* 17, 1871.

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 15th instant, stating that he was directed to transmit to me the inclosed despatch from Her Majesty's Chargé d'Affaires at Caracas, respecting a Decree issued by the President of the State of Bolivar, compelling all foreigners resident therein to serve in armed patrols, against which resolution the members of the Diplomatic Corps have thought proper to protest, and he was pleased to request that I would have the goodness to state to your Lordship, whether I consider that it would be proper for Her Majesty's Government to take any further steps beyond those already adopted by Mr. Middleton in this matter.

In obedience to your Lordship's commands I have the honour to report—

That the propriety of any further steps on the part of Her Majesty's Government in this case will in my opinion depend upon the manner in which the authorities of the State of Bolivar proceed to put the President's Decree into execution. It does not appear upon the face of the Decree, that the members of the patrol are to be armed, and the duties of the patrol may in fact not differ very much from those which special constables are called upon to discharge in this country, and by our statute law (1 and 2 Wm. IV, cap. 41) the Secretary of State is empowered to order that persons generally exempt by law from serving as special constables (amongst whom foreigners would rank) shall under particular circumstances, notwithstanding such exemption, serve as special constables. On the other hand, if there should be any attempt on the part of the State of Bolivar to give to the proposed patrol a military character, it would be in my opinion a breach of the Treaty engagements of the Republic of Venezuela to permit the State of Bolivar to enforce the Decree against British subjects. I think it would be sufficient for the present if your Lordship were to direct Mr. Middleton to keep Her Majesty's Government informed as to the manner in which the President's Decree is carried into effect, and to report at once any apparent breach of good faith on the part of the State authorities.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 267.

*The Queen's Advocate to Earl Granville.—(Received August 18.)*

My Lord, *Temple, August* 17, 1871.

I AM honoured with your Lordship's commands signified in Mr. Odo Russell's letter of the 15th instant, stating that he was directed to transmit to me, for any observations I might have to offer thereupon, the accompanying despatch and its inclosures from Her Majesty's Chargé d'Affaires at Caracas, respecting the arrest and subsequent release of a British subject named Luciano Agostini, by order of the Venezuelan authorities.

In obedience to your Lordship's commands I have the honour to report—

That the requisition made upon Mr. Agostini, although made by a civil authority, was in substance a military requisition, if I rightly understand it to be an order made upon him by the chief civil authorities at Caracas to furnish a baggage horse for army purposes. Mr. Agostini being a natural-born British subject would be entitled, under the Treaty of 18th April, 1825, to be exempted from any such requisition; and any interference with his liberty, or compulsion put upon him, in pursuance of such a requisition, may be rightly held by your Lordship to be a breach of the spirit of the Treaty.

Your Lordship will therefore be justified, in my opinion, in directing Mr. Middleton to remonstrate strongly against the original order of the civil authorities at Caracas, and to protest against British subjects being held guilty of disrespect to the Venezuelan authorities if they disregard such orders.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 268.

*The Queen's Advocate to Earl Granville.—(Received October 10.)*

My Lord, *Temple, October* 9, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that with reference to my Report of the 1st June last respecting the course to be pursued by Her Majesty's Government in regard to British subjects in Venezuela deprived of certificates of nationality, he was directed to transmit to me, together with the former papers bearing on this subject, a further despatch from Her Majesty's Chargé d'Affaires at Caracas for any observations I might have to offer thereupon.

In obedience to your Lordship's commands I have the honour to report—

That it would appear that the practice of granting certificates of British nationality by Her Majesty's Legation at Caracas to persons born of British parents within the Venezuelan territory originated at a time when there could be no conflict of allegiance, inasmuch as such persons under the then existing system of Venezuelan law were regarded as foreigners. Under the altered system of law which prevails at present, it seems that all persons born within the Venezuelan territory, of whatever origin, are entitled to the status of natural-born Venezuelan citizens. Under such circumstances, I am of opinion that persons born of British parents within Venezuelan territory are not entitled to repudiate the obligations which, by Venezuelan law, devolve upon natural-born Venezuelan citizens whilst they remain in the country, and that the practice heretofore adopted of issuing certificates of British nationality to such persons, as such certificates have been held to protect the bearer from any claim upon his allegiance on the part of the Venezuelan Government, should be either abandoned or so modified as to prevent any conflict between the Venezuelan Government and Her Majesty's Legation on the subject of such allegiance.

With regard to the evidence upon which such certificates have been granted and may now be sought to be cancelled, I am of opinion that where they have been granted upon the oath of credible parties they ought not to be cancelled except upon the production of baptismal certificates, as suggested by Mr. Middleton, or some documentary evidence which cannot well have been fabricated *ad hoc*. But a further question remains for your Lordship's consideration, whether it would not be equitable that parties born of British parents within the Venezuelan territory before the passing of the present law of citizenship should have the option of remaining foreigners, if they prefer it, and make a declaration to that effect before a given day. This, however, would be matter of arrangement, and it would be not unreasonable for your Lordship to instruct Mr. Middleton to press this point upon the attention of the Venezuelan Government, in consideration, if your Lordship approves, of the practice hitherto adopted by Her Majesty's Legation being abandoned for the future as regards parties owing natural allegiance to the Venezuelan Republic.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 269.

*The Queen's Advocate to Earl Granville.—(Received October 24.)*

My Lord, *Temple, October* 23, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed to transmit to me the inclosed despatch from Her Majesty's Chargé d'Affaires at Caracas,* reporting the particulars of two outrages committed at the instigation of General Pulgar, the President of the State of Zulia, and his brother, Don Rafael Pulgar, on Mr. Harris and Mr. O'Connor, and Mr. Hammond was pleased to request that I would take Mr. Middleton's despatch into my consideration, and furnish your Lordship with my opinion as to steps which it would be proper for Her Majesty's Government to take in the matter.

In obedience to your Lordship's commands I have the honour to report—

That the case of Mr. Harris is, in my opinion, distinguishable in its features from the case of Mr. O'Connor, as the outrage against Mr. O'Connor was the act of a person not in authority, and Mr. O'Connor should endeavour to obtain redress through the

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* No. 56 of the 7th September, 1871.

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Courts of the country. But as regards the outrage against Mr. Harris, it appears to me to have been an act not merely of a more serious character as regards the treatment to which Mr. Harris was exposed, but it was inflicted upon him by the President of the State himself, who, it may be presumed, is above the law. Under such circumstances, Mr. Harris is justified, in my opinion, in applying to your Lordship for protection, and I am of opinion that your Lordship may properly instruct Her Majesty's Chargé d'Affaires at Caracas to bring the case formally before the Government of the Republic. Whether your Lordship should demand the dismissal of President Pulgar or that some pecuniary redress should be made to Mr. Harris, coupled with the assurance that the violence of President Pulgar shall not be repeated, is a question for your Lordship's discretion.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 270.

*The Queen's Advocate to Earl Granville.—(Received October 28.)*

My Lord, *Temple, October* 27, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed to transmit to me the accompanying letter from the Colonial Office inclosing copies of a correspondence from the Governor of Trinidad, reporting the steps taken by his Excellency on obtaining information of the sale in that port to Venezuelan Government, of the British steamer "John Cumming," which vessel has subsequently been converted into a vessel of war, and Mr. Hammond was pleased to request that I would take this case into my consideration and furnish your Lordship with my opinion as to whether it would be expedient for Her Majesty's Government in the existing state of Venezuelan affairs to take any steps in the matter.

In obedience to your Lordship's commands I have the honour to report—

That it will not be expedient in my opinion for Her Majesty's Government in the existing state of Venezuelan affairs to take any steps in the matter of the sale of the steam-tug "John Cumming."

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 271.

*The Queen's Advocate to Earl Granville.—(Received November 14.)*

My Lord, *Temple, November* 13, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating, that he was directed to transmit to me the accompanying despatch from Her Majesty's Chargé d'Affairs at Caracas, inclosing a Decree with a translation, which has been issued by the Provisional President of Venezuela, establishing a blockade of the coast embraced by the mouths of the Orinoco, Mr. Hammond was pleased to request that I would take this Decree into my consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that there is nothing in the Decree of the Provisional Government of Venezuela, which would render the blackade invalid, provided it is effectively maintained in accordance with the Declaration of Paris of 1856.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 272.

*The Queen's Advocate to Earl Granville.—(Received November 27.)*

My Lord, *Temple, November* 25, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed to transmit to me the accompanying papers, relative to a claim made by Pierre Soria, a native of Trinidad, against the Venezuelan Government on account of losses sustained by him in consequence of the proceedings of the party in arms against the present Government of that Republic, and Mr. Hammond was pleased to request that I would take this case into my consideration and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That M. Pierre Soria, notwithstanding he may be a British subject by birth, has acquired a Venezuelan domicile, which exposes him to all the inconveniences of Venezuelan nationality, as regards the belligerent rights of third parties engaged in war with Venezuela. As against the exercise of such rights by such parties he must look for protection to the Venezuelan Government, and he cannot claim from that Government any more protection than they are able to afford to their natural-born subjects. I am of opinion that Her Majesty's Government cannot properly claim for M. Soria that he should be in a more advantageous position, as regards compensation for his losses, than native Venezuelans.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 273.

*The Queen's Advocate to Earl Granville.—(Received December 12.)*

My Lord, *Temple, December* 11, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that with reference to my Report of the 13th ultimo, relative to the Decree of the Venezuelan Government declaring the blockade of the mouth of the Orinoco, he was directed to transmit to me, with the previous papers, the accompanying letter from the Colonial Office on the same subject, and to request that I would take the same into my consideration, and furnish your Lordship with my opinion as to whether Her Majesty's Government should publish a notification of the blockade in question, and in that case Mr. Hammond was further pleased to request that I would prepare a proper notification.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Government may, in my opinion, properly publish in the "Gazette" a notification of the Decree of the President of the United States of Venezuela announcing the blockade of the mouths of the Orinoco, and I have accordingly prepared a form of notification for the purpose of such publication.

I have, &c.
(Signed) TRAVERS TWISS.

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### Inclosure in No. 273.

*Notification.*

*Foreign Office, December* 12, 1871.

IT is hereby notified that Her Majesty's Government has received from the Governor of Trinidad a copy of a Decree given at Caracas on 2nd October, 1871, by the President of the United States of Venezuela, declaring a blockade of the line of coast embracing the entrances of the River Orinoco, in consequence of the occupation of Cuidad Bolivar by the rebels. The text of the Decree is as follows:—

(Translation.)

"José Ignacio Pulido, Chief of the Presidency of the United States of Venezuela.

"In pursuance of the right vested in me by the Congress of Plenipotentiaries,

"It is decreed,

"1. That the navigation of the waters of the Orinoco are hereby prohibited, and the line of coast embracing its entrances is blockaded, in consequence of the occupation of Cuidad Bolivar by the rebels.

"2. That the naval force required to carry this blockade into effect has been equipped.

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"3. That the Commanders of the blockading vessels will act in accordance with the Cruizing Orders of 30th March, 1822, and the following instructions:—

"(1.) Two months from date of this Decree will be allowed to all vessels from Europe; to vessels from the United States of North America one month from such date; and all the vessels from the Antilles (excepting Curazao, Trinidad, and Demerara) are to observe this Decree, from the date of the ratification of this blockade to their respective authorities.

"When, on entering the waters of the blockaded coasts, they will be notified by the Commanders of the blockading vessels of war that the line of blockade cannot be crossed.

"In cases only where parties insist on acting against these rules they will be considered as violating the blockade.

"(2.) The foregoing instructions refer to the vessels above mentioned, to which will be extended the privilege (contained in Article XXI of Law 3 codicil of the Exchequer) to enter and discharge in any other ports of the Republic not occupied by the rebels, should it be considered convenient.

"(3.) After the expiration of the time allowed in Section (1), all vessels entering the waters of the blockaded coasts will be considered as having been notified, and will be sent under custody to the Naval Court at the station of Porto Cabello.

"(4.) This Decree will be communicated to all whom it may concern; and the Minister of Military and Naval Affairs is charged with the publication and execution thereof.

"Given at Caracas, on the 2nd October, 1871, 8th of the Law and 13th of the Federation.

(Signed) "J. J. Pulido, *Minister, P.P.*
"M. Olioo."

T. T.

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## No. 274.

*The Queen's Advocate to Earl Granville.*—(*Received December* 30.)

My Lord, *Temple, December* 29, 1871.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that he was directed to transmit to me the accompanying letter from the Admiralty and its inclosures, which contain an account of the seizure and ill-treatment of the crews of certain fishing boats belonging to and manned by persons residing in Trinidad by an armed Venezuelan Felucha, and Mr. Hammond was pleased to request that I would take the case into my consideration, and furnish your Lordship with my opinion thereupon.

In obedience to your Lordship's commands I have the honour to report—

That the indulgence granted to fishing boats in time of war is of ancient date, and was a matter of comity, which has fallen into disuse (The Young Jacob and Johanna, Robinson's Reports, p. 20). I am of opinion that the Venezuelan cruizer was entitled to make capture of the fishing boats in question, and that ordinary fishing licences, such as they seem to have had, would not warrant the crews in pursuing their avocation within three miles of a coast under blockade.

I have, &c.
(Signed) TRAVERS TWISS.

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# Zanzibar.

## No. 275.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 1.)

My Lord, *Temple, July* 31, 1871.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us a despatch from the Acting British Consul at Zanzibar, inclosing two forms of contracts entered into by British Indian subjects resident at Zanzibar for the hire of slave labour, and he was to request that we would favour your Lordship with our opinion whether the contracts in question were legal.

In obedience to your Lordship's commands we have the honour to report—

That the distinction drawn by Her Majesty's Agent at Zanzibar is not, in our opinion, sustainable at law, and both one and the other contract is, in our opinion, a dealing in slaves and illegal.

We have, &c.
(Signed) R. P. COLLIER.
J. D. COLERIDGE.
TRAVERS TWISS.

*Printed for the use of the Foreign Office. February 1880.*

**CONFIDENTIAL.**

# REPORTS

BY THE

# LAW OFFICERS OF THE CROWN.

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1872.

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# LIST OF REPORTS.

*(Arranged according to Countries.)*

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| 1 | Law Officers .. | Jan. 15, 1872 | Suggests alterations in the proposed draft of Order in Council for the regulation of Consular jurisdiction over certain territories on the West Coast of Africa. Additional power should be given to the Consul to enable him to settle the procedure of the Courts of Equity .. .. .. | 1 |
| 2 | Law Officers .. | Feb. 12, | Approving alterations in draft of Order in Council for the regulation of Consular jurisdiction on West Coast of Africa with exception to the term of imprisonment for offenders. As to ships infected with contagious diseases, this must be dealt with by Act of Parliament .. .. | 2 |
| 3 | Law Officers .. | Aug. 21, | As to complaint of Messrs. Cummins and Marten against proceedings of the Liberian Government for seizing their boat and cargo, and request for aid to gain restoration of their property. Her Majesty's Government should assist them to obtain restitution of their property .. .. | 2 |
| 4 | Law Officers .. | Aug. 29, | Rules and regulations under Order in Council of the 21st February relating to Consular jurisdiction and Courts of Equity on West Coast of Africa (Old Calabar and Zanzibar). The two sets of Rules may properly be used .. | 3 |

## ARGENTINE CONFEDERATION.

| No. | | Date. | SUBJECT. | Page |
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| 5 | Queen's Advocate | Jan. 22, 1872 | As to claim of the River Plate Telegraph Company on the Uruguayan Government for damage to their property and interference with their agent, Mr. Oldham, during civil war. No remonstrance should be made for the agent's imprisonment, as he was released on the Consul's representations. Further inquiries to be made as to the injuries to their property, and the alleged requisitions for horses .. | 3 |
| 6 | Queen's Advocate | Feb. 29, | Her Majesty's Government would be justified in demanding compensation for losses of British subjects and massacre of Mr. and Mrs. Gibson Smith and their assistant, William Stirling, by Gauchos at Tandil, in Buenos Ayres, if the local authorities did not afford them protection .. .. | 4 |
| 7 | Queen's Advocate | Mar. 13, | Further Report as to losses of British subjects by damage to their property. Nothing to alter former opinion. If the parties had been alive they could have adopted legal means to obtain proper remedies .. .. .. .. | 5 |
| 8 | Law Officers .. | July 27, | Claim of Mr. Williams. Examination of the process in the suit by Dr. Tejedor proves the Judgments of the Argentine Tribunals to be right, and his explanations should be accepted by Her Majesty's Government, and Mr. Williams should be told the matter cannot be urged further .. | 5 |
| 9 | Law Officers .. | Dec. 12, | As to statement of Mr. McKenzie of the losses of the San Guillermo Company at Entre Rios, River Plate, during civil war. The claims of the Company arising out of military requisitions come within IXth Article of the Treaty, 1825, and Her Majesty's Government might instruct Her Majesty's Chargé d'Affaires to support them .. .. | 6 |

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| No. | | Date. | Subject. | Page |
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| 10 | Law Officers | Dec. 19, 1872 | Further as to the claims of the San Guillermo Company against the Argentine Confederation. The demand for compensation being based on the Treaty, the Government is only liable for military requisitions made by that Government | 6 |

## BELGIUM.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 11 | Queen's Advocate | Jan. 15, 1872 | As to the collision between the Belgian mail-steamer "Belgique" and British vessel "William and Jane" off Dover; and statement of Mr. Payne, a Solicitor for the owner, of the loss of the latter vessel, with all hands on board; and warrant issued for detention of the "Belgique," which was acted on, but cancelled. Course that should be pursued by Her Majesty's Government | 7 |

## BOLIVIA.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 12 | Law Officers | Dec. 5, 1872 | Steps to be taken by Her Majesty's Government on seizure of the British vessel "Morro" by Bolivian rebels. Vice-Consul Nairn should press for compensation, and, if refused, a British vessel of war might be sent to enforce it | 8 |

## BRAZIL.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 13 | Law Officers | Jan. 3, 1872 | On circumstances which led to the drowning of two negroes at Rio de Janeiro, employed in conveying seven marines of Her Majesty's ship "Reindeer" to their vessel, and whether these men should be sent to trial in Brazil. Copies of the depositions should first be obtained before sending them to trial | 8 |
| 14 | Queen's Advocate | Feb. 17, | As to the action brought against the Queen Insurance Company at Rio de Janeiro, and imprisonment of Mr. Taylor, their agent. He must exhaust all legal means of redress before Her Majesty's Government interfere diplomatically in his behalf | 9 |
| 15 | Law Officers | Feb. 29, | Draft Articles of proposed Treaty relating to the administration of intestate estates. Instructions to Her Majesty's Minister at Rio de Janeiro that the Treaty should follow the words of the Statute. Verbal alterations suggested | 10 |
| 16 | Queen's Advocate | Mar. 7, | Further as to the action brought against the Queen Insurance Company and order for imprisonment of their agent. Course that Mr. Taylor should pursue according to the law of Brazil. Her Majesty's Government should not interfere | 10 |
| 17 | Attorney- and Solicitor-General | Apr. 25, | As to the proceedings of the Brazilian Law Courts on an insurance effected by Messrs. Figuredo Brothers, at Rio de Janeiro, in the Queen Insurance Company's office, and imprisonment of Mr. Taylor and Mr. Lyde, their agents. An injustice committed by the Brazilian Courts, and a strong remonstrance should be made and redress demanded | 11 |
| 18 | Law Officers | July 11, | As to course that should be taken on the drowning of two negroes while conveying seven marines belonging to Her Majesty's ship "Reindeer" on board their ship. The marines should not be sent back to Rio de Janeiro to be tried | 11 |
| 19 | Law Officers | July 15, | Her Majesty's Government should wait before further action is taken on the case of the Queen Insurance Company at Rio de Janeiro. Mr. McLagan may be told so, as the acts of injustice towards the agents may have been redressed | 12 |

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 20 | Law Officers | Dec. 17, 1872 | As to reply to be sent to the Brazilian Minister on subject of the drowning of two negroes while conveying seven marines of Her Majesty's ship "Reindeer" to their vessel. The trial might take place in this country | 12 |

## CENTRAL AMERICA.

### HONDURAS AND NICARAGUA.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 21 | Queen's Advocate | Mar. 9, 1872 | Her Majesty's Government will be justified in demanding compensation from the Honduras Government for the arrest of Mr. Frank Turner, employed by the Honduras Oceanic Railway Company, and also for the stoppage of their works, owing to his imprisonment | 13 |
| 22 | Law Officers | July 26, | The Additional Article to the Treaty of 1856 between Great Britain and Honduras, containing stipulations with regard to the railway to be constructed from the Atlantic to the Pacific through Honduras defines the time of the British guarantee coming into force, but that guarantee does not take effect until the railroad is completed from sea to sea | 13 |
| 23 | Queen's Advocate | Mar. 16, | Further respecting the claim of Mr. Thomas Williams for compensation from the Nicaraguan Government for ill-treatment he received from the Commander of the Fort San Carlos, in 1864. Proper amount to be demanded would be 5,000 dollars | 14 |
| 24 | Law Officers | July 19, | Further respecting claim of Mr. Thomas Williams. Amount of 1,000 dollars and gift of land offered as compensation by the Nicaraguan Government ought not to be accepted, unless the land is to the value of 4,000 dollars | 14 |
| 25 | Law Officers | Aug. 29, | Claims of Mr. S. Harris, brought forward by Mr. Y. W. Sykes, against the Guatemalan Government, for 6,000*l.* worth of piers' and roads' bonds, should not be supported, and Mr. Sykes should be so informed | 15 |
| 26 | Law Officers | Oct. 4, | Further respecting the claim of Mr. H. Goussen to British nationality and to British protection. If he obtained the certificate of British nationality from the British Vice-Consul and was recognized as a British subject by the Nicaraguan Minister, he is entitled to British protection | 15 |
| 27 | Law Officers | Nov. 29, | Nothing in the Chatfield-Cruz Convention of 1852 to prevent the appointment of an Accountant under the Treasury to distribute the sums paid to Her Majesty's Representative on account of the British claims ou Honduras, owing to the death of Mr. Chatfield | 16 |

## CHILE.

| No. | | Date. | Subject. | Page |
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| 28 | Queen's Advocate | Mar. 11, 1872 | Her Majesty's Government should not demand compensation from the Chilian Government for Messrs. Wolf and Co. for damages alleged to have been sustained by them for the seizure and detention of the "Elgiva" at Puntas Arenas, unless they are prepared to dispute the right of the Chilian Government to jurisdiction over the Island Quatermaster. Messrs. Duncan, Hill, and Parkinson should be told their clients ought not to have dispatched their vessel to collect guano without first consulting Her Majesty's Government | 16 |
| 29 | Queen's Advocate | Mar. 18, | Further relating to seizure of the British vessel "Elgiva" at Quartermaster's Island, in the Straits of Magellan. Nothing to alter former opinion | 17 |
| 30 | Attorney- and Solicitor-General | Apr. 20, | Further relating to the seizure of the British vessel "Elgiva" by the Chilian authorities while preparing to load guano at Quartermaster's Island. The claim for compensation was put forward originally by Captain Reay, and subsequently compromised by him with the Chilian Government, Her Majesty's Government should not support the claim | 17 |

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| 31 | Attorney- and Solicitor-General | Aug. 9, 1872 | Marriages abroad. A Consular Agent acting as Vice-Consul is not empowered to solemnize marriages under the warrant granted to a deceased officer | 18 |

## CHINA.

| No. | | Date. | Subject. | Page |
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| 32 | Law Officers | May 29, 1872 | As to the administration of the estates of aliens dying in the Colony of Hong Kong, and the custody of foreigners *in transitu*, accused or convicted of crime, who had been deported from China or elsewhere | 18 |
| 33 | Law Officers | July 1, | In the draft Ordinance enabling the Government of Hong Kong to deal with foreign prisoners *in transitu*, provision should be made for the absence of the Governor from the Colony, and an interpretation clause would be sufficient for this | 19 |
| 34 | Attorney- and Solicitor-General | Aug. 8, | As to the mode of dealing with Mr. Caine, Her Majesty's Consul at Swatow, when in charge of Hankow, who has confessed to applying the sum of 1,941*l.* 14*s.* 3*d.* out of the public funds in his hands to his own use. As the money could not be recovered, the question would be whether dismissal from his appointment would be sufficient punishment without proceeding criminally | 19 |
| 35 | Law Officers | Dec. 2, | Proposed alterations by the Colonial Office in the Order in Council of 1865, relating to the deportation to the Colony of Hong Kong of British subjects belonging to other Colonies. Under the warrant of the Supreme Court for China and Japan, may properly be made | 20 |
| 36 | Law Officers | Dec. 5, | As to defalcations of Mr. Caine, Her Majesty's Consul at Swatow, when at Hankow. Agree with Sir E. Hornby that there might be difficulty in securing a conviction if criminally prosecuted. More expedient not to run the risk of prosecution | 20 |
| 37 | Law Officers | Dec. 6, | No legal objection under the Jerusalem Bishopric Act, 5 Vict., cap. 6, in complying with the application of the Archbishop of Canterbury for licence from the Queen to consecrate the Rev. Mr. Russell as Bishop in North China | 21 |
| 38 | Law Officers and Dr. Deane | Dec. 7, | Approve draft licence to enable the Archbishop of Canterbury to consecrate the Rev. Mr. Russell as Bishop of the Church of England in North China | 21 |

## DENMARK.

| No. | | Date. | Subject. | Page |
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| 39 | Law Officers | Feb. 7, 1872 | Marriages abroad. As to the construction to be put on certain words in the declaration required to be made by persons abont to be married at Her Majesty's Legation. No objection to alteration in the form of declaration so that the national character of both parties may be inserted after their names, and the words "British subjects" should be omitted, and a declaration may be substituted in future for an affidavit | 22 |
| 40 | Law Officers | 28, | Marriages abroad. Approve proposed Circular Instructions to Her Majesty's Missions abroad, with a few verbal alterations. Marriages at Her Majesty's Consulates, under the Consular Marriage Act, not identical with those at Her Majesty's Legations | 22 |

## EGYPT.

| No. | | Date. | Subject. | Page |
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| 41 | Law Officers | Feb. 15, 1872 | As to charges made by the Egyptian Government against Mr. Petherick, formerly Her Majesty's Consul at Khartoum, for dealing in slaves. The charges cannot be substantiated, and the Egyptian Government might be told that the evidence against him is not trustworthy | 23 |

| No. | | Date. | Subject. | Page |
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| 42 | Law Officers | Feb. 23, 1872 | Approves draft despatch to Colonel Stanton relating to charges of the Egyptian Government against Mr. Petherick of slave dealing | 24 |
| 43 | Law Officers | May 29, | As to the seizure by the Egyptian Government of a steam corn-mill erected by Mr. Thomson, a British subject, near Alexandria. Her Majesty's Government would not be justified in interfering | 24 |
| 44 | Law Officers | June 5, | Instructions may be sent to Colonel Stanton that the trial of certain Maltese before the British Consular Court for an assault on servants of the Sheikh-ul-Islam and insults to him, may proceed without the evidence of the Sheikh being required to prove the case | 24 |
| 45 | Law Officers | 7, | Instructions may be sent to Colonel Stanton to inform Nubar Pasha that coals imported to Port Saïd, and there put on board vessels going through the Suez Canal, are not to be considered as goods in transit, and are not exempt from duty | 25 |
| 46 | Law Officers | July 23, | As to the alteration in the rate of tonnage dues charged by the Suez Canal Company. They have properly adopted the English mode of measurement. Question of disputes with the Suez Canal Company must be submitted to the Tribunal having jurisdiction over the defendant | 25 |
| 47 | Law Officers | Aug. 28, | Judicial Reforms in Egypt. Course that should be pursued by Her Majesty's Government on the schemes put forward by Ottoman, Egyptian, and French Governments. Approves the Ottoman scheme as the best | 26 |
| 48 | Law Officers | 29, | Further as to the Judicial Reforms in Egypt. Confirmed in opinion that the Ottoman scheme is the best | 28 |
| 49 | Law Officers | Oct. 4, | As to the claim of Messrs. Willis, Manché, and Co. against Her Majesty's Government, on subject of a deposit made by them with Dr. Zarb, then British Consular Agent at Port Saïd, but who became a bankrupt. Her Majesty's Government cannot be held responsible, as Dr. Zarb had no official authority or duty to receive the deposit | 29 |
| 50 | Law Officers | 14, | Not advisable to apply to the Egyptian Government for loan of a letter addressed to the Viceroy in 1870, which Messrs. Kimber and Ellis were desirous of producing as evidence in the case of Virnard *v.* Reuter | 29 |
| 51 | Law Officers | 31, | Inquiry of Messrs. Clarkson, Son, and Greenwell, whether the Egyptian steamer "Charkieh" was liable to arrest under a warrant of the High Court of Admiralty on account of the collision with the "Batavia," which was sunk. If the former was a public vessel, and carrying the flag of the Viceroy of Egypt, she would not be liable to arrest | 29 |
| 52 | Law Officers and Dr. Deane | Nov. 2, | Further relating to the collision between the "Charkieh" and the "Batavier." Messrs. Clarkson should be told that the "Charkieh" belonged to the Imperial Ottoman marine, and the vessel must be released, and the Turkish Ambassador might be so informed, but to request the case might be tried | 30 |
| 53 | Law Officers and Dr. Deane | 16, | Further respecting the collision between the "Charkieh" and the "Batavier." As to statement of Messrs. Clarkson that the former was not a ship of war, but a passenger steamer. M. Musurus to be told that as the papers prove her not to have been a ship of war she cannot be longer protected against detention | 30 |
| 54 | Law Officers and Dr. Deane | 29, | Further respecting the collision between the "Charkieh" and the "Batavier." The former being engaged in trade, although the property of a Government, cannot be considered a public ship and exempt from arrest. Offer of M. Musurus to submit the case to arbitration may be agreed to, if owners of the "Batavier" consent | 31 |

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## FRANCE.

| No. | | Date. | Subject. | Page |
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| 55 | Law Officers .. | Jan. 11, 1872 | Reply that should be returned to Messrs. Glehn and Sons' renewed application for assistance to obtain compensation for their losses during the siege of Paris .. .. | 31 |
| 56 | Law Officers .. | 16, | As to the increased duties levied by French authorities on mineral oils of British origin, and reply of French Government to notes of Mr. West. Argument of M. Rémusat not tenable .. .. .. .. .. .. | 32 |
| 57 | Law Officers .. | 17, | Should concur in the answers proposed to be returned by Governor Hill to questions of Captain Brown, Commander of the "Danæ," with reference to French rights of fishing on the coasts of Newfoundland, subject to the alterations suggested by Earl of Kimberley .. .. .. | 33 |
| 58 | Law Officers .. | 19, | On the alleged intention of the French Government to sell the islands of St. Pierre and Miquelon on the coast of Newfoundland to the United States. The sale would be a breach of engagement entered into with England in 1783 .. | 33 |
| 59 | Queen's Advocate | 19, | Claim of Mr. Stuart McKenzie against the French Government for damages sustained by him. Her Majesty's Government cannot assist him, as he did not send in his claim in due time after due notice was given by Decree of the 21st June, 1871 .. .. .. .. .. | 34 |
| 60 | Law Officers .. | 19, | As to the course to be taken by Her Majesty's Government on complaint of the French Chargé d'Affaires that Vice-Chancellor Malins refused to remove the attachment laid on certain funds emanating from the French Treasury which had been placed in the hands of Messrs. Morgan and Co... | 34 |
| 61 | Law Officers .. | 20, | As to the debate in French Chambers on the imposition of duties on raw material, and right claimed by M. Thiers, on the part of the French Government, to impose this tax, under the IXth Article of the Treaty of Commerce of 1860 and the IIIrd Article of the Second Supplementary Convention. The proposal is incompatible with the existing Treaties .. .. .. .. .. .. | 35 |
| 62 | Law Officers .. | Feb. 12, | As to Bill before the French Assembly for imposing differential duties on foreign shipping. Duties proposed to be levied are not intended to be levied on the ships, but on the goods; so that, having regard to the Treaties with Austria and Sweden, no such duties can be levied on goods imported in British ships while those Treaties remain in force .. | 36 |
| 63 | Queen's Advocate | 13, | Instructions that should be sent to Lord Lyons on the complaint of Mr. Caudwell against the administration of justice by the Tribunals of Boulogne .. .. .. | 37 |
| 64 | Law Officers .. | 17, | As to the duties imposed on shipping by the Marine Marchande Law passed by the French Assembly, and remarks of Mr. Farrer on Report of the 12th instant. The duties are to be levied on the merchandize, and not on the ships, and as such are not navigation dues, but customs duties .. .. .. .. .. .. | 37 |
| 65 | Law Officers .. | 24, | Further relating to the duties imposed under the recent French Marine Marchande Law. Remarks on the views taken by the Board of Trade on the question of taxes on shipping and that of merchandize. Do not recommend their view of the matter .. .. .. .. .. | 38 |
| 66 | Queen's Advocate | Mar 15, | Further respecting complaint of Mr. Caudwell against the legal Tribunal at Boulogne. Her Majesty's Government would not be justified in interfering diplomatically in his behalf .. .. .. .. .. . | 38 |
| 67 | Queen's Advocate | 15, | As to complaint of Mr. Insley, a British resident at St. Malo, on treatment of his claim against the French Government for provisions supplied by him during the late war for revictualling Paris. The claim cannot be supported officially by Her Majesty's Government .. .. .. | 39 |

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| 68 | Law Officers .. | Mar. 18, 1872 | As to the right of British subjects to hold real property in France, and to dispose of the same by will according to the provisions of English law, and as to the negotiation for the conclusion of a Consular Convention with France, Instructions to Lord Lyons and Her Majesty's Consul at Calais should be, that real property must be disposed of according to the law of France .. .. .. .. | 39 |
| 69 | Law Officers .. | 19, | Statement of Mr. E. M. Underdown as to the case brought before the Tribunal Correctionel at Lille. Charge of fraud by a French army contractor, in which British and French subjects are implicated. Instructions to Lord Lyons to state that criminal proceedings in France against British subjects resident in England for alleged crimes here, would be contrary to law of nations and would not be permitted by English law as regards French subjects; and to request whether these acts are not also contrary to French law .. | 39 |
| 70 | Attorney and Solicitor-General | 27, | Claim of M. Benecke. As to the instructions to be sent to Lord Lyons on the question of the liability to the payment of "surtaxes de pavillon" in the case of vessels which have sailed before enactment of the French laws on the subject. Exposition of M. Treitt of the French law is correct, and English law is similar on the subject with regard to duties .. .. .. .. .. .. | 40 |
| 71 | Attorney and Solicitor-General | 28, | Further as to duties levied by French Government on mineral oils of British origin, and the instructions to be sent to Lord Lyons on the three points, viz., the maximum duties to be levied, the differential treatment of American oils, and of British contracts anterior to French law .. .. | 41 |
| 72 | Law Officers .. | Apr. 4, | M. de Rémusat should be informed that any administrative intervention of whatever kind, on the part of the French Government, having for its object the deportation of French criminals to England, would be a serious breach of international comity, and would not be tolerated .. .. | 41 |
| 73 | Attorney and Solicitor-General | 6, | Further relating to increased duties levied by French Government on mineral oils. The French Tribunals are correct in their Judgment as to the liability of the contractors to pay the additional duties raised up to the time of delivery of the goods .. .. .. .. .. | 41 |
| 74 | Attorney and Solicitor-General | 8, | Her Majesty's Government should rest satisfied with the result of the investigation made by the British and French Commission on the charges against Mr. D'Arcy, British Vice-Consul at St. Valery, for uttering cries of "Vive la Prusse, à bas la France!" as there is nothing to rebut the positive assertions of the French witnesses, and no reason to doubt the correctness of the decision .. .. .. | 42 |
| 75 | Attorney and Solicitor-General | 9, | As to instructions to Lord Lyons relating to the question of duties levied in France on mineral oils of British origin. British firms cannot claim for damages a larger sum than the amount they have had to pay for the increased duties, which has already been asked for by Her Majesty's Government. .. .. .. .. .. .. | 43 |
| 76 | Attorney and Solicitor-General | 11, | Further respecting the case of Mr. Caudwell, a British resident at Boulogne, who complained of injustice shown to him by the legal Tribunals with respect to the contract he had entered into for the purchase of a house .. .. | 44 |
| 77 | Attorney and Solicitor-General | 16, | As to the alleged criminal proceedings instituted at Lille against the firm of Messrs. Moses and Son, as represented by Mr. E. M. Underdown. Must await reply from Lord Lyons, whether he has obtained possession of the judicial document .. .. .. .. | 45 |
| 78 | Attorney and Solicitor-General | 16, | As to the further letter from Mr. E. M. Underdown, representing the firm of Messrs. Moses and Son, against whom criminal proceedings had been taken for alleged frauds by a French army contractor at Lille for acts done and sales made in England .. .. .. .. .. | 45 |

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| 79 | Attorney and Solicitor-General | Apr. 17, 1872 | Further respecting the claims of Messrs. Glehn on the French Government, on account of the destruction of a quantity of coffee by fire at Vilette, bonded in the Magasins Généraux. Her Majesty's Government should decline to interfere diplomatically to find out who is responsible for the losses | 46 |
| 80 | Attorney and Solicitor-General | 20, | Further as to the duties to be charged on British mineral oils sent to France before the changes had been made in the scale of charges. No reason to alter former opinion on the subject | 46 |
| 81 | Attorney and Solicitor-General | 21, | As to claim of Mr. Insley against the French Government on account of provisions supplied by him during the late war. Mr. Insley must have recourse to the French Tribunals, and Her Majesty's Government should not interfere diplomatically | 47 |
| 82 | Attorney and Solicitor-General | 23, | As to claim of the Irish College at Paris against the French Government for compensation for damage alleged to have been sustained by a country house at Arcueil attached to the college, on account of the occupation by Government troops during the late war. Her Majesty's Government should not interfere to prevent the case being brought before the French Tribunals | 47 |
| 83 | Attorney and Solicitor-General | 24, | Further respecting the claim of the Irish College at Paris for injuries to their house at Arcueil. No reason to alter opinion already given | 48 |
| 84 | Attorney and Solicitor-General | 25, | Further respecting the criminal proceedings instituted at Lille against the firm of Messrs. Moses and Son, in the City of London, as represented by Mr. E. M. Underdown. Reply of M. de Rémusat to Lord Lyons' remonstrance is not a satisfactory reply. Mr. Underdown may be told further representations have been made | 48 |
| 85 | Attorney and Solicitor-General | 25, | As to complaints and suggestions made by Mr. Sichel, a British merchant at Paris, respecting the present eystem of valuation of goods by experts. As the system is according to the Treaty of Commerce of 12th October, 1860, there is no legal ground of complaint, but the French Government might be requested to secure the appointment of capable and unprejudiced experts | 49 |
| 86 | Attorney and Solicitor-General | 27, | The memorandum, with further papers from Mr. E. M. Underdown, relating to the criminal proceedings instituted at Lille against Messrs. Moses and Son, do not alter opinions already given | 50 |
| 87 | Law Officers | 29, | As to the treatment of prisoners by the French Government, and comparison with treatment of the Fenian convicts by Her Majesty's Government | 50 |
| 88 | Attorney and Solicitor-General | May 7, | French Mercantile Marine Law. As to the construction to be put on the Decree of the 28th July, 1867, exempting British shipping from the "surtaxe de pavillon." Ships of Great Britain are entitled to same privileges as granted to ships of Portugal | 50 |
| 89 | Attorney and Solicitor-General | 20, | With respect to representations of Her Majesty's Government on the recent French Mercantile Marine Law and duties levied as surtaxes de pavillon." The arguments adduced by M. Gavard do not affect the question previously considered | 51 |
| 90 | Law Officers and Dr. Deane | 21, | Further with respect to the French Mercantile Marine law and the applications of the "surtaxes de pavillon" to British shipping, and with reference to the Treaty of Commerce between France and Portugal. Her Majesty's Government would be justified in representing that England was entitled to the benefit granted to Portugal by the issue of the Decree of the 28th July, 1867 | 51 |
| 91 | Law Officers and Dr. Deane | 25, | Complaint of Messrs. Hatton and Cookson against the duties levied by authorities at Gaboon on palm-oil transshipped from one vessel to another. Her Majesty's Government might remonstrate with the French Government, after full inquiries have been made | 52 |
| 92 | Law Officers and Dr. Deane | June 19, 1872 | Further on subject of the criminal proceedings instituted at Lille against Englishmen domiciled in England (Messrs. Moses and others), for an alleged offence committed in this country. Her Majesty's Government should not accede to Mr. Underdown's application, as the French Minister of Justice will demand the acquittal of Messrs. Moses, but they should question the right of serving criminal process in England | 53 |
| 93 | Law Officers and Dr. Deane | July 11, | As to the question of examination by experts in France, and dispute relative to the description and value of goods, between the French custom-house officers and the British importers. Course proposed by Lord Lyons on the 3rd May satisfactory. French Government not likely to alter their system, which is strictly within Treaty rights | 53 |
| 94 | Law Officers and Dr. Deane | 11, | Complaint of Messrs. Atkins against the custom-house authorities at Boulogne on subject of the survey of a case of felt shipped by them. French authorities acted under Articles VI and VII of the Supplementary Treaty, 1860, and Messrs. Atkins have no ground of complaint | 54 |
| 95 | Law Officers and Dr. Deane | 15, | Further relating to the duties in France on British mineral oils, and claim of the Coatbridge Oil Company at Dunkirk against Her Majesty's Government for losses on changes in the duty levied in 1871. Mr. Wilson, agent for the Company, should be told Her Majesty's Government cannot entertain their claim, but that they are in communication with the French Government on the subject | 54 |
| 96 | Law Officers and Dr. Deane | 19, | As to the 9th Article of the new French Army Bill. Her Majesty's Government need not at present move in the matter, as Lord Lyons has made proper representations respecting the liability of foreigners to military service in France | 55 |
| 97 | Law Officers and Dr. Deane | 29, | As to the interpretation put on the IXth Article of the Treaty of 1860 by M. Thiers, with respect to the taxation on raw materials, and that the French Government have a right to put an additional duty on English manufactured cottons | 55 |
| 98 | Law Officers and Dr. Deane | Aug. 2, | Claim of Messrs. Kell and Co., of Huddersfield, against the French Government, on account of four cases of goods, destined for Zurich, being requisitioned by Communist troops, after being bonded at the Compagnie de l'Est at Paris. As the French Tribunals are unable to give any redress, Her Majesty's Government may press for compensation from the French Government | 56 |
| 99 | Law Officers and Dr. Deane | 16, | As to the claim of Miss Galloway against the French Government for losses during the late Communist insurrection, and those of Messrs. Carver, Darbishire, and Co., Mr. Hewett, Mr. Metcalfe, and Mr. Myers, and comparing the Reports on these claims with that of Messrs. Kell and Co., in which Her Majesty's Government are advised to press the claims on French Government. Adhere to the opinion given on the former claims. The latter had their property detained in France against their will, and are entitled to the good offices of Her Majesty's Government | 56 |
| 100 | Law Officers and Dr. Deane | Sept. 23, | As to proposals of French Government for the termination of the Treaty of Commerce of 1860, and present proposals for its renewal under conditions of increased customs duties on certain British goods before the 15th March, 1873. Her Majesty's Government would not be liable to claims for losses of British subjects by contracts entered into with British merchants owing to the Treaty engagements, but fair notice should be given to the parties on the alteration of the duties, and protection should be given to parties entering into the contracts when notice had been given. A stipulation might be inserted in the Treaty, and French Government should indemnify the parties | 57 |

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| 101 | Law Officers and Dr. Deane | Oct. 4, 1876 | Claims of British subjects for losses during the late war. Those of Mr. David Jones, for losses of his house and property at Blois, cannot be preferred against the French Government, but might be represented that the damage done by the Prussians was owing to their making the premises a military storehouse .. .. .. .. | 59 |
| 102 | Law Officers and Dr. Deane | 9, | Opinion on draft Treaty of Commerce and Navigation with France, and on the several Articles it contains, more especially on Articles relating to prohibitions of importation and exportation, the inland and compensatory duties, and duties on mineral oils; difficulties with respect to Article II, on the subject of nationality of British and French subjects, military requisitions and billetting of soldiers; and Article III, as to disposal of property by foreigners; and legacy duties; and suggesting certain alterations in other Articles .. .. .. .. .. .. | 59 |
| 103 | Law Officers and Dr. Deane | 14, | As to further alterations in the draft Treaty of Commerce with France, and insertion of stipulations relating to the functions of the proposed Commission at Paris, but they should not be inserted in a Protocol or Declaration .. | 61 |
| 104 | Law Officers and Dr. Deane | 14, | Returns revised draft of proposed Treaty of Commerce with France, with a few verbal alterations. Her Majesty's Government may publish the substance of it as soon as signed, and before ratification .. .. .. .. | 61 |
| 105 | Lord Chancellor . | 19, | The St. Nazaire Company (Société des Crédits-Généraux de St. Nazaire). Citation from a Frenchman named Cézard for his Lordship to appear before the Tribunal of Commerce of the Seine, sent through M. Gautier, the Acting Consul-General of France, by French Minister of Foreign Affairs. Reply sent to M. Cézard, refusing to recognize the jurisdiction of any foreign Tribunal over him, but the question would be brought to the notice of the Secretary of State for Foreign Affairs, for him to make such representations as he may deem suitable .. .. . | 62 |
| 106 | Law Officers and Dr. Deane | 25, | As to engagements under the Treaty between Great Britain and France of 1860 having effect on the Treaty between Great Britain and Austria if the former Treaty were either cancelled or expired. Advantages of those stipulations will still remain to Austria after the expiration of the Treaty .. .. .. .. .. .. | 70 |
| 107 | Law Officers and Dr. Deane | 26, | After the expiration of the Treaty with France of 1860, Tariff of duties in wines, spirits, silks, &c., fixed by that Treaty cannot be raised, as regards Austria, so long as that Treaty lasts .. .. .. .. .. .. | 70 |
| 108 | Law Officers and Dr. Deane | 29, | On request of Mr. A. Silverthorne for the intervention of Her Majesty's Government in favour of Mr. Porter, a manufacturer at Lincoln Iron Works, who had entered into contracts for the construction of gas works in various towns of France before the war. Her Majesty's Government would not be justified in interfering, as the case is before the French Tribunals .. .. .. .. .. | 71 |
| 109 | Law Officers and Dr. Deane | Nov. 2, | Her Majesty's Government may call the attention of the French Government to the statement of M. Gautier, of October 1872, with respect to the citation of the Lord Chancellor before the French Tribunals, and to request such proceedings may not be repeated .. .. .. | 71 |
| 110 | Law Officers and Dr. Deane | 2, | As to the arrest of Mr. Frederick Wilson, in Paris, for an offence committed in the public streets, and who had undergone imprisonment, and in future cases as to the course Her Majesty's Government should pursue. Officious representation might be made to prevent a repetition of so long an imprisonment .. .. .. .. .. | 72 |
| 111 | Law Officers and Dr. Deane | 4, | As to the form of notice to be issued with respect to the existing contracts entered into under the 4th Article of the Protocol to be annexed to the Treaty of Commerce with France of 1860 .. .. .. .. ..<br>(Notice.) | 72 |

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| 112 | Law Officers and Dr. Deane | Nov. 12, 1872 | Monopolies in France in connection with the stipulations of Treaties of Commerce and with regard to the manufacture and sale of lucifer matches. The proceedings of the French Government are not inconsistent with the terms of the new Treaty with France unless they are inconsistent with the terms of some other Treaty with France, to which benefit England is entitled under the most-favoured-nation clause .. | 73 |
| 113 | Law Officers and Dr. Deane | 19, | Should the French Government grant a monopoly for the manufacture of beer or any other commodity comprised in the Tariff annexed to the new Treaty of Commerce, Her Majesty's Government would be justified in remonstrating against it .. .. .. .. .. | 74 |
| 113* | Law Officers and Dr. Deane | 21, | Nothing in the provisions of the Treaty of Commerce with France which would enable the French Government to levy compensatory duties on English goods without first imposing equivalent taxes on raw materials of French extraction or on similar goods the produce of French industry .. .. | 74 |
| 114 | Law Officers and Dr. Deane | Dec. 4, | Commercial negotiations. As to the instructions to be given to Mr. Kennedy as to his right to discuss certain commercial questions at the Paris Commercial Treaty Commission .. | 75 |
| 115 | Law Officers and Dr. Deane | 4, | Commercial negotiations. Approving draft Instructions to Lord Lyons and Mr. Kennedy with respect to the import duty on raw silk .. .. .. .. .. | 76 |
| 116 | Law Officers and Dr. Deane | 5, | Commercial negotiations. Approving draft Instructions to Mr. Kennedy relative to the question of a compensatory duty being leviable on manufactured articles in respect of the "surtaxe d'entrepôt" .. .. .. .. | 77 |
| 117 | Law Officers and Dr. Deane | 9, | Commercial negotiations. As to the instructions to Lord Lyons with respect to the position of British commerce in the event of the Treaty with France being ratified while the Tariff annexed to it is suspended .. .. .. | 77 |
| 118 | Attorney and Solicitor-General | 9, | Commercial negotiations. Great Britain would be liable to the duties imposed by any existing French law, with certain exceptions, if the Treaty of the 5th November is ratified, and the Tariff annexed to it is not brought into operation, owing to the law on raw materials not coming into force .. | 77 |
| 119 | Law Officers and Dr. Deane | 12, | No reason to alter opinion already given with respect to Mr. A. Silverthorne's representations on behalf of Mr. Porter, who had entered into certain contracts to construct gas works in various towns of France, and the legal proceedings before the Tribunal at Amiens : .. .. | 78 |
| 120 | Law Officers and Dr. Deane | 17, | As to the liability of certain classes of foreigners in France to military service under the new Army Bill. Sons born in France of foreign parents .. .. .. . | 78 |
| 120* | Law Officers and Dr. Deane | 17, | On the question of succession duties levied on the property of Mr. John Bass, a British subject, by the revenue authorities at Boulogne, under a new law passed by the National Assembly in 1871; the 4th Article authorizing succession duties on foreign securities belonging to deceased foreigners who were domiciled in France. In the case of Mr. Merridew, Lord Lyons should be instructed not to interfere, as it is a question for the French Tribunals .. .. | 79 |
| 121 | Law Officers and Dr. Deane | 20, | Commercial negotiations. A Protocol is the best mode of effecting the object of recording the substitution of the amended Tariff now forming Annex 1 to the Treaty of Commerce with France .. .. .. .. | 80 |

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| 122 | Law Officers and Dr. Deane | Dec. 13, 1872 | With respect to the case of a child named Hannah Huggert who in 1867 was (by a bond entered into by her mother with a man named Henry Holland Keys, a native of New York, and proprietor of a circus) made over to him, but subsequently placed by him in the hands of a French family named Pitran, who refused to give her up to him. Lord Lyons should not make application to the French Government in favour of the child, but the mother should make her application to the French Tribunals for the restoration of the child, and Lord Lyons might use his influence with the French Government to prevent the child being given up to the American .. .. .. | 81 |

## GENERAL.

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| 122A | Attorney and Solicitor-General | April 10, 1872 | As to course Her Majesty's Government should pursue with regard to dealing with the estates of British subjects dying intestate, more especially British seamen in Russia. Her Majesty's Consuls should represent the heirs in Russian Courts of Law. State of things at Taganrog, as represented by Consul Carruthers, should be altered by new Treaty stipulations. (See Appendix) .. .. .. | 205 |
| 122B | Attorney and Solicitor-General | 11, | No reason to alter Report on the administration of estates of intestate British subjects in Russia. Russian Government might be called on to grant immunities from the oppressive laws on the subject, and English Consuls should have the power of administering to intestate British subjects. (See Appendix) .. .. .. .. .. | 206 |
| 122C | Law Officers | July 22, | As to the independence of a State, in its relations with other Powers, whose neutrality has been guaranteed by other Powers who are, or are not, parties to it. The guaranteed State may enter into any Treaty engagement, but the guaranteeing Powers are at liberty to release themselves if they have the will. (See Appendix) .. .. .. | 206 |
| 123 | Law Officers and Dr. Deane | Oct. 14, | As to the attempt of Lieutenant Yeatman, of Her Majesty's ship "Minstrel," to capture two deserters from Her Majesty's ship "Sirius" who were believed to be on board the Brazilian ship "Texeira Ruij" at Barbadoes; and as to the powers of naval officers, under the Naval Discipline Act, to search merchant ships in cases of desertion .. | 81 |
| 124 | Law Officers and Dr. Deane | 22, | As to a Circular sent to Her Majesty's Consuls on the question of marriages abroad, and the difficulties that they have experienced in carrying out those instructions. Suggestions as to the wording of the draft Circular, and recommend a change in the law relating to mixed marriages before Consuls and Consular authorities .. .. .. .. | 82 |
| 125 | Law Officers and Dr. Deane | Dec. , | Further respecting the case of Lieutenant Yeatman, of Her Majesty's ship "Minstrel," attempting to capture two deserters from Her Majesty's ship "Sirius" said to be on board the "Texeira Ruij" at Barbadoes. The Naval Discipline Act deals solely with naval deserters, and the Merchant Shipping Act of 1854 with merchant seamen. No constable can search a merchant ship in any British port for naval or merchant seamen deserters without a warrant .. | 84 |

## GERMANY.

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| 126 | Queen's Advocate | Feb. 9, 1872 | As to the announcement of the German Ambassador of the entrance of Alsace and Lorraine into the German Customs Union. Not necessary to notify the communication in the "London Gazette," unless it is thought necessary for the interest of British trade .. .. .. .. | 84 |
| 127 | Attorney and Solicitor-General | May 21, | Dispute with German authorities as to the release of the vessel "Gauntlet," and the suggested compromise by compensating the owners of the "Lord Brougham." German Government no right to claim indemnity, as there was no breach of neutrality on the part of the British authorities .. | 85 |

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| 128 | Attorney and Solicitor-General and Dr. Deane | June 18, 1872 | Further relating to the case of the "Gauntlet," which the German Government contend was the cause of preventing the recapture of their prize vessel, the "Lord Brougham," by a German vessel of war, so that the "Gauntlet" ought not to be released without giving compensation for the loss of the "Lord Brougham." Count Bernstorff should be told it cannot be claimed on legal grounds .. .. .. | 86 |
| 129 | Attorney and Solicitor-General and Dr. Deane | Dec. 7, | On complaint of Mr. Onions of the ill-treatment which his aunt Mrs. Barnard sustained, while residing at Orleans, from Bavarian soldiers during the occupation of the town by the German army. No claim can be made out for compensation from the German Government .. .. | 87 |
| 130 | Attorney and Solicitor-General and Dr. Deane | 7, | Claim of Messrs. Paul Hirsch and Co. against the German Government for the value of a case of woollen goods forwarded by them for delivery to a firm at Bischweiler in Alsace, which fell into the hands of the Germans near Strasburg. Her Majesty's Government should ascertain whether Messrs. Hirsch and Josephy are British subjects before proceedings are taken .. .. .. .. | 87 |
| 131 | Law Officers and Dr. Deane | 17, | Further respecting claim of Messrs. Hirsch and Josephy against the German Government. They were naturalized British subjects. The case may be brought to the favourable consideration of the German Government .. .. | 88 |

## GREECE.

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| 132 | Queen's Advocate | Mar. 15, 1872 | As to the proceedings which have taken place against the Archimandrite Skiotis, appointed Prior for life of the Convent of Catheras, in Ithaca, by the Ionian Government. The opinion of Her Majesty's Minister at Athens that Her Majesty's Government cannot interfere is correct, and they are under no obligation to interfere .. .. .. | 88 |
| 133 | Law Officers and Dr. Deane | June 24, | The closing of the British cemeteries at Zante, proposed by the authorities of the island, is quite within the discretion of the Greek Government, and they ought not to be interfered with. Her Majesty's Government may claim the assignment of another burial-ground there for British residents, or request gratuitous sepulture in the Greek cemetery .. .. .. .. .. | 89 |
| 134 | Law Officers and Dr. Deane | Oct. 28, | As to fine imposed by police authorities on the manager of the Corfu branch of the Malta and Mediterranean Gas Company on account of the inferiority of the gas supplied. No representation to the Greek Government need be made on the subject .. .. .. .. .. | 89 |

## HAYTI.

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| 135 | Law Officers and Dr. Deane | Nov. 29, 1872 | Claims of British subjects on Hayti. Conditions submitted by Mr. Jenkins on which they will be satisfied with payment of principal and interest. There is nothing in the conditions inconsistent with justice .. .. .. .. | 90 |
| 136 | Law Officers and Dr. Deane | 29, | As to the claim for repayment of expenses arising out of the detention of the "Telegrafo" at Tortola. M. Victoria, the Dominican Vice-Consul at St. Thomas, having undertaken to repay all expenses, the Dominican Government are liable, on account of not informing Her Majesty's Government that it did not indorse that guarantee .. .. | 90 |
| 137 | Law Officers and Dr. Deane | Dec. 2, | Claims of British subjects on Hayti. Statement of Mr. Jenkins on this subject may properly be laid before the Mixed Commission .. .. .. .. .. | 91 |

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## ITALY.

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| 138 | Queen's Advocate | Feb. 1, 1872 | On protest of Signor Vincenzo, owner of the cutter "Lara," of Malta, off the coast of Palermo, against its capture on a charge of smuggling tobacco, on the ground that the vessel was beyond a certain distance from the shore. As to instructions to Mr. Dennis, Her Majesty's Consul at Palermo. Her Majesty's Government cannot object to the Italian Government exercising, on a principle of reciprocity, a like power over British vessels as claimed over foreign vessels .. | 91 |
| 139 | Queen's Advocate | Mar. 8, | As to claim of Mr. Benjamin D'Oyley Reynolds for protection of Her Majesty's Government on Decree issued by the President of the Civil Tribunal at Florence, ordering the separation from his wife, and an allowance to her until the case is decided by public trial. Cannot stay the proceedings of the Court, and Mr. Reynolds should seek legal advice to defend the action his wife has brought against him .. .. .. .. .. .. | 92 |
| 140 | Law Officers and Dr. Deane | May 26, | Complaint of Dr. Meschin, and demand for compensation on his arrest in Rome and confinement in the guard-house on his attempt to blow out some lights forming part of an illumination on opening of the Italian Parliament. Not a case for the interference of Her Majesty's Government .. | 93 |
| 141 | Law Officers and Dr. Deane | July 9, | As to seizure by the custom-house authorities at Bari of a consignment of tobacco on board the "Emperor," and the fine on the vessel's manifest. Not sufficient ground for the intervention of Her Majesty's Government. Inquiries should be made whether Messrs. Nickols and Colven can offer any explanation of the conduct of Captain Leighton .. | 93 |
| 142 | Law Officers and Dr. Deane | Aug. 3, | Diplomatic relations with Rome. Position held there formerly by Lord Odo Russell, and subsequently by Mr. Jervoise. Nothing illegal in the employment of the latter there .. | 94 |
| 143 | Law Officers and Dr. Deane | 9, | Further respecting the seizure of a consignment of tobacco by the customs authorities at Bari on board the steam-ship "Emperor," and fine on the vessel's manifest. As to the amount of assistance to be granted to Messrs. Nickols and Colven in the case.. .. .. .. .. | 95 |
| 144 | Law Officers and Dr. Deane | Sept. 2, | As to claim of Mrs. and Miss Clark against the Italian Government relating to the estate of the late Signor Eugenio de Marchio de Reso, stated to have been taken possession of by the Bourbon Government, and now in the hands of the Italian Government. Should inform Mr. Denman Her Majesty's Government cannot interfere further in the matter .. .. .. .. .. | 95 |
| 145 | Law Officers and Dr. Deane | Dec. 31, | Case of the Italian vessel "l'Antonio," wrecked off the coast of Tarifa, and then towed to Gibraltar and placed under sequestration. The Italian Minister might be informed that inquiries will be made as to the facts of the case.. .. | 96 |

## JAPAN.

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| 146 | Attorney and Solicitor-General | Mar. 26, 1872 | As to claim of Messrs. Howell and Co. for compensation for the loss of forty tons of coal which they had to give up to the insurgents who held possession of the port of Hakodate in 1869. The case might be pressed on the equitable consideration of the Japanese Government .. .. | 97 |
| 147 | Law Officers and Dr. Deane | July 11, | Claim of Messrs. Jardine and Matheson on Japanese Government on account of the sale of a steamer belonging to them. Case having been tried before the Japanese Court, Her Majesty's Government should not press the claim on the Japanese Government .. .. .. .. | 98 |
| 148 | Law Officers and Dr. Deane | Sept. 6, | Further respecting the claim of Messrs. Howell and Co. Their demand for the price of the coal taken from them by insurgents at Hakodate, can only be equitably pressed on the Japanese Government .. .. .. .. | 98 |

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| 149 | Law Officers and Dr. Deane | Sept. 20, 1872 | As to penalties by foreign Representatives on their respective subjects which have been decreed by Japanese Government for endangering public safety on the line of railway between Yedo and Yokohama. Arrangements might be made with all the foreign Representatives in Japan to adopt the same course .. .. .. .. .. .. | 99 |
| 150 | Law Officers and Dr. Deane | 30, | As to claim of Mr. Gray, representing the firm of Messrs. Hall and Hoby, of Yokohama, against the clan of Miyadzu, in Tango. Her Majesty's Government should not support it . | 99 |
| 151 | Law Officers and Dr. Deane | Dec. 6, | On proposal of Sir E. Hornby that the provisions of the 62nd section of the Order in Council for China and Japan, of 1865, should be extended to the Court of Kanagawa. No reason why the Order in Council should not be extended to Yokohama, as proposed .. .. .. .. | 100 |

## MEXICO.

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| 152 | Law Officers and Dr. Deane | July 22, 1872 | On representations of Mr. Mundella, Mr. Rathbone, and others, respecting the exactions levied by the Mexican Government on Messrs. Kelly and Co., at Mazatlan. Reasons that might justify the intervention of Her Majesty's Government .. .. .. .. | 100 |
| 153 | Law Officers and Dr. Deane | Nov. 15, | As to steps to be taken by Her Majesty's Government on the attacks of Mexican Indians on Orange Walk, in British Honduras. Remonstrance should be made through a friendly Power while diplomatic relations are suspended, and compensation demanded for past outrages .. .. | 101 |

## MONTE VIDEO.

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| 154 | Attorney and Solicitor-General | Mar. 25, 1872 | State of affairs in the Republic of the Uruguay, and the proposed joint occupation of the custom-house by British and foreign troops for security and payment of claims. Such an occupation could only be justified as an act of war .. | 101 |
| 155 | Law Officers and Dr. Deane | Aug. 9, | As to the privileges of British subjects resident in the Republic of the Uruguay, and steps necessary to preserve to them that protection granted to them by the Treaty of 1842, which expired in 1854. Although the Government consented to concede to British subjects all the privileges of that Treaty until a new one was entered into, and though the Treaty of 1855 was concluded, it was not ratified. British subjects are without guarantee for their lives and property, except what they derive from the laws of the country and international law .. .. .. | 102 |
| 156 | Law Officers and Dr. Deane | Nov. 29, | As to present relations between Great Britain and the Republic of the Uruguay being suspended, and special mission of Señor Perez Gomar on subject of the British claims and the difficulties to which British subjects are exposed. Under certain exceptions, such as military exemptions, they are only entitled to equal treatment with natives .. .. | 103 |
| 157 | Law Officers and Dr. Deane | Dec. 18, | As to steps about to be taken by Captain Strode, of Her Majesty's ship "Pylades," to prevent the threatened detention of the British mail-steamers at Monte Video by the Uruguayan Government. Commanders of Her Majesty's ships would not be justified in adopting such a course in case British mail-steamers are prevented from sailing .. | 104 |

## MOROCCO.

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| 158 | Law Officers .. | Jan. 24, 1872 | As to the claim of the United States' Consul at Tangier of jurisdiction over a British subject (Mr. Scott) employed by him. Her Majesty's Consuls in Morocco are entitled, under Treaty of 1856, to exercise civil and criminal jurisdiction over British subjects, notwithstanding Mr. Scott is interpreter to the United States' Consulate, and in such character he is also entitled to the protection of the United States' Consul .. .. .. .. .. .. | 104 |

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| 159 | Queen's Advocate | Feb. 24, 1872 | On the instructions to be given to Her Majesty's Minister in Morocco as to the protection to be afforded—(1) to subjects of Spain and other foreign Powers serving on board British vessels in Tangier; (2) to persons residing in Morocco, but born in Great Britain or Gibraltar; (3) to persons born in British possessions of parents subjects of foreign Powers other than Spain. Her Majesty's Government may properly afford protection to persons under all these categories .. .. .. .. .. | 105 |
| 160 | Attorney and Solicitor-General | Mar. 22, | Further respecting the nationality of certain persons in Tangier born at Gibraltar of Spanish parents, and the Report of the 8th December last, that such persons were amenable to the jurisdiction of the Spanish Consul when in Morocco, as compared with that Report of the 24th February, which states that British protection should be granted to persons born in British possessions of parents subjects of foreign Powers other than Spain. The Reports not inconsistent, and they agree with the Queen's Advocate .. .. | 105 |
| 161 | Attorney and Solicitor-General | 23, | As to the attack made upon Mr. Broome, a British subject, by three Moors of Haha Haha. Her Majesty's Government ought not to demand compensation for the outrage, as he went into the disturbed district without any reasonable precaution. May endeavour to bring the offenders to justice | 106 |
| 162 | Attorney and Solicitor-General | 26, | Further respecting the claim of Mr. Broome on Government of Morocco for compensation on account of injuries received by him in district of Haha Haha. Nothing to alter opinion already given .. .. .. .. .. | 107 |
| 163 | Attorney and Solicitor-General | May 15, | No ground for altering opinion already given relative to the claim of the United States' Consul at Tangier to jurisdiction over Mr. Scott, a British subject, but interpreter to his Consulate .. .. .. .. .. | 107 |
| 164 | Attorney and Solicitor-General | 31, | As to the jurisdiction claimed by the Supreme Court of Gibraltar over British subjects in Morocco. Instructions to be given to Vice-Consul Stokes. Should appeal, and if the Judge decides against such jurisdiction, he need not move further in the matter .. .. .. .. | 107 |

## NETHERLANDS.

| No. | | Date. | Subject. | Page |
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| 165 | Law Officers .. | Feb. 3, 1872 | Case of Messrs. Swanzy. Claim on Netherlands' Government for destruction of their property at Dixcove by Dutch soldiers. Not sufficient proof of their complicity in the matter, but suspicion, as part of the plunder was seen in their possession, but explanations might be demanded .. | 108 |
| 166 | Queen's Advocate | Mar. 7, | On the Supreme Court of Edinburgh having called on Mr. Mackintosh, Her Majesty's Acting Consul at Surinam, to appear and produce all the correspondence between the Foreign Office and himself relative to his leave of absence since his arrival in England. If it is thought that the letters should not be produced, the Court should be so informed .. .. .. .. .. | 109 |
| 167 | Law Officers and Dr. Deane | May 28, | Further respecting claim of Messrs. Swanzy against the Netherlands' Government for the destruction of their property at Dixcove. Not sufficient evidence to show that the Dutch soldiers joined in the plunder. The claims ought not to have the official support of Her Majesty's Government .. .. .. .. .. .. | 109 |
| 168 | Law Officers and Dr. Deane | July 7, | Further respecting claim of Messrs. Swanzy for loss of property at Dixcove. Have no reason at present to alter former opinion on the case. If the affidavit of Kwarter Kwassie can be depended on, the claim may be brought before the Netherlands Government .. .. .. .. | 110 |
| 169 | Law Officers and Dr. Deane | Oct. 30, | As to difficulties in carrying out the provisions of the Treaty with the Netherlands of 1870 relative to the conveyance of native labourers from India to Surinam. Provisions of the Indian Emigration Act of 1871 cannot affect the Treaty .. | 110 |
| 170 | Law Officers and Dr. Deane | Nov. 2, 1872 | Further respecting the emigration of Indian labourers to Surinam, and as to whether the Netherland Labour Regulations should be required to contain all the provisions that are contained in the Treaty. It will be sufficient if they do not conflict with the Treaty .. .. .. .. | 111 |

## NEW GRANADA.

| No. | | Date. | Subject. | Page |
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| 171 | Queen's Advocate | Feb. 12, 1872 | Complaint of Messrs. Robinson and Fleming against the Colombian Government for not having paid the interest, &c., on bonds for 70,000*l*. due on their claims. Her Majesty's Government should not press the Colombian Government, but endeavour to secure the carrying out of the proposal of the President to settle with the bondholders. | 112 |
| 172 | Queen's Advocate | Mar. 14, | Further respecting the claim of Messrs. Robinson and Fleming on the Colombian Government, arising out of the sale of the "Cuaspad." Nothing to prevent that Government seeking a remedy in a British Court for breach of contract. | 112 |
| 173 | Attorney and Solicitor-General | Apr. 15, | Further respecting claims of Messrs. Robinson and Fleming against the Colombian Government. The "Colombia," "Bolivar," and "Cuaspad." Her Majesty's Government should abstain at present from taking any further diplomatic action in the case. The claimants should seek redress in the Colombian Courts, and they are liable to be cited in a foreign Court to appear in a civil suit .. .. .. | 112 |
| 174 | Law Officers and Dr. Deane | July 26, | Further respecting claims of Messrs. Robinson and Fleming on the Colombian Government. Case of the "Cuaspad." No reason to alter opinion of the 15th April last. They should seek redress in a Colombian Tribunal .. .. | 114 |
| 175 | Law Officers and Dr. Deane | Aug. 2, | As to the repudiation of the Colombian Government of bonds for 70,000*l*. in payment of claims of Messrs. Robinson and Fleming and Messrs. Barnett, on sale of the "Colombia" and "Bolivar," and request of Mr Gustavus Siebel for intervention of Her Majesty's Government to obtain payment of the bonds. If he proves his interest in the matter, Her Majesty's Government may lend their unofficial support in support of the claim .. .. .. .. | 114 |
| 176 | Law Officers and Dr. Deane | 29, | Further respecting the claim of Mr. Gustavus Siebel on Colombian Government to the bonds formerly belonging to Messrs. Robinson and Fleming. Or to the extent of support Her Majesty's Government should give him .. .. | 115 |
| 177 | Law Officers and Dr. Deane | 29, | Her Majesty's Government should not interfere with the Colombian Government in support of the claim of Messrs. Robinson and Fleming arising out of the sale of the "Cuaspad" .. .. .. .. .. | 115 |
| 178 | Law Officers and Dr. Deane | 30, | Claim of Messrs. Cofesworth and Powell against the Colombian Government, and proposal of that Government to settle that claim. No objection to Her Majesty's Government signing the Convention for arranging the claim .. .. | 116 |

## PACIFIC ISLANDS.

| No. | | Date. | Subject. | Page |
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| 179 | Law Officers .. | Jan. 11, 1872 | State of affairs in Fiji Islands on account of the assumption of authority by Mr. Sydney Burt and other British subjects on the Council of the native Chief Thakombau, and complaints of Mr. J. Lear and other white settlers there. No formal recognition should be given of any authority at Levuka in lieu of that of King Thakombau. Difficulties that might arise in cases of assault against British subjects. | 117 |
| 180 | Law Officers and Dr. Deane | June 14, | As to claim of a British subject named Daniel Sinclair, who had been imprisoned under the authorities acting for King Thakombau, one of the Chiefs in the Fiji Islands. He is not entitled to the interference of Her Majesty's Government .. .. .. .. .. .. | 117 |

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| No. | | Date. | Subject. | Page |
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| 181 | Law Officers and Dr. Deane | June 14, 1872 | Instructions to be given to Her Majesty's Consul at Fiji that British subjects cannot withdraw themselves from British jurisdiction by assuming the nationality of an uncivilized State, nor can they divest vessels owned by them of their British nationality by placing them under the nationality they claim, and such British subjects are still amenable to British laws. British subjects and their interests may be protected, but no violent measures should be adopted | 118 |
| 182 | Law Officers and Dr. Deane | July 1, | As to British protection to be granted to half-castes residing at Fiji. As they were born there, they are not entitled to British protection | 119 |
| 183 | Law Officers and Dr. Deane | 18, | As to the recognition of the *de facto* Government of the Fiji Islands, and whether British subjects could be considered as citizens beyond the limits of the new State, and if exempt from British jurisdiction | 119 |
| 184 | Law Officers and Dr. Deane | Aug. 9, | Her Majesty's Government may interfere with acts and engagements of British subjects, and declare acts and engagements legal or illegal relating to them, within Fiji | 119 |
| 185 | Law Officers and Dr. Deane | 13, | As to the status of British subjects who claim to divest themselves and their vessels from assuming British character and assume Fijian nationality. Draft notice to British subjects | 120 |
| 186 | Law Officers and Dr. Deane | 29, | As to kidnapping of South Sea Islanders by persons on board the "Nukulan" and "Carl," and the steps to be taken for their punishment. They cannot be punished under Act of Parliament 35 and 36 Vic., cap. 19, and occurrences of this kind are likely to recur under the present arrangement with the Fiji Islands | 120 |
| 187 | Law Officers and Dr. Deane | Nov. 23, | As to the course Her Majesty's Consul in the Fiji Islands should pursue on a writ being served on him by that Government. Must comply with the legal summons of the *de facto* Government | 121 |
| 188 | Law Officers and Dr. Deane | Dec. 9, | Whether the Act passed by the *de facto* Government of Fiji, relating to the British Consul there, and claims on Her Majesty's Government on account of his proceedings, should be recognized? Her Majesty's Government should not recognize the Act of the Fiji Legislature | 121 |

## PARAGUAY.

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| 189 | Law Officers .. | Jan. 3, 1872 | Claims of Msssrs. Percy Burrell and Valpy against the Paraguayan Government. Her Majesty's Government should decline to enter into discussion with Messrs. Valpy and Chaplin on principles of international law. Should adhere to opinion on the subject given in Report of the 30th November, 1871 | 122 |
| 190 | Law Officers .. | Mar. 13, | Further respecting claims of Messrs. Burrell and Valpy against the Government of Paraguay. Must show that they have been treated differently from other subjects to prove a right to compensation | 122 |
| 191 | Law Officers and Dr. Deane | Oct. 28, | As to the claim of Mr. Robert Sales against the Paraguayan Government for 20,000 dollars for murder of his son during a riot at Ascension in 1870. As he probably was the cause of his own death, cannot, without further information, advise that Her Majesty's Government should support the claim | 123 |

## PERSIA.

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| 192 | Queen's Advocate | Mar. 11, 1872 | As to the levy of 559 kraus on sugar belonging to Messrs. Malcolm, Persian subject under British protection at Bushire. Her Majesty's Government should support them to resist the tax, as the Persian authorities have treated them as British subjects, and as they received British protection before the Treaty of Paris | 124 |
| 193 | Law Officers and Dr. Deane | Aug. 13, | No objection to Her Majesty's Government pressing upon Persian Government the insertion of a clause in the new Telegraphic Convention providing for the protection of British officers while on duty in Persia, owing to the murder of Mr. Collins, the Inspector-General of the Persian Telegraphic Staff | 124 |
| 194 | Law Officers and Dr. Deane | Sept. 20, | As to claim of Hafee Moosa Meymenee, a British subject, for being compelled to supply grain to the people of Bushire during the riots there in 1870. Her Majesty's Government should press for settlement of the claim for compensation, and threaten forcible measures if not paid | 125 |
| 195 | Dr. Deane .. | Oct. 26, | As Vice-Consul Ongley did not intend to defraud, nor did he defraud, the Persian subject (Minister of Finance) who had intrusted him with certain moneys for investment in English consols, Mr. Thomson nor the Persian Government have any right to detain him in Persia | 125 |
| 196 | Solicitor-General. | Oct. , | Further respecting the conduct of Vice-Consul Ongley with respect to money intrusted to him by the Persian Minister of Finance. The Persian Government have no right to detain him, and his release should be demanded if he is so detained | 126 |
| 197 | Lord Chancellor . | Nov 1, | Agrees with Dr. Deane and the Solicitor-General as to conduct of Vice-Consul Ongley. The informality of the power of attorney for the transfer of stock was unfortunate, but was no proof of his dishonesty, and it was reasonable to place the sums in his own name as trustee when purchased. Suggests general instructions to Her Majesty's Diplomatic Agents abroad on the subject as to private trusts | 126 |
| 198 | Law Officers and Dr. Deane | 11, | Further respecting the case of Vice-Consul Ongley. Suggestions of Her Majesty's Chargé d'Affaires at Tehrau that communications be made to the Bank of England on the departure of Mr. Ongley from that city. Proper course to pursue for the protection of the stock | 127 |
| 199 | Law Officers and Dr. Deane | 12, | Further respecting the case of Vice-Consul Ongley. Cannot advise Her Majesty's Government to make the communication to the Bank of England (as suggested by Mr. Freshfield to Messrs. Drummond) as to the transfer of the stock in the name of Vice-Consul Ongley into that of Dost Ali Khan Nizam el-Dowlah. A *distringas* should be put on the stock | 127 |
| 200 | Law Officers and Dr. Deane | 18, | Further respecting the case of Vice-Consul Ongley. Instructions proposed to be sent to Mr. Thomson, Her Majesty's Chargé d'Affaires at Tehran, correct. Cannot alter or modify opinion already given on the subject, though Messrs. Drummond, no doubt, desire the guarantee of Her Majesty's Government | 128 |
| 201 | Law Officers and Dr. Deane | 20, | Further respecting the case of Vice-Consul Ongley. Steps taken by the Persian Minister of Finance for placing a *distringas* on the stock belonging to him at the Bank of England are proper | 128 |

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| No. | | Date. | SUBJECT. | Page |
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| 202 | Law Officers and Dr. Deane | Dec. 6, 1872 | Case of Swann *v.* Vines. From the Report of Consul Nugent on the subject of Mr. Vines' conduct, and the refusal of the latter to answer the depositions made, his Consular Commission should be cancelled .. .. .. | 129 |

## PORTUGAL.

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| 203 | Queen's Advocate | Feb. 5, 1872 | As to the intention of the Indian Government to withdraw certain privileges enjoyed by the Portuguese factory at Surat. Doubt as to the privileges being granted to the factory or to the Portuguese Government, but however that may be, the existing system is an abuse of the original privilege, and should be discontinued .. .. .. .. | 129 |
| 204 | Queen's Advocate | July 19, | Proposed letter to the Portuguese Minister in London on subject of the Quarantine Regulations in force. Case of the "Jessie." Her Majesty's Government justified in making representations against the Regulations, demanding compensation for her detention at Berlin .. .. | 130 |
| 205 | Queen's Advocate | Aug. 23, | As to instructions to be sent to Sir Charles Murray, on account of the duties levied on the sale of the goods saved out of the wreck of the British vessel "Spindrift" on Island of St. George, Azores. Compensation should be demanded for the owners .. .. .. .. .. | 131 |
| 206 | Queen's Advocate | Sept. 28, | Further respecting the case of the wreck "Spindrift." Duties were levied on a valuation improperly fixed by Portuguese law. An additional reason for compensating the owners of the cargo .. .. .. .. .. | 132 |
| 207 | Law Officers and Dr. Deane | Nov. 29, | As to instructions to be sent to Her Majesty's Chargé d'Affaires at Lisbon, relative to the claim against the Portuguese Government by Messrs. Hickie, Son, and Dugge and Graham and Co., for condemnation of a cargo of butter. Redress should be demanded, owing to conduct of the Customs authorities .. .. .. .. | 132 |

## PRUSSIA.

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| 208 | Attorney and Solicitor-General | Apr. 13, 1872 | As to the proposed new Copyright Convention with Germany. Approves, with certain modifications. Suggests the exclusion of photographs, rather than include them. Remarks on Articles VI and VII .. .. .. .. | 133 |

## RUSSIA.

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| 209 | Queen's Advocate | Mar. 8, 1872 | Her Majesty's Consul-General at Odessa may administer to the estate of John Oliver, who died intestate at Kherson, although the widow is a German by birth .. .. | 134 |
| 210 | Queen's Advocate | May 4, | Her Majesty's Government cannot take diplomatic action against authorities at Nicolaieff, for having vaccinated Consul Stevens with impure lymph .. .. .. | 134 |
| 211 | Law Officers and Dr. Deane | July 26, | As to the course Her Majesty's Government should take with respect to request of Messrs. Elkan and Co. for their intervention to obtain reimbursement of money paid by them on freight of machinery shipped to Kertch. The parties must seek redress in a Russian Court .. .. .. | 135 |
| 212 | Law Officers and Dr. Deane | Aug. 21, | Further respecting Messrs. Elkan and Co.'s claim. No reason to alter former opinion .. .. .. .. | 135 |

| No. | | Date. | SUBJECT. | Page |
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| 213 | Law Officers and Dr. Deane | Nov. 20, 1872 | As to the validity of marriage in the British Chapel at Riga. The Consular Marriage Act refers only to marriages in British Consulates. Marriages by a priest in holy orders in the British Chapel at Riga, being valid by the *lex loci*, are valid everywhere .. .. .. .. | 135 |

## SIAM.

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| 214 | Queen's Advocate | Jan. 29, 1872 | As to course Her Majesty's Government should pursue on the master of the British vessel "Burlington," being a German, having shot two of his crew and ill-treated four others, and the claim set up by the German Consul at Bangkok to jurisdiction in the matter. According to international law, the master and crews of vessels in waters of a foreign country, are only amenable to the Courts of the country to which they belong .. .. .. | 136 |

## SPAIN.

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| 215 | Law Officers .. | Jan. 3, 1872 | Trial of Captain Richards for the alleged murder of a Krooman by a Court of Inquiry at Brass, Fernando Po, and who was acquitted. Should be sent for trial before the Court in the River Bonny, under the Order in Council for trial of criminal offences .. .. .. .. | 137 |
| 216 | Queen's Advocate | 6, | As to levy of a fine on the captain of the British vessel "Grange" for not having exhibited his manifest at Marin, although he was told it was not necessary by the Civil Government at Pontevidia. The British Vice-Consul at Marin should appeal, as the Spanish laws prescribe, and if he should not receive proper treatment remonstrance may be made .. .. .. .. .. .. | 137 |
| 217 | Law Officers .. | Jan. 9, | As to the detention of two vessels at Liverpool under suspicion of contravening the Foreign Enlistment Act. Not sufficient grounds for detention, but they should be carefully watched, as they are alleged to be destined for Cuba .. .. | 138 |
| 218 | Law Officers .. | 13, | Case of the suspected vessels "Great Northern" and "Midland." Nothing further to alter the opinion already given. The vessels should still be watched as to the nature of their repairs .. .. .. .. .. .. | 138 |
| 219 | Law Officers .. | 17, | Not sufficient grounds to warrant Her Majesty's Government detaining the steam-vessel "Scud," suspected of being intended for service contrary to the Foreign Enlistment Act .. | 139 |
| 220 | Law Officers .. | 20, | Further relating to the case of the "Great Northern" and "Midland," suspected of contravening the Foreign Enlistment Act. Offer of Mr. Ross to show reasonable evidence of their proposed employment may be accepted, but the trip taken must be while they are in custody of Her Majesty's Government either by the marines or the coast-guard .. | 139 |
| 221 | Law Officers .. | 22, | Further relating to the vessels "Great Northern" and "Midland" at Liverpool. Mr. Hale may inform Messrs. Duncan, Hill, and Parkinson there are no objections to Mr. Ross dealing with the two vessels, and when he has become the registered owner, Mr. Hale should be informed of their use and destination .. .. .. .. .. | 140 |
| 222 | Law Officers .. | 24, | Further relating to the vessels "Great Northern" and "Midland" at Liverpool. Mr. Hale may be authorized to inform Messrs. Duncan, Hill, and Parkinson, on satisfactory evidence being produced on the part of the registered owner of the two vessels of their destination they may be released from control of the customs authorities .. .. .. | 140 |
| 223 | Law Officers .. | 25, | Further relating to the vessels "Great Northern" and "Midland." Mr. Ross may be informed that on production of satisfactory evidence that the vessels are intended for lawful traffic they will be released .. .. .. .. | 141 |

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| 224 | Law Officers | Jan. 26, 1872 | Further relating to the vessels "Great Northern" and "Midland." As soon as Mr. Ross, as registered owner of the vessels, produces satisfactory evidence of their destination, they may be released. Messrs. Gregory, Rowcliffe, and Co. may be informed on his behalf that no warrant has as yet been issued for their detention | 141 |
| 225 | Law Officers | 27, | Further relative to the vessels "Great Northern" and "Midland." As to the intention of Messrs. Gregory, Rowcliffe, and Co., on behalf of Mr. Ross, to apply to the Court of Queen's Bench for a mandamus to compel the release of those vessels. They should be informed that Her Majesty's Government will not at present issue a warrant for their detention | 142 |
| 226 | Law Officers | 27, | The offer of Messrs. Gregory, Rowcliffe, and Co., for Mr. Ross, to give necessary explanations with respect to the vessels "Great Northern" and "Midland" should be accepted. The Spanish Minister should be informed, as he may wish some one to be present at the interview | 142 |
| 227 | Queen's Advocate | 27, | As to the detention of the British vessel "Anne Lucy" at the Philippine Islands, and the imprisonment of the carpenter and fine inflicted, and as to the claim of Messrs. Loney and Co. on Spanish Government in consequence. The ancient Treaties with Spain are not applicable to the Spanish Colonies, as interpreted by Lord Aberdeen in 1845, and no difference should be made between persons and produce; but by the comity of nations, British subjects trading with Spanish Colonies are entitled to all the privileges as obtained by the Treaty with Spain. This claim should be brought to the attention of the Spanish Government, as well as that of the case of the "Banda" | 143 |
| 228 | Law Officers | 29, | Further relative to the case of the "Great Northern" and "Midland." As to the reply to be returned to Messrs. Gregory and Rowcliffe, who propose to attend with Mr. Ross to explain. Explanations should be in writing. The Board of Customs should indemnify the Mersey Dock and Harbour Board | 144 |
| 229 | Law Officers | 31, | Further relative to the case of the "Great Northern" and "Midland." The custom-house authorities at Liverpool may be instructed not to place any further impediment in the removal of the vessels if Mr. Ross has complied with all the requirements of the law | 144 |
| 230 | Law Officers | Feb. 3, | As to the suspected vessel "Princess Royal." Customs authorities should not detain her without previous communication with Her Majesty's Treasury; but she should be watched, as also another vessel, the "Titania," suspected for the republicans in Cuba | 145 |
| 231 | Law Officers | 4, | Further relative to the vessels "Great Northern" and "Midland." The vessels may now be allowed to go into any dock of Liverpool Mr. Ross may desire, but they should be watched, and any change of ownership be properly reported | 145 |
| 232 | Law Officers | 6, | Further relative to the vessels "Great Northern" and "Midland, and demand of Messrs. Gregory and Rowcliffe, on behalf of Mr. Ross, for the unconditional release of the vessels. Directions may now be sent for their release | 146 |
| 233 | Law Officers | 9, | Further relative to the vessels "Great Northern" and "Midland. Notice of Mr. Ross sent by Messrs. Gregory and Rowcliffe of his intention to demand damages and costs of the proceedings of Liverpool Customs authorities for the detention of the vessels. The Queen's Proctor should be instructed to oppose the application, and the opinion of the highest Tribunal should be obtained on the question | 146 |
| 234 | Queen's Advocate | 16, | Señor Rances, the Spanish Minister in London, should be informed that the official character of the Spanish Consul at Liverpool will not protect him against an action for libel published in a newspaper | 147 |

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| 235 | Queen's Advocate | Feb. 16, 1872 | Case of the "Tyne Queen." Her Majesty's Government would be justified in making a representation to the Spanish Government in favour of the owners, in consequence of the vessel being ordered away from Huelva by the Spanish health authorities | 147 |
| 236 | Queen's Proctor | 29, | Draft of an affidavit to be made by one of the Under Secretaries of State for Foreign Affairs on indemnity being demanded for detention of the "Great Northern" and "Midland" on suspicion of a breach of the Foreign Enlistment Act. Local authorities have a right to detain vessels on suspicion. Question might now be raised | 148 |
| 237 | Queen's Advocate | Mar. 2, | As to further steps to be taken by Her Majesty's Government to obtain the apprehension and punishment of the murderers of Mr. J. Robert, a British subject, at San Juan del Puerto, near Huelva, in Spain, in employ of the railway Company there | 148 |
| 238 | Attorney and Solicitor-General | 26, | As to the arrest and imprisonment of a number of British subjects. natives of the Virgin Islands, by Spanish authorities at Crab Islands and Porto Rico, on a charge of murder, of which they were innocent. Steps to be taken by Her Majesty's Government to obtain redress and compensation. Inquiries should be instituted as to the letters said to have been addressed by these men to the Consul at St. John's, and also into the conduct of Acting Consul Cowper | 149 |
| 239 | Attorney and Solicitor-General | Apr. 30, | Complaint of Mr. A. Holt, on account of the loss of 167*l*. 10*s*. 1*d*. on the differential duties imposed at Manila on a cargo of goods shipped by Messrs. Ker, Bolton, and Co. to Hong Kong, and then transshipped in British and Prussian vessels to Manila. This is a case of hardship, and may be represented as equitably deserving of redress, but claim cannot be demanded as by strict right | 149 |
| 240 | Attorney and Solicitor-General | May 15, | The will of Miss Perry is valid according to Spanish law, and neither Mr. Layard nor the English Consul had any right to take possession of the property. If she had died intestate then they might have done so | 150 |
| 241 | Law Officers and Dr. Deane | 24, | As to a dispute between the Supreme Court at Hong Kong and the Spanish Consul as to the right of administering to the estate of a Chinaman who died on board the Spanish vessel "Attagracia" on the high seas, on a voyage to the Havana. Opinion of Sir J. D. Harding on Consular rights and privileges correct, and despatch of Duke of Newcastle on the subject right and proper | 150 |
| 242 | Law Officers and Dr. Deane | 27, | Further respecting the case of the "Titania," alleged to have been purchased for the Cuban insurgents. Should not detain her, but the vessel should be watched | 151 |
| 243 | Law Officers and Dr. Deane | 29, | As to the detention of the British vessel "Lark," of Jamaica, at Cuba, and imprisonment of persons on board of her. Claim for 16,000*l*. is excessive, and inquiries should be made before such a claim is demanded | 151 |
| 244 | Law Officers and Dr. Deane | June 6, | No objection to the communication to Spanish Government of the depositions of three British naval officers of an affair which took place at Vigo during a visit of the flying squadron to that port | 152 |
| 245 | Law Officers and Dr. Deane | 14, | As to the detention of the American vessel "Edgar Stewart" at Jamaica, and subsequent release, suspected of being intended for the Cuban insurgents | 152 |
| 246 | Law Officers and Dr. Deane | 20, | As to debt alleged to be due to Mr. Wm. Underhill by a Spanish railway Company under a contract. Her Majesty's Government ought not to interfere diplomatically until justice has been denied to him by the Spanish Tribunals | 153 |
| 247 | Law Officers and Dr. Deane | 29, | On subject of the alleged misconduct of certain seamen belonging to Her Majesty's ship "Royal Alfred," in the caves of Bellarmar, near Matanzas, in Cuba. Inquiry by Admiral Inglefield is satisfactory, that the men were not to blame | 153 |

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| 249 | Law Officers and Dr. Deane | July 1, | As to instructions to be given to Her Majesty's Consul-General at Havana in case any Cuban insurgent should arrive on board an English mail-steamer and an application be made for his arrest | 154 |
| 250 | Law Officers and Dr. Deane | 9, | Further respecting the detention at Jamaica of the American vessel "Edgar Stewart," suspected of aiding the Cuban insurgents. No justification for her detention, and the conduct of the Governor of Jamaica in releasing her should be approved. Her subsequent capture and escape of some of her crew does not alter their opinion already expressed | 154 |
| 251 | Law Officers and Dr. Deane | 9, | Further relative to the case of the "Edgar Stewart." Points raised by Sir Peter Grant, Governor of Jamaica, as to the interpretation of certain provisions in the Foreign Enlistment Act | 155 |
| 252 | Law Officers and Dr. Deane | 23, | As to the complaint of Messrs. Loney, owners of the "Anne Lucy," against the Spanish Customs authorities at Iloilo, and question of British rights under the Treaties as applying to the Spanish Colonies. Her Majesty's Government would be justified in making a strong remonstrance to Spanish Government on the act of its officers, and should claim compensation. Conduct of Mr. Higgin should be explained | 156 |
| 253 | Attorney and Solicitor-General | Aug. 26, | As to the steps to be taken on the case of the "Steady," alleged to have been purchased at Liverpool for the Cuban insurgents. No sufficient reason for seizing or detaining her. Not expedient to try the question before the Court as to "reasonable cause of detention" of a vessel | 156 |
| 254 | Law Officers and Dr. Deane | Sept. 28, | As to an outrage committed on Mr. Townsend by a party of natives at Fernando Po, which arose out of a debt due to him, and his having taken two slaves of the debtor's as security. His conduct entirely illegal if the statement of Mr. Thormählen can be credited | 157 |
| 255 | Law Officers and Dr. Deane | Oct. 4, | As to the right of Her Majesty's Government to prevent Spanish revenue vessels from coming within territorial waters of Gibraltar, and in taking measures to prevent the capture of vessels by Spanish revenue vessels within the territorial limits; and their right to seize and detain Spanish guarda-costas and imprison the crews in the event of violation of British territory | 157 |
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| 258 | Law Officers and Dr. Deane | 9, | Further relative to the British vessel "Anne Lucy" and the imprisonment of the crew in the Philippine Islands. They are entitled to compensation on account of their imprisonment | 159 |
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| 262 | Law Officers and Dr. Deane | 13, | Further relative to the claim of Miss Jane Beecroft on the Spanish Government as to her property in Fernando Po. Her Majesty's Government should not support this claim | 160 |
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| 269 | Law Officers | Mar. 6, | What steps should be taken by Her Majesty's Government on the proposal of the Bey of Tunis for the establishment of Mixed Tribunals for deciding civil and commercial suits between natives and foreigners, the French Government having agreed to it. Her Majesty's Government might approve the principle | 164 |
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| 274 | Queen's Advocate | Feb. 24, | As to the complaints against certain Regulations of the Turkish Government relative to the export of silk cocoons. New Regulations would interfere with those intended to be guarded against by abolishing permits under Article II of Treaty of the 29th April, 1861 | 168 |
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| 276 | Attorney- and Solicitor-General | Apr. 8, | There does not appear to be any objection to the new Civil, Correctional, and Criminal Tribunals to be established at Constantinople. Foreigners not placed in a worse position than they were before | 168 |
| 277 | Attorney- and Solicitor-General | 17, | As to the proposed alterations to be made in regard to certain fees levied at Her Majesty's Consulate-General at Constantinople. Firman fees, and Harbour-masters' fees, not received on account of Her Majesty's Government, should be stated in the Order in Council | 169 |
| 278 | Law Officers and Dr. Deane | June 7, | Order in Council of the 22nd April last on fees to be charged for ships' Firmans | 169 |
| 279 | Law Officers and Dr. Deane | July 4, | On complaint of certain barristers and attorneys practising at Constantinople against permission given to unprofessional advocates to conduct cases in the Supreme Court, and request for the Rules to be altered. If they were correct, Sir P. Francis should be informed of the complaint | 170 |
| 280 | Law Officers and Dr. Deane | 25, | As to the reply that should be returned to Mr. McCoan, editor of the "Levant Herald," on the suppression of that paper by the Porte | 170 |
| 281 | Law Officers and Dr. Deane | Aug. 2, | Further as to the law for the establishment of the new Turkish Tribunals. No observations necessary on the Appendix to the law received by Her Majesty's Government from Server Pasha | 171 |
| 282 | Law Officers and Dr. Deane | 9, | Further relative to the suppression of the "Levant Herald" by the Porte. Mr. McCoan's application should not be reconsidered | 171 |
| 283 | Law Officers and Dr. Deane | Sept. 20, | The Lemberg-Jassy Railway Company in Roumania. Intervention of Her Majesty's Government cannot be exercised in favour of British subjects who have contracted with the Austrian Company, and who may have, by the finding of a jury, to pay large sums as compensation for the purchase of lands, but instructions may be sent to Mr. St. John to continue the line of conduct pursued by him | 171 |
| 284 | Law Officers and Dr. Deane | Oct. 15, | Claim of Mr. Zalzal, agent of a firm trading in England, against a Turkish subject named Wehbé Turk, and suggestion for the withdrawal of British protection to Mr. Zalzal when the case is settled. Agents to British firms are entitled to British protection. Agree with views of Sir P. Francis on this subject | 172 |
| 285 | Law Officers and Dr. Deane | 29, | As to the course to be pursued by Her Majesty's Government with regard to the arrest of Feroz Shah, son of the King of Delhi, who was engaged in the Indian mutiny, and who is at Constantinople | 173 |
| 286 | Law Officers and Dr. Deane | Nov. 4, 1872 | Marriages abroad. As to the application of the Consular Marriage Act to Maltese, and Colonial British subjects generally. Valid marriages may be obtained independently of the Act, either by the *lex loci*, or other laws affecting the parties | 173 |
| 287 | Law Officers and Dr. Deane | 30, | On application from the Chartered Mercantile Bank of India for instructions to be sent to Her Majesty's Consul at Damascus, to stop Joseph Joshua from leaving that city or selling his property there, pending legal proceedings in the Consular Court. Her Majesty's Government cannot give them the assistance asked for | 174 |
| 288 | Law Officers and Dr. Deane | Dec. 6, | As to the dispute between the North of England Steam-ship Owners Association, and the Turkish Government, relative to the payment of a share of the expenses on account of the grounding of the "Otterburn." Her Majesty's Government cannot interfere until Mr. Welford, on the part of the Company, proceeds against the charterers | 174 |
| 289 | Law Officers and Dr. Deane | 14, | As to the right of British subjects to take part in the coasting trade of Turkey. Her Majesty's Government may insist on the right of British ships to the coasting trade within the Ottoman dominions as regards both goods and passengers, but the Bosphorus is part of the port of Constantinople, and the navigation within its limits may be restricted according to the wishes of the Turkish Government | 174 |
| 290 | Law Officers and Dr. Deane | 16, | Slave Traffic between the North Coast of Africa and Constantinople through Malta. The views of Sir P. Francis and Sir C. Straubenzee are both correct | 175 |
| 291 | Law Officers and Dr. Deane | 23, | Further relative to the desire of the North of England Steam-ship Owners Association for intervention of Her Majesty's Government in their dispute with the Turkish Government relative to the "Otterburn." Her Majesty's Government should not interfere | 176 |

## UNITED STATES.

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| 293 | Law Officers | 9, | The claim of Messrs. Leech, Harrison, and Forwoode should not be presented to the Commissioners at Washington | 177 |
| 294 | Law Officers | 20, | Claims of Messrs. Smyth and Barry and of Messrs. Irvine and Co. against the United States' Government. Reply proposed to be sent to them as to the decision of the Commissioner is proper | 177 |
| 295 | Law Officers | 25, | Further relative to the claim of Messrs. Leech, Harrison, and Forwoode against the United States' Government on account of goods destroyed by the Federal troops. They should furnish more particulars of the destruction of their cotton goods, before their claims can be recommended to the United States' Government | 177 |
| 296 | Law Officers | Feb. 17, | As to Bills to be presented to Parliament giving effect to Treaties with United States and Portugal for the abolition of the Slave Trade Mixed Commission Courts, and observations of Mr. Jenkyns on the incorrect use of the term "maritime prize." The Bill with regard to Portugal may be presented, but have made alterations in draft of Bill to Parliament, relative to the United States | 178 |

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| 298 | Law Officers | 23, | Claim of Mrs. Cassin on the United States' Government. Note of Mr. Seward, forwarded by Sir E. Thornton, on the subject, may be communicated to Messrs. Ellman, Raper, and Ellman | 179 |
| 299 | Law Officers | Mar. 4, | Claims Commission. On the Report of the Commissioners of Claims under the Act of Congress of the 3rd March, 1871, as regards the presentation of claims of foreigners domiciled in the United States during civil war, on account of supplies taken for United States' army. Such parties have an equitable claim, as granted to loyal citizens of the country | 180 |
| 300 | Law Officers | 11, | Further respecting the claims of Messrs. Leech, Harrison, and Forwoode against United States' Government for destruction of their cotton goods by Agents of the Government. Cannot recommend the claim for support of Her Majesty's Government | 180 |
| 301 | Law Officers | 18, | As to the claim of Mr. Trenchard on account of the seizure of his vessel, the "Nutfield," at Charleston, by Federal forces. Her Majesty's Consul at Charleston should institute inquiry | 181 |
| 302 | Law Officers | 19, | Claims Commission. Instructions should be sent to Mr. Howard not to present the claim of Messrs. Hayman, of Liverpool | 181 |
| 303 | Attorney- and Solicitor-General | 20, | Claims Commission. As to the interpretation to be put on the XIVth Article of the Treaty of Washington, with respect to extension of time for presentation of claims. The practice of the Commission of 1853 to form the precedent | 182 |
| 304 | Attorney- and Solicitor-General | Apr. 4, 1872 | As to the claim of Mr. Stewart against the United States' Government. No reason to alter opinion already given on his case | 183 |
| 305 | Attorney- and Solicitor-General | 19, | Further relative to claim of Mr. Stewart against the United States' Government. May inform him that Her Majesty's Government decline to interfere with arguments in support of the claim, or in the course he may pursue in the Courts of Law | 183 |
| 306 | Attorney- and Solicitor-General | 19, | As to the claim of Mr. J. M. Vernon against the United States. Would not advise Her Majesty's Government further to press that Government to release Mr. Vernon formally from the pledges he has given | 184 |
| 307 | Attorney- and Solicitor-General | 27, | Further respecting Mr. Hansard's second claim against the United States' Government. Her Majesty's Government might instruct Sir E. Thornton to support this claim, so as to induce the United States' Government to provide for payment of it | 184 |
| 308 | Attorney-and Solicitor-General | 27, | As to the instructions that should be sent to Sir E. Thornton relative to the claim of Mr. McLeod on account of the detention of the "Mary Agnes." The vessel was seized for breach of the revenue laws | 185 |
| 309 | Attorney- and Solicitor-General | 27, | No reason to alter views on subject of the claim of Mr. Vernon already given. He cannot reasonably expect to be released from pledges which he has given the United States' Government not to return to the United States | 185 |
| 310 | Attorney- and Solicitor-General | 27, | As to the claim of the owners of the British vessel "Sarah M. Newhall" against the United States' Government. They have no right to expect Her Majesty's Government to obtain for them what they could have obtained by their own endeavours in the ordinary course of law | 185 |
| 311 | Attorney- and Solicitor-General | Apr. 30, 1872 | Further relative to the claim of Mr. Vernon. No reason to modify their opinion already given on his case | 186 |
| 312 | Attorney- and Solicitor-General | May 10, | On the request of Messrs. Bateson, Robinson, and Co. for interference of Her Majesty's Government in the claim of Messrs. Shand, Higson, and Co. against the United States' Government. May present the claim to the favourable consideration of the United States' Government; but Her Majesty's Government are not called on to interfere in favour of the assignees when injured parties have long remained quiescent | 186 |
| 313 | Attorney- and Solicitor-General | 23, | Further respecting the claim of Mr. Stewart against the United States' Government. Should inform him that the proposed terms for compromising his claim cannot be acceded to, but if he wishes to withdraw his claim, his request would be complied with | 187 |
| 314 | Law Officers and Dr. Deane | 27, | Further respecting the claim of Mr. Trenchard against the United States' Government for seizure of his vessel, the "Nutfield." In consequence of misstatements, Her Majesty's Government should decline to press the claim | 187 |
| 315 | Law Officers and Dr. Deane | 28, | Claims Commission. By the XIIth Article of the Treaty of Washington, the Commissioners are required to meet at Washington as soon as they were named, and they cannot meet at any other place or give any decision without it being open to discussion | 187 |
| 316 | Law Officers and Dr. Deane | June 3, | Claims Commission. As to the instructions to be sent to Mr. Howard on the Report of Mr. Carlisle relative to the adjournment of the Claims Commission to Newport. He should protest against any award being made by the Commissioners in any other place but Washington | 188 |
| 317 | Law Officers and Dr. Deane | 5, | Further respecting the claim of Messrs. Shand, Higson, and Co., and the denial of Messrs. Bateson and Co. that the claimants had remained quiescent. They should produce evidence of the truth of their statement | 188 |
| 318 | Law Officers and Dr. Deane | 10, | Claims Commission. On question raised whether the owners of the "Napier," which had been condemned by an American Prize Court, could bring their claim before the Commission. To wait for the decision of the Commissioner on the memorial of Mr. Ryerson | 189 |
| 319 | Law Officers and Dr. Deane | 10, | Claims Commission. On letter of Messrs. Kelly, Keene, and Roper, with memorial of Mr. Edward Thompson, in support of the claim of Mr. Southall against the United States' Government refused to be presented by Mr. Howard. They should be informed that Mr. Howard followed the decision given in a similar case | 189 |
| 320 | Law Officers and Dr. Deane | 11, | Claims Commission. As to eighteen claims filed against Her Majesty's Government, and forwarded by Mr. Howard. No observation to make on the subject | 190 |
| 321 | Law Officers and Dr. Deane | 20, | Claims Commission. As to claim of Mr. William W. Hubbell against Great Britain. Objections taken in Mr. Carlisle's demurrer are rightly made. No further observations thereon | 190 |
| 322 | Law Officers and Dr. Deane | July 1, | Claims Commission. On complaint of Mr. Isaac Parr against Mr. Howard's refusal to present his memorial and that of William Parr and Elizabeth Luck. He should be informed that Mr. Howard was right. Before interference can be granted further evidence must be given of their losses | 190 |
| 323 | Law Officers and Dr. Deane | 4, | Further relative to the claim of Mr. Stewart, who complains of certain portions of his claim being omitted from his memorial. Should refer him to letter to him of the 30th January, 1872 | 191 |

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| 324 | Law Officers and Dr. Deane | July 6, 1872 | Claims Commission. On letter from Mr. Russell Gurney wishing to know if there was any objection to the proposed adjournment of the Commission to Newport, provided the awards were made at Washington. Informal meetings may take place there, but all formal meetings should take place at Washington | 191 |
| 325 | Law Officers and Dr. Deane | 10, | Further relative to the claim of Messrs. Shand and Higson against the United States' Government. The evidence now produced by Messrs. Robinson and Co. would warrant the interference of Her Majesty's Government in their behalf | 192 |
| 326 | Law Officers and Dr. Deane | 22, | Further relative to the claim of Mr. Stewart. No compensation should be granted to him by Her Majesty's Government, on the withdrawal of his claim against the United States' Government | 192 |
| 327 | Law Officers and Dr. Deane | 30, | On request of Mr. John Chapple for the assistance of Her Majesty's Government to obtain the distribution of the property left by the late George Thomas Chapple in the State of Virginia, to his next of kin. He should seek redress in the proper Courts in America | 192 |
| 328 | Law Officers and Dr. Deane | Aug. , | Claims Commission. As to the meeting of the Commission at Newport. No objection to their meeting there for the purpose of adjourning and fixing the next meeting. Mr. Howard should not protest or take action until they have met | 193 |
| 329 | Law Officers and Dr. Deane | 26, | Claim of Mrs. Mary Cassin. As to the reply to be given to Messrs. Ellman, Raper, and Co. Must see the evidence on the subject before application can be made in her favour | 193 |
| 330 | Law Officers and Dr. Deane | Sept. 2, | On the subject of placards being posted up near the London and St. Katherine's Docks, encouraging British subjects to serve on board the United States' vessel "Wabash." The attention of the American Minister in this country might be called to the notice | 194 |
| 331 | Law Officers and Dr. Deane | 19, | Approves instructions to Sir E. Thornton relative to the abduction of Dr. R. Bratton from Canadian territory | 194 |
| 332 | Law Officers and Dr. Deane | 23, | As to the treatment of the British vessel "Grace" by the local authorities of Darien, United States. Compensation should be made by United States to the parties, on account of the irregular proceedings of the Court which tried the case | 194 |
| 333 | Law Officers and Dr. Deane | 30, | Claims Commission. Further as to the meeting of the Commissioners, and the validity of the awards under the Treaty of Washington. Exchange of notes between the two Governments as to place of meeting may be agreed to | 195 |
| 334 | Law Officers and Dr. Deane | Oct. 14, | As to claim of Mr. Goddard for flour burnt on board the "Brilliant" by the "Alabama." This claim cannot be admitted | 195 |
| 335 | Law Officers and Dr. Deane | 14, | As to the claim of the Hawaiian Government on account of the seizure and destruction of their vessel the "Harvest" by the "Shenandoah," and reply to be sent to Mr. Manley Hopkins. No neutral has any right to complain of another neutral for furnishing munitions of war to a belligerent | 196 |
| 336 | Law Officers and Dr. Deane | 28, | On letter from Mr. W. Carsons, claiming, on behalf of Messrs. Shaw and Finlay, compensation for the destruction of some Indian corn and lard on board the "La Fayette" by the "Alabama." This claim cannot be enforced | 196 |
| 337 | Law Officers and Dr. Deane | Nov. 2, | On claim of Messrs. Hamilton, Megan, and Thompson for the destruction of grain on board the "La Fayette" by the "Alabama." Her Majesty's Government should not entertain the claim | 197 |
| 338 | Law Officers and Dr. Deane | 20, | As to the reply to be given to Mr. McFeely on his complaint that the Washington Commission have rejected his claim and request for aid to have his case reopened. It should be refused | 197 |

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| 339 | Law Officers and Dr. Deane | Dec. 6, 1872 | As to the liability of Her Majesty's Government to compensate British subjects and others for destruction of their property by the "Alabama" and similar vessels. The liability rests with the country under whose flag the "Alabama" was sailing | 197 |
| 340 | Law Officers and Dr. Deane | 12, | Further relative to the claim of Messrs. Shand, Higson, and Co. against the United States' Government, and reply of that Government to the representation of Sir E. Thornton. If Messrs. Johnson had no interest in the cotton destroyed, Messrs. Shand, their assignees, cannot be supported. Must have the papers before further reply is sent | 198 |
| 341 | Law Officers and Dr. Deane | 16, | Claims Commission. On subject of the correspondence relative to the testimony of Sir George Cartier to rebut statements made in two memorials from citizens of the United States presented to the Commission. Approve Mr. Howard's suggestion that the evidence of Sir George Cartier should be taken before the American Consul-General in London, and that Dr. Deane would be the proper person to take charge of the case | 198 |
| 342 | Law Officers and Dr. Deane | 17, | As to the claim of Dr. Tumblety against the United States' Government for his arrest and imprisonment on two occasions in 1865. He may be informed that his case will be brought to the consideration of the United States' Government, but that he had better wait for the result of the inquiry by the Commission on his first arrest, before he brings forward that of the second | 199 |

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| 344 | Queen's Advocate | Mar. 4, | Claim of Mr. Pierre Sora against the Government of Venezuela for losses by proceedings of the party in arms against the present Government. He is not entitled, as a British subject, to any other protection for his landed property than is granted by the Venezuelan Government to native subjects | 200 |
| 345 | Queen's Advocate | 9, | Her Majesty's Government are not called upon to interfere further in the proceedings of the Venezuelan authorities towards Evaniste E. Abbott, a British subject, seized for a soldier while working on an estate near Petaré | 201 |
| 346 | Queen's Advocate | 11, | American claims on the Venezuelan Government, and draft reply from Sir E. Thornton, Her Majesty's Minister at Washington, on the steps taken by the United States' Government to obtain a settlement of them, as well as letter from Mr. Eastwick, the representative of British bondholders, show these claims to be international. The case of the seizure of the American steamers, as set forth in the "Daily Patriot," cannot be considered as an international claim | 201 |
| 347 | Law Officers and Dr. Deane | June 3, | As to the seizure by the Colonial authorities at Trinidad of the vessel "Violet," on suspicion of conveying arms to Venezuela. Approves instructions of Lord Kimberley to Governors of British Guiana and Grenada relative to the export of arms. If the conduct of the Venezuelan Consul-General on trial proves to be illegal, his removal from office should be demanded | 201 |
| 348 | Law Officers and Dr. Deane | Sept. 6, | Further relative to the outrages committed against British subjects (Mr. Jos. Harris, and Mr. O'Connor), by General Pulgar, President of Zulia, and his brother, Rafael Pulgar. The demand for the dismissal of General Pulgar should not be further pressed, as Mr. Harris was illegitimate and not a British subject. Children born out of wedlock take their nationality from their mother, even though subsequently recognized by the father | 202 |

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| 349 | Law Officers and Dr. Deane | Nov. 12, 1872 | As to the arrest and imprisonment of Mr. Luciano Agostini, a British subject at Caracas, for refusal to supply a baggage-horse for the public service. As Mr. Agostini denies having received due notice, and having committed disrespectful conduct to the authorities, instructions should be sent to Her Majesty's Chargé d'Affaires to demand apology and compensation, but 3,000*l*. asked for by the claimant, is unreasonable | 203 |

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ARTHUR WALMISLEY.

*Foreign Office,*
*February* 1880.

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*Foreign Office,*
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CONFIDENTIAL.

# LAW OFFICERS' REPORTS: 1872.

## Africa.

### No. 1.

*The Law Officers of the Crown to Earl Granville.—(Received January* 16.)

*Temple, January* 15, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 6th instant, stating that he was directed to transmit to us the draft of an Order in Council which has been prepared at the Foreign Office providing for the regulation of Consular jurisdiction in certain territories on the West Coast of Africa. That the necessity for conferring magisterial powers upon Her Majesty's Consul has arisen in consequence of a decision of the Chief Justice of Cape Coast Castle, which was confirmed by our Report of the 12th July, 1870, that the constitution of the Local Courts of Equity, which had hitherto exercised jurisdiction to a limited extent over British subjects within those territories, could not be considered as legal. That an explanatory memorandum accompanies the draft Order indicating the points upon which differences of opinion exist, together with letters from the Consul, the Colonial Office, and the Board of Trade, conveying their views upon the proposed Order, and suggesting amendments, some of which have been embodied in the paper now sent to us.

Lord Enfield was pleased to request that we would take the draft Order in Council into our consideration, together with the papers that accompany it, and furnish your Lordship with our opinion whether it can be passed in its present shape, or, if not, that we would make such alterations or modifications as after careful consideration may appear to us advisable.

A draft of the proposed Rules and Regulations providing for the due execution of the Order in the Consular Court, as prepared by the Consul, was also inclosed for sanction or alteration if necessary.

In obedience to your Lordship's commands we have the honour to report—

That we have made one or two alterations in the text of the Order which we have initialed.

With regard to the Order generally we beg to offer, for your Lordship's consideration, the following observations. The Order does not contain any provision for the procedure of the Courts of Equity, and we suggest that additional power should be given to the Consul in the 24th section to enable him to settle such procedure. The powers granted to the Consul in section 9 by the words, "or such other punishment as he may deem advisable," appear to us to be too large.

The words suggested to be added in section 19, "by Her Majesty's Consul," seem to us to be open to question; we should have thought that the words "by the said Chief or Chiefs" would be more appropriate.

In section 21 it is provided that a minute of the proceedings in every case before a Court of Equity shall be signed by the Consul. If this is for the purpose of authenticating the proceedings, the provision will be inappropriate, as the Consul, as far as we understand the Order, will not be necessarily present at the sittings of those Courts.

We think that section 26 may be useful, and should be retained.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 2.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 12.)

*Temple, February* 12, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 6th instant, stating that, with reference to our Report of the 15th ultimo, therewith returned to us, stating our opinion upon the proposed Order in Council for the regulation of Consular jurisdiction in certain territories on the West Coast of Africa, he was directed by your Lordship to inform us that the following alterations had been made in the Order in accordance with our suggestions:—

1. Section 9. That the words, "or such other punishment as he may deem advisable," were struck out.

2. Section 19. That our suggestion that the penalty attaching to the importation of prohibited goods should apply to goods prohibited "by the said Chief or Chiefs," and not "by Her Majesty's Consul," would not quite meet the nature of the abuse that that Article was intended to prevent.

That it might often happen, in the case of native wars, that to prevent as far as possible the war from spreading it might be necessary for Her Majesty's Consul to prohibit the importation of arms or of warlike stores into a certain district, although the native Chiefs might be anxious to obtain them. The section had, therefore, been amended by the substitution of the words, "by the said Chief or Chiefs, or by Her Majesty's Consul," for "by Her Majesty's Consul" alone.

That our observations upon the wording of section 21 were met by the addition that we would now find in that Article. Although it was not necessary that the Consul should be present at all the sittings of the Courts of Equity, a record of the proceedings must in all cases be sent to him for sanction and signature before they could be valid.

That the further provision that we suggested for the procedure of the Courts of Equity had been added to section 24, and section 26 had been retained in accordance with our advice.

That he was to request our final opinion upon the draft Order as thus amended. That he was at the same time to call our attention to the inclosed despatch from the Governor of Sierra Leone, representing the danger to Europeans of imprisonment for any term beyond a few days in any jail on the West African Coast, and the propriety of giving the Consul further powers to deal with ships infected with contagious disease, and that he was to inquire whether, in our opinion, the draft Order would require any further alterations in those respects, and, if so, that we would indicate them.

In obedience to your Lordship's commands we have the honour to report—

That we approve of the Order in Council as now settled, except that we think, having regard to the letter of Sir A. Kennedy, the term of imprisonment should in all cases be reduced to a period not exceeding twenty-one days. With respect to the suggestion of Consul Livingstone as to vessels infected with contagious diseases, however desirable it may be to confer such powers on the Consul as he suggests, we fear that in the present state of the law this cannot be done without the authority of Parliament.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 3.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 22.)

*Temple, August* 21, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us a letter, with its inclosures, from Messrs. Cummins and Marten, complaining of the proceedings of the Liberian Government in forcibly seizing a boat and cargo belonging to them, and requesting the intervention of Her Majesty's Government in obtaining the restitution of their property; and that he (Mr. Hammond) was to request that we would take this matter into consideration and favour your Lordship with our opinion thereon.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That the Liberian authorities were not justified in seizing and detaining a boat the property of Messrs. Cummins and Marten for an offence alleged to have been committed by the master of one of their ships, but beyond the scope of his authority as their agent, and we are of opinion that the case is one in which Her Majesty's Government may properly intervene in obtaining for Messrs. Cummins and Marten the restitution of their property.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 4.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 29.)

*Temple, August* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 13th instant, stating, with reference to our Report of the 12th February, he was directed by your Lordship to transmit to us despatches from Her Majesty's Consul at Old Calabar (Nos. 8 and 9 of the 29th April and 1st May), inclosing the proposed Rules and Regulations under the Order in Council of the 21st February, relating to Consular jurisdiction and Courts of Equity on the West Coast of Africa; and he (Lord Enfield) was to request us to take the two sets of Rules into our consideration and favour your Lordship with our opinion as to whether they were right and proper, and that we would suggest any amendments which we might think desirable.

Lord Enfield was pleased to inclose copies of the Order in Council and of the Rules of the Zanzibar Consular Court referred to by Mr. Livingstone.

In obedience to your Lordship's commands we have the honour to report—

That the two sets of Rules may be properly allowed by your Lordship with the alterations which we have made.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# Argentine Confederation.

## No. 5.

*The Queen's Advocate to Earl Granville.*—(*Received January* 24.)

*Temple, January* 22, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 11th instant, stating that, with reference to my Report of the 9th October last on the claim of the River Plate Telegraph Company upon the Uruguayan Government, he was directed to transmit to me, together with the former papers, a further despatch from Her Majesty's Chargé d'Affaires at Buenos Ayres, forwarding the additional information with regard to this case which, at my suggestion, he had been instructed to supply; and Lord Enfield was pleased to request that I would again take the matter into my consideration, and furnish your Lordship with my opinion as to the nature of the communication which should now be made to the Telegraph Company.

In obedience to your Lordship's commands I have the honour to report—

That this case is very anomalous; and I am imperfectly informed as to the state of affairs at Monte Video—whether the city was under military law or not, the administra-

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tion of the police of the city being evidently in the hands of the Military Commander, and whether there was a state of civil war or not, the city of Monte Video being apparently besieged by the insurrectionary forces, and in danger of capture. The complaint of the River Plate Telegraph Company resolves itself under two heads—(1) damage done to its property; (2) interference with the personal liberty of its agent, Mr. Oldham. The latter gentleman seems to consider himself entitled to take his stand against the Monte Videan Government upon the terms of the concession to the Company, notwithstanding the disturbance of political order in the Republic, whether by an insurrection or a civil war. I am not prepared to advise your Lordship that the state of affairs at Monte Video may not have been such that the Company would not be entitled to continue the working of its wires except under conditions which the Monte Videan Government might deem essential to the safety of the State, viz., amongst others, that there should be no secrecy as against the Agents of the Government who might desire to inspect any telegraphic message; but it would have been proper, in my opinion, under such circumstances, that the Government should have notified to the Company the suspension of the normal working of the telegraph before they claimed to inspect any particular message. So far, I think the conduct of the Monte Videan Government towards Mr. Oldham was abrupt and arbitrary; but as he was forthwith released from imprisonment, on the representation of Her Majesty's Consul-General, there is no ground, in my opinion, for further remonstrance on that head.

With regard to the injury done to the property of the Company, it resolves itself under three heads:—

(1.) Damage done to the wires by the rebels.
(2.) Damage done by the Government troops.
(3.) Requisitions of horses, &c., from the agent of the Company.

1. With regard to the first head, I am of opinion that the Government of Monte Video cannot be answerable for injuries caused by the acts of insurgents, which they were powerless to control.

2. With regard to the second head, the Company cannot claim to be in a better position than the loyal citizens of Monte Video, and they must represent their losses to the Government through the same legal channel as native citizens would be required to use.

3. With regard to the third head, unless there is some Treaty engagement under which British subjects are expressly exempt from military requisitions, I am of opinion that the agent of the Company should claim compensation through the same channel as native citizens would be required to have recourse to. But before Her Majesty's Chargé d'Affaires is instructed to raise any question of breach of Treaty engagements, it would be advisable that the Company's agent should give in an accurate statement of the circumstances under which the Government took possession of the horses of its agent —whether they were claimed for military purposes or for the general uses of the Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 6.

*The Queen's Advocate to Earl Granville.*—(*Received February* 29.)

My Lord, *Temple, February* 29, 1872.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 26th instant, stating that he was directed to transmit to me the accompanying correspondence upon the subject of a massacre which has lately been committed by Gauchos at Tandil, in the Province of Buenos Ayres, and in which three British subjects, Mr. and Mrs. Gibson Smith and their assistant, William Stirling, lost their lives; and to request that I would take these papers into my consideration and furnish your Lordship with my opinion as to whether the Argentine Government is justly liable for damage done on the occasion in question to the property of British subjects.

In obedience to your Lordship's commands I have the honour to report—

That the question submitted to me appears to resolve itself under two heads, and upon the present information before me, I am of opinion that a distinction must be made between injuries inflicted upon British subjects by tumultuous Gauchos, whom I take to be subjects of the Argentine State, and injuries inflicted upon British subjects by Indians crossing the frontier, and making hostile incursions into the Argentine territory. In the former case, where there has been default on the part of the local authorities in affording to British subjects due protection, I am of opinion that your Lordship would be justified in claiming for such British subjects compensation for their losses, but in the latter case I think no such claim for compensation can rightfully be made against the Argentine Government.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 7.

*The Queen's Advocate to Earl Granville.*—(*Received March* 15.)

My Lord, *Temple, March* 13, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that, with reference to my Report of the 29th ultimo upon the question of the liability of the Argentine Government for damage done to the property of British subjects in that Republic, he was directed to transmit to me the accompanying further despatch from Her Majesty's Chargé d'Affaires at Buenos Ayres, inclosing copies of a correspondence with the Argentine Minister for Foreign Affairs upon the subject; and Mr. Hammond was pleased to request that I would take this despatch into my consideration, and inform your Lordship whether there is anything in Señor Tejada's note of the 22nd January which would induce me to alter the opinion expressed in my above-mentioned Report. The previous papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That if this question involved only the destruction of property and the owners of it were still living, there would be much force in the reasoning of Señor Tejada, that the sufferers ought to have addressed themselves directly to the authorities of the country, and invoked the legal remedies open to them equally as to citizens of the country. But where the parties are dead no such proceedings are available. I have, in my previous Report, qualified the claim for compensation which your Lordship would be justified in addressing to the Argentine Government to the case in which there has been default on the part of the local authorities in affording due protection to British subjects. If there has been no such default no claim could justly be made, however terrible the calamitous result may have been of the rising of the Gauchos.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 8.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 27.)

My Lord, *Temple, July* 27, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that, upon receipt of our Report dated the 9th October last (inclosed), your Lordship addressed to Her Majesty's Chargé d'Affaires at Buenos Ayres a despatch (draft inclosed), instructing him to make a representation to the Argentine Government relative to the claim of Mr. Williams.*

That he (Mr. Hammond) was directed by your Lordship to transmit to us two despatches from Mr. Macdonell and a letter from Mr. Williams, from which we would learn what had passed upon the subject since the date of the above-mentioned Report;† and he was to request us to take the papers into consideration and favour your Lordship with our opinion as to the steps which should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the note of Dr. Tejedor to Mr. Macdonell states that he has personally examined the whole process in the suit of Mr. Williams.

That the result of that examination satisfies Dr. Tejedor that, on the facts and on the plea of prescription, the judgments of the Argentine Tribunals are right.

Dr. Tejedor further says that Mr. Williams had remedies by appeal open to him, of which he was not chosen to avail himself.

* To Mr. Macdonell, No. 54, October 16, 1871.
† Mr. Macdonell, Nos. 30 and 39; Mr. Williams, May 31.

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And Dr. Tejedor refers to the general principle that if the forms of trial established by the law of the country be observed and the Tribunal be competent, no foreign Power can rightfully or with effect complain of the result of the trial affirming that such was the case in Mr. Williams' suit.

We are of opinion that this note of Dr. Tejedor cannot be replied to, unless your Lordship sees, which we do not, reason to doubt the truth of the statements therein made and the soundness of the inferences drawn from those statements.

Should your Lordship adopt our opinion, Mr. Macdonell might be directed to inform Dr. Tejedor that Her Majesty's Government accepts his explanation of the facts.

And Mr. Williams may be told that, on inquiring fully into the facts, the explanation of the Argentine Government is such that your Lordship cannot urge the matter farther.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 9.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December 13.)*

*Temple, December 12, 1872.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. Mackenzie, inclosing a statement of the losses sustained by the San Guillermo Company at Entre Rios, River Plate, during the civil war.

That the claims arose out of military requisitions for horses, cattle, &c., both made by the Government and rebel troops; the Company referred to the Treaty of the 2nd February, 1825, by which British subjects were exempted from all military exactions and requisitions, and they pointed out that the proofs required by the Argentine Government were precisely those which the conduct of their officers rendered it impossible to produce.

And that he (Mr. Hammond) was to request us to take the papers into consideration and favour your Lordship with our opinion as to the instructions which should be given to Her Majesty's Chargé d'Affaires at Buenos Ayres with respect to the claims.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that the claims of the Company for compensation arising out of military requisitions come within and are well founded upon the IXth Article of the Treaty of 1825.

That Her Majesty's Chargé d'Affaires at Buenos Ayres may properly be instructed to urge these claims upon the Argentine Government, and that since it is not possible from the circumstances of the case to give the evidence which the Argentine Government requires, that Government should accept the best (provided it be reliable and trsutworthy) evidence by which each claim may supported.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 10.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December 19.)*

*Temple, December 19, 1872.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed by your Lordship to request that we would inform your Lordship whether our Report of the 12th instant, upon the claims of the San Guillermo Company against the Argentine Confederation was intended to lay down that that Government was responsible for the military requisitions made by the rebel troops as well as for those made by the Government troops.

That, should that be the meaning of our Report, your Lordship would be obliged by our furnishing you with the arguments on which the demand for compensation should be founded.

In obedience to your Lordship's commands we have the honour to report—

That, the claims of the Company being based upon the Treaty, the Argentine Government is responsible only in respect of military requisitions made by Government troops.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Belgium.

### No. 11.

*The Queen's Advocate to Earl Granville.—(Received January 16.)*

*Temple, January 15, 1872.*

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letters of the 10th and 13th instant, stating that he was directed to request my attention to the inclosed letter from Mr. Payne, a solicitor, inclosing papers respecting a collision which took place on the 24th August last, in Dover Bay, between the Belgian mail-steamer "Belgique" and a British schooner called the "William and Jane," which resulted in the loss of the latter vessel with all hands. That the representatives of the owner and master, who was drowned, and of the crew, have attempted to take proceedings against the "Belgique" in the High Court of Admiralty, and indeed procured a warrant for her arrest, but that this warrant was cancelled, and the proceedings stopped in consequence of its being shown that the vessel, as a mail-steamer in the service of the Belgian Government, could not legally be detained.

That it is now suggested that the representations should be made officially to the Belgian Government, either directly demanding from them compensation, or requesting their consent to allowing the matter to be adjudicated upon by the British High Court of Admiralty; and Lord Enfield was pleased to request that I would furnish your Lordship with my opinion as to what course it would be proper to adopt with regard to this suggestion.

In obedience to your Lordship's commands I have the honour to report—

That as the collision in this case took place within British waters, and the Belgian vessel has since the collision come voluntarily within British jurisdiction, the exercise of which on the part of the Crown has been waived in accordance with the usual comity, I am of opinion that your Lordship may properly communicate the complaint of the owners of the "William and Jane" directly to the Belgian Minister in London, and propose to him, that in accordance with the modern practice now of some standing, a statement on both sides shall be submitted to the Judge of the High Court of Admiralty for his friendly arbitration.

I would observe that, from the examination taken before the Receiver of Wreck, it is by no means so clear as the solicitor of the owner supposes in his memorial to Mr. Hammond, that the blame of the collision rests wholly with the "Belgique," as the Judge may be of opinion that the "William and Jane" had not a proper light up, the law requiring a vessel at anchor to exhibit a white light at a certain height above the hull and of certain dimensions.

I have, &c.
(Signed) TRAVERS TWISS.

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## Bolivia.

### No. 12.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 7.)

*Temple, December* 5, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch, with its inclosures, from the British Vice-Consul at Iquique reporting the circumstances attending the seizure of the British vessel "Morro" by Bolivian rebels; and that he (Viscount Enfield) was to request us to take these papers into consideration and favour your Lordship with our opinion as to the steps which should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That the owner of the "Morro" is, in our opinion, entitled to compensation.

It appears that Her Majesty's Government has no diplomatic relations with the Government of Bolivia, but we see no objection to your Lordship instructing Mr. Vice-Consul Nairn to press the settlement of the case upon the Bolivian authorities, and on the failure of Mr. Nairn to obtain redress, your Lordship may direct a man-of-war to be sent to enforce compensation.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Brazil.

### No. 13.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 4.)

*Temple, January* 3, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed to transmit to us the accompanying correspondence reporting the circumstances attending the drowning in the harbour of Rio de Janeiro of two negroes, who were employed, at the time of the calamity, in conveying seven marines belonging to Her Majesty's ship "Reindeer" to their vessel. That the depositions of the marines and an account of the subsequent steps taken with regard to this matter would be found in the correspondence. Two communications which, under instructions from his Government, the Brazilian Chargé d'Affaires at this Court has addressed to your Lordship on this subject, and a letter from the Admiralty containing suggestions as to the reply which the Board consider should be returned to the Brazilian Government, were also inclosed; and Mr. Hammond was pleased to request that we would take the case into our consideration and furnish your Lordship with our opinion thereupon, and as to the answer which should be addressed to Senhor de Andrada.

Mr. Hammond was pleased to add that Mr. Cobbold's despatches Nos. 72 and 74 of the 23rd October, which are referred to in the letter to the Admiralty of the 22nd November and in the private letter to Mr. Cobbold of the 8th ultimo, have been temporarily mislaid, but that, as the subject of these despatches is stated in the abovementioned letters, it is assumed that their absence need not interfere with the consideration of the case.

In obedience to your Lordship's commands we have the honour to report—

That there seem to be two questions: (1) Did British authorities improperly help the men to escape? (2) Ought the men to be sent back to be tried?

As to the first, assuming Consul Hind did communicate with the captain of the port, this question must be answered in the negative.

2nd. If the first is answered in the negative, then the second question is simply whether some British marines are to be given up to the Brazilians, because they are accused of manslaughter or murder when in Brazil. Now if there were a Treaty of Extradition they could only be delivered up on sufficient evidence of committing the crime, and we see none; and as there is (we assume) no such Treaty, then, if civilians, they could not have been sent back at all, and we think that although, being under military discipline, they could be sent back, they ought not to be so sent without evidence substantially equivalent to what would be required if there were a Treaty.

We think, therefore, a request should be made for copies of the depositions under which the committal for trial ("mise en accusation") was made, so that we may judge of the evidence before deciding about sending them back.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 14.

*The Queen's Advocate to Earl Granville.*—(*Received February* 17.)

*Temple, February* 17, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 15th instant, stating that, with reference to my Reports of the 25th October and 2nd November last, he was directed to transmit to me the accompanying further correspondence upon the subject of an action brought at Rio de Janeiro against the Queen Insurance Company, and the order issued by the Brazilian Court for the imprisonment of that Company's agent; and to request that I would take these papers into my consideration, together with the former ones, which were also inclosed, and furnish your Lordship with my opinion as to the steps which should be taken in the matter to which they refer.

I am also honoured with Lord Enfield's letter of the 16th instant, transmitting a further paper which has been received relative to this case.

In obedience to your Lordship's commands I have the honour to report—

That it appears from Mr. Cobbold's account of his interview with the Brazilian Minister of Foreign Affairs, as detailed in his despatch of the 22nd December, 1871, addressed to your Lordship, that the Brazilian law allows of an appeal to a higher Tribunal against the order of imprisonment made on the 20th December, 1871, against Mr. Taylor, and that the Brazilian Minister justified his refusal to interfere with the regular action of the Brazilian Tribunals on two grounds, that the Tribunals are constitutionally independent of the Executive Government, and that a foreigner cannot expect, as regards judicial proceedings before the Brazilian Tribunals, to be placed on a different footing from a native. Reasons of this kind, on the assumption that they are urged *bonâ fide*, cannot well be contravened, and if an appeal is really open to Mr. Taylor, I am of opinion that he ought to exhaust all the legal means of redress at his disposal before your Lordship can properly interfere diplomatically in his behalf, on the grounds of a denial of justice to him.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 15.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 1.)

*Temple, February* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 24th instant, stating that he was directed by your Lordship to transmit to us a draft of Articles which he intended to instruct Her Majesty's Minister at Rio Janeiro to propose to the Brazilian Government; and that he (Lord Tenterden) was to request us to take the same into consideration and report to your Lordship our opinion thereon.

That the Article of chief practical importance was that numbered IV, relating to the administration of intestate estates, a subject which had for a long course of years given rise to heavy complaints on the part of the British community in Brazil. Before leaving Rio in 1870 Mr. Mathew had come to some understanding with the late Brazilian Minister for Foreign Affairs as to the terms of an Article on this subject (copy inclosed) founded on the Act 24 and 25 Vict., cap. 121, sec. 4; and that your Lordship would be glad if you could safely adopt it without alteration.

That your Lordship feared, however, that the first three lines of the proposed Article did not follow the words of the Act with sufficient accuracy, and had therefore reluctantly altered them. That your Lordship would, however, wish to have our opinion on the subject.

In obedience to your Lordship's commands we have the honour to report—

That it would be advisable, in our opinion, that the Treaty should follow the words of the Statute.

We have suggested in the margin a few verbal alterations in it, which we submit to your Lordship's consideration.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 16.

*The Queen's Advocate to Earl Granville.*—(*Received March* 8.)

*Temple, March* 7, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that, with reference to my Report of the 17th ultimo, and to previous correspondence upon the subject of the action brought against the Queen Insurance Company at Rio de Janeiro, and the order issued by the Brazilian Court for the imprisonment of that Company's agent, Mr. Hammond was directed to transmit to me the accompanying letter, and its inclosure, from Mr. McLagan, M.P., from which I should see that the Company are under the impression that there is no power of appeal against the sentence of imprisonment pronounced upon their agent, but only in the matter of the action against the Company.

The previous papers relating to this case, together with a memorandum on the subject which has been drawn up in the Foreign Office, were also inclosed; and Mr. Hammond was pleased to request that I would take the same into my consideration and furnish your Lordship with my opinion as to the instruction which should be addressed to Her Majesty's Chargé d'Affaires at Rio de Janeiro upon the subject.

In obedience to your Lordship's commands I have the honour to report—

That the proper course for Mr. Taylor to adopt, as far as I understand the statement of Dr. Correja as to the law of Brazil, would be to surrender himself and apply to the proper Tribunal for a writ of *habeas corpus*, upon the return of which the legality of his imprisonment would be judicially decided by the proper Tribunal. I do not think that your Lordship can well intervene diplomatically upon the strength of the opinions of Brazilian lawyers, that the order for Mr. Taylor's imprisonment is illegal, however eminent those lawyers may be.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 17.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 25.)

*Temple, April* 25, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd April instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,* upon the subject of the proceedings of the Brazilian Law Courts in regard to an insurance effected by Messrs. Figueredo, Brothers, of Rio de Janeiro, in the Queen Insurance Office, and that we would see by those papers that there were two questions involved in the case. First, as to the ruling of the Brazilian Courts that the Company are liable for the full amount of the sum insured without regard to the actual loss sustained by Messrs. Figueredo; and second, as to the orders issued by the Brazilian Courts for the imprisonment of Mr. Taylor and Mr. Lyde, agents of the Company.

Lord Tenterden was pleased also to say that he was to request that we would take the papers into our consideration and favour your Lordship with our opinion as to whether Her Majesty's Government should take any, and if so what, steps in the matter to which they relate.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That the result of the voluminous papers sent to us in this case appears to be that on both the points as to which your Lordship desires our opinion a gross injustice has been done by the Brazilian Courts. We have not the actual words of the policy before us, nor, except from the opinions of Brazilian lawyers apparently of great eminence, can we assert what is the Brazilian law on either point. It is, however, incredible that a fire insurance should be in any civilized country anything but a contract of indemnity, as, were it otherwise, the temptation to fraud and the probability of its commission under such contracts would be enormous. It seems to us a very gross violation of natural justice to compel a company to pay the whole amount insured on a fire policy without reference to the loss actually sustained by the assured. And the conduct of the Courts in sentencing first Mr. Taylor, and afterwards Mr. Lyde, appears upon the facts before us wholly unjustifiable also on grounds of justice. There appears no pretence for the suggestion that they were either of them so sentenced on the ground that they were about to leave Brazil and that it was necessary to secure them.

Mr. Cobbold's despatches seem also to show that in that gentleman's view there has been a great miscarriage of justice, and that he is by no means satisfied with the manner in which his remonstrances are met by the Minister for Foreign Affairs in Brazil.

We think your Lordship may properly remonstrate strongly and urgently against the course pursued by the Brazilian Courts, and endeavour to obtain redress from the Brazilian Government for the injustice done by their Tribunals to British subjects. The extent to which your Lordship may think it right to push your interference, and the particular steps you may see fit to take, and what language to employ, are matters of which your Lordship must be the best judge, but we think that diplomatic interference is no longer improper or uncalled for.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 18.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 12.)

*Temple, July* 11, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th July instant, stating that he was directed to transmit to us the accompanying correspondence upon the subject of the drowning of two negro boatmen while conveying some marines belonging to Her Majesty's ship "Reindeer" on board their ship, in the harbour of Rio de Janeiro, and to request that we would take these papers into consideration and favour your Lordship with our opinion as to the course which should be taken in the matter to which they relate.

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* List.

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In obedience to your Lordship's commands we have the honour to report—

That your Lordship may inform the Brazilian Minister that the only fact leading to a suspicion of violence having been used by any of the marines which comes out in the evidence taken at Rio, is the appearance of the hand and arm of one of the drowned men on the *post mortem* examination, an appearance quite consistent with, and accounted for by the account of the corporal of marines, that he, on discovering the man in the act of thieving, struck him somewhere about the hand, upon which the man and his companion immediately jumped overboard. And that your Lordship cannot, according to the law of this country or the comity or law of nations, as received it this country, direct that the marines be sent back for trial at Rio.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 19.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 17.)

*Temple, July* 15, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that, on receipt of our Report of the 25th April, upon the case of the Queen Insurance Company, your Lordship addressed to Her Majesty's Chargé d'Affaires at Rio de Janeiro a despatch (draft inclosed) containing instructions in accordance with the opinion given in our above-named Report.

That no answer had, as yet, been received to that despatch.

That he (Mr. Hammond) was now directed by your Lordship to transmit to us the accompanying letter from Mr. McLagan, M.P., inclosing further documents relating to the case, and that he (Mr. Hammond) was to request us to take the same into consideration and favour your Lordship with any observations we might have to make thereon.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship cannot well take any further action in this matter till you receive from Mr. Cobbold an answer to your despatch of the 27th April last, since, on the representations there directed to be made to the Brazilian Government, the acts of injustice may have been redressed at Rio.

If your Lordship should adopt this course, Mr. McLagan may be informed to that effect.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 20.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 18.)

*Temple, December* 17, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that, with reference to our Report of 11th July last, he was directed by your Lordship to transmit to us a note which your Lordship had received from the Brazilian Chargé d'Affaires at this Court respecting the alleged murder of Brazilian boatmen by marines of Her Majesty's ship "Reindeer," together with the observations of the Lords Commissioners of the Admiralty, to whom Senhor de Andrada's letter was referred.

That he (Mr. Hammond) was also to inclose, for convenience of reference, the previous correspondence, and to request that we would take the papers into consideration and favour your Lordship with our opinion as to the answer which should be returned to the Brazilian Chargé d'Affaires.

In obedience to your Lordship's commands we have the honour to report—

That with reference to the letter of the Brazilian Minister, your Lordship may properly inform his Excellency that Her Majesty's Government are quite willing to put

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## BRAZIL.

### No. 19 A.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 6.)

*Temple, December* 5, 1872.

My Lord,

Draft Consular Convention with Brazil: Article as to wrecks.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that, with reference to our Report of the 29th February last respecting a draft of Articles which Her Majesty's Government were about to propose to the Government of Brazil, he was directed by your Lordship to transmit to us two despatches from Her Majesty's Minister at Rio Janeiro on the subject; and he (Mr. Hammond) was to request that we would take them into consideration, and favour your Lordship with our opinion on the modifications of the draft Articles desired by the Brazilian Government.

That we would observe that the Article about wrecks and salvage actually submitted to the Brazilian Government differed from that in the draft which was before us in February; and in explanation he (Mr. Hammond) was to state that the Board of Trade and Mr. Mathew (then in England) having subsequently come to the conclusion that it was of importance to British interests that provision should be made for the delivery to a Consul of articles saved from a wreck, an Article was substituted similar in purport to Article XX of the Treaty between Great Britain and Colombia of the 16th February, 1866, which would be found in Hertslet's Treaties, vol. xii, p. 377.

In obedience to your Lordship's commands we have the honour to

*Report*—

That having read and carefully considered the despatch of Mr. Mathew of the 26th September last, we are of opinion that there is no objection to the modifications of the draft Articles being agreed to, the second alternative in Article IV being adopted, but the whole Convention will then require to be confirmed by Act of Parliament.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## BRAZIL.

### No. 20 A.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December 28.)*

My Lord, *Temple, December* 28, 1872.

Draft Convention with Brazil: Duties of Consular Administrators.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th instant, stating that, with reference to our Report of the 5th instant on the subject of a draft Convention under negotiation between Her Majesty's Government and the Government of Brazil, he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Minister at Rio Janeiro, in which he (the Minister) inclosed a draft of a Memorandum or Protocol detailing the steps to be taken under Brazilian law by administrators, and which the Brazilian Plenipotentiary wished to be signed, in order to explain what would be required in Brazil under the IVth Article of the draft Convention. The Brazilian Plenipotentiary requested that he might be furnished with a corresponding statement of what was necessary to be done in this country, and your Lordship directed him (Lord Tenterden) to request that we would have the goodness to prepare the same, and transmit it to your Lordship.

In obedience to your Lordship's commands we have the honour to

*Report*—

That the duties of a Consular Administrator in this country are—

1. To bury the deceased in a manner suitable to the estate which he has left behind him.

2. To take out letters of administration of the estate and effects of the deceased; but before the letters of administration will be granted to him, he will be required to swear to the probable amount of the personal estate and effects of the deceased in this country, and to enter into a bond with two sureties for the due administration of such estate.

3. To make, or cause to be made, a true and perfect inventory of all the goods and chattels, as well movable as not movable, whatsoever that belonged to the deceased at his death.

4. To collect all the goods and chattels so inventoried, including debts due to the deceased.

5. To sell such parts of the intestate's property as may be required to raise sufficient money to meet payments after mentioned.

6. To pay out of the estate of the deceased, and before any debt or duty whatsoever, the funeral expenses, and after the funeral expenses the costs of obtaining letters of administration.

7. To pay all the debts of the deceased so far as the assets in his hands will enable him to do so.

8. To retain the surplus of the estate (if any) for the benefit of such person or persons as may be entitled thereto.

We beg leave to point out to your Lordship that by the law of this country an Administrator is only concerned with the distribution of personal property, which in this country includes leaseholds.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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such of the men upon their trial in this country who can be brought to trial; but that four of them have deserted the service since the occurrence in question. His Excellency ought also to be informed that it will rest with the Brazilian Government to bring forward the necessary evidence, and that it is by no means improbable that the evidence may not be sufficient to secure a conviction in an English Court.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# Central America.

## HONDURAS AND NICARAGUA.

### No. 21.

*The Queen's Advocate to Earl Granville.*—(*Received March* 9.)

My Lord, *Temple, March* 9, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed to transmit to me two despatches, and their inclosures, from Her Majesty's Chargé d'Affaires in Central America, reporting the circumstances under which Mr. Frank Turner, a British subject, in the employment of the Honduras Oceanic Railway Company, has been arrested and imprisoned by the authorities of San Pedro; and Mr. Hammond was pleased to request that I would take the case into my consideration and furnish your Lordship with my opinion as to the compensation which should be demanded for Mr. Turner from the Honduras Government on account of the indignities to which he has been subjected.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship will be justified, in my opinion, in demanding from the Government of Honduras compensation not merely for the imprisonment of Mr. Frank Turner, but also for the stoppage of the works of the Railway Company, which were necessarily suspended in consequence of his incarceration. It will be advisable, I think, before your Lordship decides upon the amount of compensation which should be demanded, to ascertain what were the losses incurred by the Company, and what is the measure of compensation which would be satisfactory to Mr. Frank Turner. Your Lordship will thereupon have some data upon which a proper calculation may be made.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 22.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 27.)

My Lord, *Temple, July* 26, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was to transmit to us a copy of a Treaty concluded in 1856 between Great Britain and Honduras, an Additional Article to which contains stipulations in regard to a railway to be constructed from the Atlantic to the Pacific Ocean through the territories of Honduras. By the second section of that Additional Article, Her Majesty's Government, in consideration of certain concessions, guarantees the neutrality of the said road, and engages, "when the said road shall have been completed," to protect the same from interruption, seizure, or unjust confiscation.

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That he was also to inclose a memorandum, drawn up in the Foreign Office in 1869, showing what had passed up to that date in regard to the proposed road.

That, since the date of the memorandum, contracts had been entered into by the Honduras Government, and the railroad is now in process of construction.

That, a war having recently broken out in Central America between the Republics of Guatemala and Salvador on the one hand, and that of Honduras on the other, it had been apprehended that the contending parties might use for belligerent purposes such portions of the railroad as were completed, and the question had therefore arisen whether the guarantees given by Her Majesty's Government could be held to apply to the railroad in its present incomplete state, or whether such guarantee would only come into force when the road had been completed from sea to sea.

And that the immediate danger had now passed away, peace having been concluded between the belligerent Republics, but, as similar circumstances are not unlikely to occur, he (Mr. Hammond) was to request us to take the papers into consideration and favour your Lordship with our opinion as to the construction to be placed upon the Additional Article to the Treaty of 1856.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that the second paragraph of the second clause of the Additional Article defines the time when the guarantee shall come into force, and that such guarantee does not take effect until the railroad has been completed from sea to sea.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 23.

*The Queen's Advocate to Earl Granville.—(Received March 16.)*

My Lord, *Temple, March* 16, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that with reference to the Report of Her Majesty's Advocate-General of the 18th April, 1866, relative to the claim of Thomas Williams, a British subject, for compensation from the Nicaraguan Government for ill-treatment he received at the hands of the Commander of Fort San Carlos in 1864, Mr. Hammond was directed to transmit to me, together with all the previous correspondence on the case, the accompanying letter from the Nicaraguan Minister at this Court, requesting to be informed what are the views of Her Majesty's Government in regard to the settlement of the case; and Mr. Hammond was pleased to request that I would take the matter into my consideration and furnish your Lordship with my opinion as to the answer which should be returned to Señor Marcoleta, and as to the amount of compensation which under the circumstances it would be right and proper to demand for Thomas Williams.

In obedience to your Lordship's commands I have the honour to report—

That the amount of compensation demanded by Thomas Williams is, in my opinion, highly exaggerated, as he appears to have merited punishment, if it had been inflicted upon him after a proper judicial inquiry. I should think 5,000 dollars would be a fair sum for your Lordship to demand from the Government of Nicaragua.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 24.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July 20.)*

My Lord, *Temple, July* 19, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us a correspondence (see list) relative to the claim of Thomas Williams, a British subject, upon the Government of Nicaragua for compensation for a flogging inflicted upon him, without trial, by order of General Guttierez, the Commander of Fort San Carlos, in May 1864.

That we would see from the papers that, on the 30th March last, your Lordship, by the advice of the Queen's Advocate, stated to the Nicaraguan Minister at St. James' that Her Majesty's Government were of opinion that 5,000 dollars would constitute a proper compensation to Williams, and that the Nicaraguan Government deeming that sum too high, had offered to pay Williams 1,000 dollars and to make him a grant of some lands besides.

That he (Mr. Hammond) was to request us to take the papers into consideration and favour your Lordship with our opinion as to whether the offer of the Nicaraguan Government should be accepted.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the offer of the Nicaraguan Government should not be accepted, unless the lands offered, together with the 1,000 dollars, bring an amount nearly equivalent to the 5,000 dollars claimed for Thomas Williams by Her Majesty's Government. The value of this land is not stated by the Nicaraguan Minister.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 25.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August 29.)*

My Lord, *Temple, August* 29, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Y. W. Sykes, requesting that the attention of the Guatemalan Government might be called to the claim of his client, Mr. Samuel Harris, in respect of 6,000*l.* worth of Piers and Roads bonds held by him (Mr. Harris); and he was to request that we would favour your Lordship with our opinion as to the steps, if any, which should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the case of Mr. Harris, as put in his behalf before your Lordship, does not call for any action on your Lordship's part, and Mr. Y. W. Sykes may be informed to that effect.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 26.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October 4.)*

My Lord, *Temple, October* 4, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires in Nicaragua, together with the former papers respecting the claim of Mr. Goussen, a native of Jamaica residing in Nicaragua, to British nationality; and that he (Mr. Hammond) was to request us to take these papers into our consideration, and inform your Lordship whether, under the facts related, Mr. Goussen could be considered to have forfeited his claim to British nationality, and to what extent he was entitled to British protection against the consequences of the allegiance claimed from him by the Nicaraguan Government.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That Mr. Goussen does not appear to have done any act to preserve his British nationality at the time he acquired property in Nicaragua and married a Nicaraguan woman, but if the statement made by him in his letter to Mr. Corbett of the 5th June, 1872, be true, that on the 27th March, 1863, he procured from the British Vice-Consul a certificate of his being a British subject, that he presented this certificate to the Nicaraguan Minister, who, under his official seal, recognized him to be a British subject,

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we are of opinion that Mr. Goussen recovered his British nationality, and is entitled to the protection of Her Majesty's Government as a British subject.

If the statement of Mr. Goussen above referred to be erroneous, Mr. Goussen has, in our opinion, lost his claim to British nationality.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 27.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 29.)

My Lord, *Temple, November* 29, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, relative to the distribution of certain sums which had lately been paid to Her Majesty's Representative in Central America, on account of British claims on Honduras, under the Chatfield-Cruz Convention of 1852.

That the circumstances connected with those claims, and the sums hitherto received and distributed on account of them, were explained in the drafts to the Treasury, and the memoranda of August 21 and October, sent therewith.

That we would see by the accompanying papers that, in consequence of the incapacity, through illness, of Mr. Chatfield, since dead, to continue the duty which he formerly discharged of distributing the sums in question, your Lordship requested the Lords of the Treasury to allow their Solicitor to undertake the duty, but their Lordships had finally declined to accede to your Lordship's request.

And that your Lordship therefore proposed to address to their Lordships a letter (draft inclosed), suggesting that the duty should be intrusted by you to some practical accountant, or other person competent to undertake the same, who should act under the general supervision of the Solicitor to the Treasury, and should be remunerated, as Mr. Chatfield was, by a suitable commission on the amount distributed; but before doing so your Lordship would be glad to be favoured with our opinion as to whether you were empowered by the Convention of 1852 to adopt the course suggested.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there is nothing in the Convention of 1852 which is against your Lordship's adopting the course suggested in letter to the Treasury.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Chile.

### No. 28.

*The Queen's Advocate to Earl Granville.*—(*Received March* 12.)

My Lord, *Temple, March* 11, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed to transmit to me the accompanying letter from Messrs. Duncan, Hill, and Parkinson, relative to the seizure and detention by the Chilian local authorities of a vessel called the "Elgiva," belonging to their clients, Messrs. Wolf and Co., of Liverpool, and requesting Her Majesty's Government to take steps for protecting Messrs. Wolf's interests, and obtain for them compensation for the damage they have sustained in consequence of the detention of their ship.

The previous correspondence relating to this matter, in which the circumstances attending the seizure and subsequent release of the vessel are fully reported, were also inclosed; and Mr. Hammond was pleased to request that I would take the case into my consideration, and furnish your Lordship with my opinion as to any steps which should be taken with a view to obtain compensation for the owners.

In obedience to your Lordship's commands I have the honour to report—

That this is not a case, in my opinion, in which your Lordship can properly make any demand upon the Chilian Government for compensation to Messrs. Wolf for the damage which they have sustained in consequence of the detention of their ship by the authorities at Puntas Arenas, unless Her Majesty's Government is prepared to dispute the right of the Chilian Republic to exercise jurisdiction over the island called "Quarter-Master." The owners of the barque "Elgiva" ought not, in my opinion, to have dispatched their vessel on such an expedition before they had ascertained, by application to your Lordship, that the islands where they contemplated collecting guano were not under the jurisdiction of any Power recognized by Her Majesty's Government.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 29.

*The Queen's Advocate to Earl Granville.*—(*Received March* 18.)

My Lord, *Temple, March* 18, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that, with reference to my Report of the 11th instant, upon the subject of the seizure by the Chilian authorities of the British barque "Elgiva" at Quarter-Master's Island, in the Straits of Magellan, he was directed to transmit to me the accompanying further despatch from Her Majesty's Chargé d'Affaires at Santiago upon the subject; and Mr. Hammond was pleased to request that I would take this despatch into my consideration and inform your Lordship whether it contains anything to induce me to alter my opinion that this is not a case in which Her Majesty's Government can demand compensation from the Chilian Government.

The former papers in this case were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That there is nothing in the despatch of Her Majesty's Chargé d'Affaires at Santiago of the 2nd February, 1872, which induces me to alter the opinion which I have already expressed to your Lordship in my previous Report, having regard either to general principles or to the provisions of the Chilian law cited by Mr. Thomson.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 30.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 20.)

My Lord, *Temple, April* 20, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us correspondence (see list) relative to the case of the British barque "Elgiva."

That we would see this vessel was seized by the Chilian authorities while preparing to load guano at Quarter-Master's Island, in the Straits of Magellan; that she was subsequently released by the Chilian Courts; and that a claim to compensation for her detention had been put forward by her captain and by her owners, which claim, however, appeared, by Mr. Thomson's despatch No. 18 of the 1st ultimo, to have been renounced by Captain Keay.

And that he (Mr. Hammond) was to request us to take the papers into consideration and inform your Lordship whether the two last despatches from Mr. Thomson (Nos. 17 and 18) contained anything to cause us to differ from the opinion on the case expressed by the late Queen's Advocate in his Reports of the 11th and 18th ultimo, viz.,

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that it was not a case in which Her Majesty's Government could support a claim for compensation.

In obedience to your Lordship's commands we have the honour to report—

We are clearly of opinion that this is not a case in which Her Majesty's Government can support a claim for compensation. Irrespective of the reasons stated by the late Queen's Advocate, we observe that Captain Keay has accepted a cargo of guano on advantageous terms from the Chilian Government, and, in substance, has abandoned all claims against that Government by admitting that the seizure of the vessel was just; so that, in reality, though not in form, there has been a compromise of such claims.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 31.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received August* 9.)

My Lord, *Temple, August* 9, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 30th July, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Chargé d'Affaires and Consul-General in Chile (Separate, Consular, May 1872), in which the question is raised whether, when a Consular officer who has held a warrant enabling him to solemnize marriages under the Act 12 and 13 Vict., cap. 68, has died, the person who is authorized by the Secretary of State temporarily to act at the post thus rendered vacant, pending the appointment of a successor, is empowered to solemnize marriages under the warrant granted to the deceased officer.

Lord Enfield was pleased to transmit to us a copy of the Instructions to Her Majesty's Consuls in regard to the Solemnization of Marriages (pp. 25, 185, and 194), together with copies of the Marriage Act and of a Circular to Her Majesty's Consuls, dated the 20th August, 1853, relating to the solemnization of marriages by Acting Consular officers, and to request that we would take the matter into our consideration and favour your Lordship with our opinion on the point raised by Mr. Thomson.

In obedience to your Lordship's commands we have taken the matter into our consideration and have the honour to report—

That we are of opinion that the Consular Agent authorized to act in the place of the deceased Vice-Consul (Mr. Murray) is not empowered to solemnize marriages under the warrant granted to the deceased officer.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## China.

### No. 32.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 29.)

My Lord, *Temple, May* 29, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that, with reference to his letter of the 23rd instant, he was directed by your Lordship to transmit to us a letter from the Colonial Office, inclosing a despatch from the Attorney-General of Hong Kong on the subject of the administration of the estates of aliens dying in the Colony. The despatch also contained suggestions with regard to the custody *in transitu* of foreigners accused or convicted of crime who had been deported from China or other places.

That the Colonial Office had obtained from the Chief Justice of Hong Kong a report on the despatch (inclosed); and that he (Mr. Hammond) was to request us to take the papers into consideration and report to him our opinion on the two points raised by Mr. Pauncefote.

In obedience to your Lordship's commands we have the honour to report—

1. That in reference to the administration of the estates of aliens dying in the Colony, we are of opinion that it is very desirable to have some one person in the Colony whose official duty it is to at once take possession and care of the estates of aliens there dying, and hold it till the Consul or other person entitled to the grant apply for administration.

We can see no reason why the Consul should object to give the bond required, and particularly as the Supreme Court has the power to waive the bond if desirable as stated by the Chief Justice of Hong Kong.

In this first matter, therefore, we think no alteration need be made.

2. In regard to the custody *in transitu* of foreigners accused or convicted of crime and deported to the Colony, we are of opinion that some arrangement with foreign Governments might with advantage be come to under which, on application of the Consul at Hong Kong, the prisoners, subjects of the Government, might be detained *in transitu* at the expense of the Government of which they are subjects.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 33.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 2.)

My Lord, *Temple, July* 1, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that, with reference to our letter of the 29th May, he was directed by your Lordship to transmit to us a letter from the Colonial Office, inclosing a draft Ordinance enabling the Government of Hong Kong to deal with foreign prisoners *in transitu*, which it was proposed to send to the Colony for enactment; and that he (Mr. Hammond) was to request us to take that paper into consideration and report to your Lordship our opinion upon it.

In obedience to your Lordship's commands we have the honour to report—

That provision should be made for the absence of the Governor from the Colony; and this might be done by an interpretation clause defining Governor to include "the officer for the time being administering the Government of Hong Kong."

In other respects the Ordinance is, in our opinion, properly prepared for your Lordship's concurrence.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 34.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received August* 8.)

My Lord, *Temple, August* 8, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th August instant, stating that he was directed by your Lordship to transmit to us a despatch, of the 30th March, 1872, from Mr. Caine, Her Majesty's Consul at Swatow, stating that, while in charge of the Consulship at Hankow, he had applied the sum of 1,941*l.* 14*s.* 3*d.* out of the public funds in his hands to the payment of his private debts. Mr. Hammond also said that he inclosed a letter from the Treasury of the 5th August, 1872, to which Department the case was referred, requesting that steps might be taken for the arrest of Mr. Caine, in order that criminal proceedings

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should be instituted against him; and to request that we would take the papers into our consideration and report to your Lordship our opinion whether the course recommended by the Treasury should be adopted.

Mr. Hammond was pleased to add that a copy of the Order in Council for the government of Her Majesty's subjects in China and Japan was inclosed for convenience of reference, and that your Lordship would be glad to receive our Report in time to enable you to instruct Her Majesty's Minister and Sir E. Hornby by the mail leaving London on the 9th instant.

In obedience to your Lordship's commands we have the honour to report—

That there can be no doubt at all of the gravity of this case, nor of the completion of the offence of fraudulent misappropriation by Mr. Caine. Indeed his own letter shows that he is perfectly aware he has committed a crime, and is at the mercy of the Government. Speaking as lawyers only there can be no doubt of the legal propriety of the course recommended by Mr. Lingen. Whether on other and general grounds dismissal from office, and consequent ruin, may not be punishment enough for Mr. Caine, is for your Lordship, and not for us, to determine; but should your Lordship take this view of the matter it would not be necessary to proceed criminally.

In any view the money must be regarded as lost, and the question is one, therefore, of punishment only.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 35.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 3.)

My Lord, *Temple, December* 2, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, forwarding a despatch from the Governor of Hong Kong relative to the deportation to that Colony of British subjects belonging to other Colonies, under the warrant of the Supreme Court for China and Japan; and he was to request that we would take the papers into consideration and report to your Lordship our opinion as to the alterations in the Order in Council of 1865 suggested by the Governor and the Colonial Office, in order to prevent the inconvenience and expense entailed upon the Colony by the practice referred to.

In obedience to your Lordship's commands we have the honour to report—

That the Colonial Office and the Governor of Hong Kong are best able to appreciate the inconvenience and hardship which the Order in Council of 1865 in its present shape inflicts upon the Colony of Hong Kong, and we are of opinion that the alterations suggested in Mr. Holland's letter may properly be made.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 36.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 6.)

My Lord, *Temple, December* 5, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, with reference to our Report of the 8th August last, relative to the misappropriation of public funds in the Consular chest at Hankow by Mr. Caine, he (Mr. Hammond) was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Peking, inclosing one from Sir E. Hornby on the subject of the proceedings to be taken against Mr. Caine; and he (Mr. Hammond) was to request us to favour your Lordship with any observations we might have to offer on that despatch.

In obedience to your Lordship's commands we have the honour to report—

That we agree with Sir E. Hornby that there may be great difficulty in securing a conviction of Mr. Caine if he be criminally prosecuted.

The failure of a Government prosecution may be more mischievous than the conviction of Mr. Caine will be beneficial, and the risk, therefore, not worth running.

But this is a question rather for your Lordship than for us, although we have already intimated, in our Report of the 8th August, 1872, how we should be disposed to answer it if it were for us.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 37.

*The Law Officers of the Crown and Dr. Deane to Earl Granville*—(*Received December* 6.)

My Lord, *Temple, December* 6, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us a letter from the Secretary to the Archbishop of Canterbury, inclosing an application from his Grace to the Queen for Her Majesty's licence to consecrate the Rev. Mr. Russell to be a Bishop in North China; and he (Mr. Hammond) was to request us to report to your Lordship our opinion whether, having regard to the provisions of the Jerusalem Bishopric Act, Her Majesty could be properly advised to comply with the Archbishop's application.

In obedience to your Lordship's commands we have the honour to report—

That we see no legal objection under the provisions of the Jerusalem Bishopric Act, 5 Vict., cap. 6, to Her Majesty's being advised to comply with the application of the Archbishop.

It is desirable that the Order in Council of 1849, though practically inoperative, should be revoked.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 38.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 9.)

My Lord, *Temple, December* 7, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us the draft of a licence to enable the Archbishop of Canterbury to consecrate the Rev. William Armstrong Russell as Bishop of the Church of England in North China, and that he (Mr. Hammond) was to request us to take the same into consideration and favour your Lordship with our opinion thereon.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the draft licence is in proper form.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# Denmark.

## No. 39.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 19.)

*Temple, February* 17, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 14th February instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Copenhagen (No. 10, February 6, 1872), inclosing copy of a letter addressed to him by the Chaplain to the Legation respecting the construction to be placed upon certain words in the declaration required to be made by persons applying to be married at Her Majesty's Legation.

Lord Enfield was pleased to inclose copies of the declaration and of the two Acts of Parliament referred to, and to say that as it was of great importance that no difference of practice should exist in Her Majesty's various Embassies and Legations upon the point raised he was to request that we would take the inclosed papers into our consideration and favour your Lordship with our opinion as to the instructions which should be issued respecting it to the heads of Her Majesty's Missions abroad.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the practice is sound, according to which marriages are only solemnized in Her Majesty's Legation when both the parties are British subjects, or where the man at least is a British subject.

We do not doubt, however, of the validity of a marriage for British pursoses of a marriage so solemnized where the woman only is a British subject, but as such a marriage may not be valid according to the law of the man's country, and the man will be at liberty to apply to the Tribunals of his own country to have his marriage declared null and void, it would be obviously unsafe for the woman to contract such a marriage, as the wife acquires her husband's domicile. With regard to the Rev. Mr. Ellis' objections to the form of declaration, we are of opinion that they are rather hypercritical, as we consider that the expression "as British subjects" would be satisfied in both the above-mentioned cases, the woman acquiring by marriage the national character of her husband, and becoming subject to British law during her coverture. But we see no objection to a modification of the form, so that the description of the national character of the respective parties should be inserted at the commencement of the declaration after their respective names, and the present words "as British subjects" should be omitted.

We think that it is of importance that the national character of the woman should be stated equally with that of the husband, as a marriage should in no case be solemnized in any of Her Majesty's Legations when the woman is the subject of the country in which the Legation is established, unless the woman has previously complied with all the requirements of its law as to notice and residence, it being obviously contrary to comity, where these requirements have not been fulfilled, to permit the marriage to be solemnized.

We may add that a declaration may, in our opinion, be properly substituted in future for an affidavit.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 40.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 28.)

*Temple, February* 28, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in your Lordship's letter of the 22nd instant, stating that you had thought it advisable, upon consideration of the opinion expressed in our letter of the 17th instant, to issue a Circular instruction to Her Majesty's Representatives abroad explaining, in a way which should admit of no misconception, the prevailing practice as to the celebration of marriages at Her Majesty's Missions and Consulates.

Your Lordship kindly inclosed a draft prepared with that object; and your Lordship further stated that you would be glad to be favoured with our opinion as to whether it correctly and clearly described the practice, or whether we would suggest any alterations in it.

In obedience to your Lordship's commands we have the honour to report—

That we have made a few verbal alterations in the draft instructions, subject to which we are of opinion that they correctly and clearly describe the practice which should be observed in celebrating marriages in Her Majesty's Missions. We are not clear whether the practice at Her Majesty's Consulates under the "Consular Marriage Act" is identical with the prevailing practice in Her Majesty's Legations.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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# Egypt.

## No. 41.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 16.)

*Temple, February* 15, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 26th ultimo, stating that, with reference to our Report of the 25th September last, suggesting that the charges preferred by the Egyptian Government against Mr. Petherick, formerly Her Majesty's Consul at Khartoum, should be referred to that gentleman for any reply he might have to make to them, he (Viscount Enfield) was directed by your Lordship to transmit to us a further correspondence which had passed with that gentleman containing his reply to those charges, together with a work entitled "Travels in Central Africa," to which he referred in corroboration of his statements.

And that he (Viscount Enfield) was to request us to take those papers into our consideration and favour your Lordship with our opinion whether or not Mr. Petherick had succeeded in refuting the charges brought against him by the Egyptian Government, and if we are now enabled to form a definite opinion on the case, and that your Lordship suggested that the reasons on which we base our decision should be very fully stated in order that they might be communicated for the satisfaction of the party against whom the decision was given.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Petherick has, in our opinion, established, by such evidence as the case would reasonably admit of, a state of facts as regards his conduct at the period during which he has been accused by the Egyptian Government of dealing in slaves, which is inconsistent with the truth of those charges, and may, in our opinion, be regarded as a refutation of them. We think it proved that natives were attacked and captured as slaves by persons who were in the employment of Mr. Petherick, but that such captures were made without his knowledge and in spite of his orders to the contrary, and that whenever he became aware of them he did his best to cause the captors to be punished for their misconduct. We find it difficult to particularize all the facts which lead us to this conclusion, the evidence on Mr. Petherick's behalf being chiefly circumstantial and consisting partly of statements contained in letters published by him in a book of travels before any accusation was brought against him. We think the most convenient course for your Lordship to adopt would be to inform the Egyptian Government that, upon a careful consideration of a variety of facts, the truth of which has been established to

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your Lordship's satisfaction, your Lordship is of opinion that the assertions implicating Mr. Petherick personally, which have been made by several of the witnesses whose statements have been transmitted to your Lordship by the Egyptian Government, are not trustworthy.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 42.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 24.)

*Temple, February* 23, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 21st instant, stating that, with reference to our Report of the 15th instant, he was directed by your Lordship to transmit to us the draft of a despatch which your Lordship proposed to address to Colonel Stanton relative to the charges of slave-trading brought against Mr. Petherick by the Egyptian Government; and he (Viscount Enfield) was to request that we would favour your Lordship with our opinion as to the propriety of sending that despatch.

In obedience to your Lordship's commands we have the honour to report—

That the despatch, of which the draft has been submitted to us, may, in our opinion, be properly addressed by your Lordship to Colonel Stanton.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 43.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 30.)

*Temple, May* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, relating to the seizure by the Egyptian Government of a steam corn-mill erected by Mr. Thomson, a British subject, near Alexandria; and he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to whether Her Majesty's Government would, under the circumstances of the case, be justified in interfering in Mr. Thomson's behalf.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Thomson, having infringed the law by setting up and working a steam mill, cannot avail himself of the negligence of the Préfet of Police in not causing the mill to be closed at an earlier time, and in a regular manner.

'That Her Majesty's Government consequently would not be justified in interfering on Mr. Thomson's behalf.'

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 44.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 5.)

*Temple, June* 5, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Agent and Consul-General in Egypt respecting a question raised in that country as to the appearance of the Sheik-el-Islam as a witness in a case before the British Consular Court against certain Maltese; and that he (Mr. Hammond) was to request us to take the matter into consideration, more especially with reference to the 64th Article of the Order in Council of 1863 (Hertslet's Treaties, vol. xi), and report to your Lordship our opinion at our earliest convenience as to the instructions which should be sent to Colonel Stanton thereupon.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that, whether the Sheik-el-Islam were present at and heard the assault on his servant and the insults towards himself or not, his own evidence is not essential or necessary, and the fact and words may be proved by bystanders.

That consequently Colonel Stanton may be instructed that the case may be tried without obtaining in any shape the evidence of the Sheik.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 45.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 8.)

*Temple, June* 7, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Agent and Consul-General in Egypt relative to a question which had arisen as to whether coals shipped at Port Saïd on board vessels about to pass through the Suez Canal were to be considered as goods in transit, and consequently exempted from duty.

That copies of the Act of Concession for the Suez Canal, and of the Treaty of Commerce between Great Britain and Turkey of 1861, were also inclosed; and that he (Lord Enfield) was to request us to take the papers into consideration and favour your Lordship with our opinion as to the instructions which should be addressed to Consul Stanton on the subject.

In obedience to your Lordship's commands we have the honour to report—

That Consul Stanton may properly be instructed to state, in replying to Nubar Pasha, that coals imported to Port Saïd, and there put on board vessels about to pass through the Suez Canal, are not to be considered as goods in transit, and consequently are not exempt from duty.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 46.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 24.)

*Temple, July* 23, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the papers (see margin of said letter) relative to an alteration in the rate of tonnage dues charged by the Suez Canal Company.

That the questions which arose on the present case appeared to be twofold, first, the meaning of the words in the concession, "tonneau de capacité des navires," and the proper solution of the difference which had arisen on the subject; and, secondly, the jurisdiction to which disputes in connection with the Company were to be submitted.

And that he (Lord Enfield) was to request that we would take the matter into consideration and favour your Lordship with our opinion thereupon.

That the inclosed extract from the "London Gazette" contained the provisions of the Danube Public Act relative to the Danube Tariff of navigation dues referred to in some of the papers referred to us.

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In obedience to your Lordship's commands we have the honour to report—

That, in the absence of any information to be derived from the negotiations preceding the Act of Concession which may interpret the words "tonneau de capacité des navires" occurring in Article 18, sub-section 3, of the Act of Concession of the 5th January, 1856, we think the construction which the Suez Canal Company have, as appears from the papers forwarded to us, put upon them is a fair one, namely, the gross tonnage of the vessel after deduction has been made of space for the engine and coal bunkers.

This is the way in which the tonnage is calculated in the enactments of the European Commission of the Danube.

And the papers forwarded to us apparently show that the Suez Canal Company has adopted the existing English mode of measurement.

With respect to the second question, we are of opinion that the Suez Canal Company is, as admitted by M. de Lesseps in his letter dated Ismaïla, 12th May, 1872, to Sheriff Pasha (Inclosure 1, Sir H. Elliot's despatch on Egyptian Company), and that disputes in connection with the Company must in Egypt be submitted to that Tribunal which has jurisdiction over the defendant.

We have, &c.  
(Signed) J. C. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 47.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 29.)

*Temple, August* 28, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that, with reference to the Reports of the Law Officers dated 22nd February, 21st May, and 7th July, 1870, respecting judicial reforms in Egypt, he was directed by your Lordship to state to us that the question has now arrived at a stage when foreign Powers must deal with it.

That the memoranda and other papers which Mr. Hammond inclosed would serve to bring before us the origin and progress of the discussions on this question until they were interrupted by the Franco-German war.

That the Viceroy of Egypt has from time to time since that period renewed his representations, with a view to obtain the consent of the Sultan and of the Powers interested to the inauguration of the new system; and that lately at Constantinople he appears to have come to an understanding with the Porte on the subject, the effect of which would be to adopt the plan agreed upon between the Porte and the Viceroy in April 1870 as the basis of further proceedings.

That the French Government, on the other hand, prefer the plan which they put forward in May 1870, and which the Law Officers considered might be adopted.

That we should see from Sir Henry Elliot's despatch No. 108 that the Ambassador and Sir Philip Francis incline to the Turco-Egyptian plan of April 1870.

That, on examining the Vizirial letter authorizing the new system, inclosed in Sir Henry Elliot's despatch No. 114, the arrangements appeared to be so vague that it seemed necessary, before proceeding further, to ascertain clearly what law it was proposed should be administered in the new Courts, and what form of procedure observed.

That the result of that inquiry was contained in Sir Henry Elliot's telegram of the 9th instant, and it appears that the laws to be administered are contained in the Codes inclosed in Lord Lyons' despatch No. 621 of the 20th June, 1870.

Mr. Hammond finally stated that before any definite reply is returned to the French Ambassador's memorandum of the 30th July, or any notification made to the Porte or Viceroy of the decision of Her Majesty's Government, your Lordship would wish to receive from us advice as to the course to be pursued, founded on a review of the whole correspondence now submitted to us, and that he was therefore to request that we would take it into our early consideration and report our opinion to your Lordship.

In obedience to your Lordship's commands we have taken the above-mentioned correspondence into consideration, and have the honour to report—

That the Ottoman and French projects, both based upon the recommendations of the International Commission, differ little from each other. The scheme proposed for its internal government by an independent Power would, for obvious political and social considerations, be preferable to any scheme proposed by a foreign Power.

On the 22nd July, 1870, in writing to M. de Lavalette your Lordship stated that Her Majesty's Government was prepared with the Imperial Government to accept the system of judicial reform for Egypt prepared and presented by the French Government, but without being pledged to accept the details of the five Codes then drawn up by the instructions of the Porte.

The expression of this agreement between the French and British Governments your Lordship directed, on the 1st August, 1870, should be communicated to Sir H. Elliot, and to other Representatives of Her Majesty resident at the Courts of those Powers which had taken part in the International Commission sitting at Cairo.

Your Lordship at the same time stated that it would rest with the Porte and the Pasha of Egypt to take the necessary steps for the construction of the new Tribunals and the inauguration of the new system.

On the 8th August in the present year your Lordship, in your note of that date to M. d'Harcourt, stated that Her Majesty's Government saw no reason to depart from the opinion expressed in your letter to M. de Lavalette in July 1870, but that, in consequence of some doubts which you had as to the meaning of the Vizirial letter of the 19th July last, you had required further explanation of the law to be administered in Egypt under the new system, and the form of procedure to be observed in the Courts constituted under it; and that foreign Powers had now certain rights connected with an existing system which your Lordship believed to be bad, but which could not be changed without the concurrence of foreign Powers, and that you were desirous of knowing what it was proposed to establish in lieu of the present system.

This explanation and information your Lordship received from Sir H. Elliot in his telegram dated the 9th August.

So far, and with the qualifications above referred to, your Lordship has expressed the agreement of Her Majesty's Government with the views of the French Government in 1870 and 1872.

Sir P. Francis, in his memorandum inclosed in Sir H. Elliot's despatch of the 23rd July last, whilst regretting that the French Government should have drawn up a separate project, and himself rather preferring the Ottoman project, considers the difference between the two so unimportant as not to justify a rejection of either of them.

In the telegram of the 9th August of this year Sir H. Elliot says that, at a meeting of the Heads of Missions at Constantinople, and in answer to the French Ambassador, Nubar Pasha explained that the Vizirial letter of the 19th July last merely authorized the Khedive to carry into effect the judicial reforms proposed by the Commission at Cairo and embodied in the Ottoman project; that the laws to be applied were those of the Codes of which the different Governments had already expressed their approval, and which would be in force during five years.

With respect to the criminal jurisdiction, the remarks of Nubar Pasha (Inclosure 3 in Sir H. Elliot's despatch of the 23rd July last), in our opinion, deserve the greatest attention. We agree with him in the opinion that it would be most injurious to the authority of the Civil and Commercial Tribunals that they should not at once have the power of punishing contempts of Court and resistance to their orders and decrees.

The new Tribunals are to contain not merely a European element, but a judicial and professional European element.

In our opinion, a Tribunal so composed, and after the proposed experience for a year of the administration of justice in civil matters by a similarly composed Tribunal, is more fit to be intrusted with a criminal jurisdiction than the system now in operation, and of which your Lordship, as we understand, expressed your disapprobation in your letter to M. d'Harcourt already referred to.

That system has outlived the times which made it either necessary or convenient for the administration of justice in the case of foreigners in Egypt.

We have troubled your Lordship with these observations, because, whilst forming our own opinion that the Ottoman project is the best, and therefore recommending the adoption of that project to your Lordship, we are aware that such a course may not meet the expectations which the French Government may have formed.

Should your Lordship's opinion coincide with ours, we have the honour to suggest—

That your Lordship should inform M. d'Harcourt that the differences between the French and Ottoman projects are so unimportant in principle that, out of consideration for the self-respect and independence of the Porte, your Lordship, after considering the proposed schemes and the Codes, prefers the Ottoman project, and hopes that the French

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Government and other Governments interested will be able to agree with you, since the consent of those Powers is, as stated in the *note verbale*, necessary to the inauguration of the new state of judicial administration in Egypt.

The omission of any mention of such consent in the Ottoman project, as pointed out in the *note verbale*, clearly arises from the idea that the project and the five Codes had been approved of by the Powers, and is no reason now for rejecting or amending the project if the Powers consent.

The French project did not refer to a criminal or penal jurisdiction. The consideration of that branch of the subject is new.

The constitution, however, of the new Tribunals, which makes the attendance of skilled European Judges necessary, is a sufficient guarantee and protection for a sound exercise of a criminal jurisdiction, and the more so since that part of the scheme is not to come into operation till one year after the establishment of the Civil and Commercial Tribunals. And that these last Courts should at once have a sufficient penal jurisdiction to punish contempts and to enforce obedience, is necessary to the exercise of the powers to be intrusted to them.

That your Lordship is the more anxious to obtain the assent of the French Government because the scheme is only tentative and temporary, and that you quite agree with M. d'Harcourt that no changes or modifications should hereafter be made without the consent of the several Powers interested.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

P.S.—We also acknowledge the receipt of Mr. Hammond's letter of the 16th instant, stating that, with reference to his letter of the 10th instant, he was directed by your Lordship to transmit to us, for our consideration with the above-mentioned papers, a translation of the Vizirial letter as communicated to the Foreign Office by the Ottoman Ambassador at the Court.

J. D. C.
G. J.
J. P. D.

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### No. 48.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 29.)

My Lord,
*Temple, August* 29, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st August, stating that, with reference to his letter of the 10th instant and previous correspondence, he was directed by your Lordship to transmit to us several further despatches from Her Majesty's Ambassador at Constantinople relating to judicial reforms in Egypt; and that he was to request that we would take these papers into consideration, together with those already before us, and report to your Lordship our opinion on the matter.

In obedience to your Lordship's commands we have the honour to report—

That, previous to receiving Mr. Hammond's letter of the 21st August last, with the inclosures from Sir H. Elliot, dated the 8th and 12th August, we had formed our opinion and reported to your Lordship that the Turkish project for judicial reforms in Egypt was, on the whole, preferable to the French project.

Having now considered the further papers forwarded to us, we are confirmed in the opinion at which we had previously arrived.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 49.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 4.)

My Lord,
*Temple, October* 4, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th ultimo, stating he was directed by your Lordship to transmit to us the accompanying correspondence with Her Majesty's Acting Consul at Alexandria, relative to a claim preferred by Messrs. Willis Manché and Co. against Her Majesty's Government in respect of a deposit made by them with Dr. Zarb, who was at the time British Consular Agent at Port Saïd, but was removed from that post on becoming a bankrupt;* that there did not seem any probability of Dr. Zarb meeting that claim upon him; and he (Mr. Hammond) was to request us to take the matter into consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government could be held responsible for the money deposited.

In obedience to your Lordship's commands we have the honour to report—

That Dr. Zarb, as British Consular Agent, had no official authority or duty to receive deposit, and we are of opinion that Her Majesty's Government cannot be held responsible for the money deposited with him.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 50.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 14.)

My Lord,
*Temple, October* 14, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 2nd instant, stating he was directed by your Lordship to transmit to us the inclosed letter from Messrs. Kimber and Ellis, requesting that application might be made to the Egyptian Government to obtain the loan of a letter addressed to the Viceroy of Egypt in 1870, which document they were anxious to produce in Court as evidence in the case of Virnard *v.* Reuter; and he (Lord Enfield) was to request us to favour your Lordship with our opinion as to whether it would be advisable for Her Majesty's Government to make that application.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, it is not advisable that Her Majesty's Government should make the application to the Egyptian Government requested by Messrs. Kimber and Ellis.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 51.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 31.)

My Lord,
*Temple, October* 31, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 25th instant, stating he was directed by your Lordship to transmit to us a letter from Messrs. Clarkson, Son, and Greenwell, inquiring, on behalf of the owners of the steam-packet "Batavier," whether the Egyptian steamer "Charkieh" was liable to arrest under a warrant of the High Court of Admiralty, on account of a recent collision in the River Thames, whereby the "Batavier" was sunk; and he (Viscount Enfield) was to request that we would take that letter into our consideration, and favour your Lordship, at our early convenience, with our opinion as to the answer which should be returned to Messrs. Clarkson, Son, and Greenwell upon that subject.

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* Mr. Calvert, No. 26, July 8; No. 36, August 26; to Mr. Calvert, No. 19, July 30, 1872.

1872

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the "Charkieh," if, as we presume, a public vessel and carrying the flag of the Viceroy of Egypt, is not liable to arrest by warrant of the High Court of Admiralty.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 52.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 2.)

*Temple, November* 2, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in a memorandum from Viscount Enfield stating that, with reference to his letter of the 25th instant, he was directed by your Lordship to transmit to us a farther letter from Messrs. Clarkson, Son, and Co. relative to the collision between the steamers "Batavier" and "Charkieh."

Viscount Enfield also inclosed a note from the Turkish Ambassador at this Court claiming exemption from arrest for the "Charkieh," on the ground of her belonging to the Ottoman Government, and requested that the papers might be taken into the consideration of the Law Officers at their earliest convenience, together with the letter on the same subject already before us; and that your Lordship might be favoured with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That Messrs. Clarkson may be informed that the Turkish Government has claimed the "Charkieh" as belonging to the Imperial Marine, and that she must be released.

And that, in reply to M. Musurus, your Lordship may, after saying that the "Charkieh" shall be released, say that you hope the Turkish Government will not refuse its consent to the case being tried.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 53.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 18.)

*Temple, November* 16, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 14th instant, stating that, with reference to our letter of the 2nd instant, respecting the collision between the steamers "Batavier" and "Charkieh," he (Viscount Enfield) was directed by your Lordship to transmit to us a farther, letter and its inclosures, from Messrs. Clarkson, Son, and Co., tending to prove that the latter vessel was a passenger steamer, and not, as was contended on the part of the Turkish Government, a ship of war; and he was to request us to take the letter, with the previous papers, into consideration, and favour your Lordship with our opinion as to the farther steps to be taken in the matter.

Viscount Enfield was also pleased to inclose a farther note from the Turkish Ambassador for our observations thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the documents inclosed in the letter from Messrs. Clarkson of the 12th November are proofs that the "Charkieh" was not a public vessel entitled to immunity from arrest, and we are of opinion that your Lordship may direct that the Turkish Ambassador be informed that these documents tend to show that, in claiming that the "Charkieh" be released as a public ship, M. Musurus may have been misinformed, and that your Lordship cannot, unless the papers be explained, interfere farther to protect her from detention.

It appears to us that your Lordship cannot comply with the request made by the farther note from the Turkish Ambassador.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 54.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 30.)

*Temple, November* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 28th November instant, stating that, with reference to our Report of the 16th instant, he was directed by your Lordship to transmit to us a further note from the Turkish Chargé d'Affaires at this Court,[*] asserting that, notwithstanding that the vessel "Charkieh" had paid light and pilotage dues on her arrival in the port of London, and had carried passengers and merchandize, she is the property of the Egyptian Government, and as such is entitled to be considered as belonging to the Imperial Ottoman navy, and therefore not liable to arrest.

Lord Tenterden also stated that he inclosed at the same time the previous correspondence respecting the case,[†] and that he was to request that we would again take the same into our consideration, and favour your Lordship with our opinion as to the further steps which should be adopted in regard thereto.

Lord Tenterden added that a further note, likewise inclosed, had just been received from the Turkish Chargé d'Affaires,[‡] returning copies of the printed notices respecting the "Charkieh," which accompanied Messrs. Clarkson, Son, and Greenwell's letter of the 12th instant, together with an extract of a letter from Fédrys Pasha, an Agent of His Highness the Khedive.

In obedience to your Lordship's commands we have the honour to report—

That a ship engaged in trade as the "Charkieh" is, cannot, although she may be the property of a Government, be considered a public ship and exempt from arrest.

M. Musurus may therefore, in our opinion, be informed by your Lordship that you cannot interfere in the matter as he desires.

Your Lordship will be best able to judge whether you should express any opinion upon the expressed willingness of M. Musurus to submit the case to arbitration, a course to which we see no objection, and which may relieve the Egyptian Government from any fancied humiliation in being brought before a Court of Justice. The consent, however, of the owners of the "Batavier" must be obtained for a reference to arbitration.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# France.

## No. 55.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 12.)

*Temple, January* 11, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us

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[*] Musurus Bey, November 25, 1872.

[†] Messrs. Clarkson, October 23, 25, and 28; Musurus Pasha, October 28; Messrs. Clarkson, November 4; Musurus Pasha, November 4; Messrs. Clarkson, November 5; Musurus Pasha, November 11; Messrs. Clarkson, November 12 and 19; Musurus Pasha, November 19, 1872.

[‡] Musurus Bey, November 27, 1872.

1872

a draft of a letter which, upon the receipt of our Report of the 5th ultimo, was addressed to Messrs. Glehn and Sons as to the course which it would be proper for them to take to prosecute their claim against the French Government.

Viscount Enfield was also pleased to inclose a letter from Messrs. Glehn in reply, in which the question was raised as to the liability of the City of Paris, against whom they had proceeded in that matter, to make good the losses which formed the subject of their claim, and urging the importance, under the circumstances, of diplomatic interference being now exerted on their behalf.

Viscount Enfield was also pleased to inclose the former papers in the case, and stated that he was to request that we would again take the matter into our consideration and favour your Lordship with our opinion as to the answer which should be returned to Messrs. Glehn's renewed application.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That Messrs. von Glehn and Sons should be informed that the last communication to them under the direction of your Lordship was made on the assumption that they had been correctly informed that the City of Paris was liable, under French law, to make good their losses. That with regard to their present application, that Her Majesty's Government shall now interfere diplomatically in their behalf, your Lordship refers them to the communication addressed to them by your Lordship's direction from the Foreign Office of the date of the 26th June last.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 56.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 17.)

*Temple, January* 16, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 13th instant, stating that, with reference to his letter of the 11th instant, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Ambassador at Paris, inclosing the reply of the French Minister to the notes addressed by Mr. West to the French Government on the 18th October last, respecting the increased duties levied by the French authorities on mineral oils of British origin; and that he was to request that we would take the papers then inclosed (January 13) into our consideration in framing our Report upon the papers already before us relating to that matter.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That the argument of M. Rémusat that the merchandize referred to in Article XVI of the Treaty of 23rd January, 1860 (Hertslet, vol. xi, p. 166), must be taken to be identical with the articles enumerated in Article I, is, in our opinion, not tenable. It is provided by Article XIII of the Treaty that "the *ad valorem* duties established within the limits fixed by the preceding Articles of the Treaty shall be converted into specific duties by a Supplementary Convention, which shall be concluded before the 1st of July, 1860." The provision, therefore, in Article XVI which forbids the imposition of any *ad valorem* duty higher than 25 per cent. on merchandize of British production or manufacture after 1st October, 1864, would be idle and inconsistent with Article XIII unless it was intended to apply to merchandize which would not be subject at such time to specific duties, in other words, to articles of British production and manufacture other than those enumerated in Article I. This view of the Treaty is confined, in our opinion, by the provisions of the Supplementary Convention itself concluded in accordance with Article XIII of the Treaty (Hertslet, vol. xi, p. 183) on 12th October, 1860; which, after establishing a Tariff of specific duties on certain articles of British production, and including all those enumerated in Article I of the Treaty, proceeds to make regulations for the importation of articles of British origin or manufacture taxed *ad valorem.* The circumstance to which M. Rémusat alludes, that the Tariff of 12th October, 1860, includes other articles than those enumerated in Article I of the Treaty of Commerce, so far from supporting his conclusion, appears to be adverse to it, as it shows that the list of goods enumerated in Article I of the Treaty was not intended to be an exhaustive list.

With regard to the Belgian Treaty of Commerce, we are of opinion that it does not assist the case of Her Majesty's Government, as the admission of rectified oil of petroleum of Belgian origin at the duty levied on "essence de houille" would appear to have been a matter of administrative arrangement, and not to have rested on any Treaty engagement, to the benefit of which Her Majesty's Government might rightfully make claim by reason of the most favoured-nation-clause in Article XIX of the Treaty of 23rd January, 1860.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 57.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 20.)

*Temple, January* 17, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, inclosing a copy of a despatch from the Governor of Newfoundland, together with a letter from the Commander of Her Majesty's ship "Danae," containing a series of questions with reference to the French rights of fishing on the coasts of Newfoundland.

That the Secretary of State for the Colonies, as we would perceive, was desirous of ascertaining your Lordship's opinion as to the answers which Governor Hill proposed to return to Captain Brown's questions, to some of which your Lordship suggested certain modifications.

That especial reference was made in the Colonial Office letter to the Report of the Law Officers of the Crown of the 24th March, 1859 (which we found in the manuscript volume annexed), and to various other documents bearing upon the particular points in question, contained in the four series of printed papers annexed.

And that he (Viscount Enfield) was to request that we would take the correspondence into our early consideration and favour your Lordship with our opinion upon the several matters adverted to in the Colonial Office letter.

In obedience to your Lordship's commands we have taken the whole of the correspondence into consideration and have the honour to report—

That your Lordship may, in our opinion, properly concur in the answers which Governor Hill proposes to return to the questions submitted to him by Captain Brown, of Her Majesty's ship "Danae," subject to the modifications suggested by the Earl of Kimberley in the respective answers to the fourth, fifth, and sixth questions.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 58.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 20.)

*Temple, January* 19, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed by your Lordship to transmit to us a correspondence respecting a supposed intention on the part of the French Government to sell the Islands of St. Pierre and Miquelon, on the coast of Newfoundland, to the Government of the United States.* That we would perceive from the correspondence that your Lordship had not, up to date of Mr. Hammond's letter, received any confirmation of that supposed negotiation, but that, bearing in mind the important effect which such a transfer of territory might have upon the Imperial and Colonial interests of Great Britain, your Lordship would be glad to be favoured with our opinion whether, under the

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* Lord Lyons, No. 857, July 9; to Sir E. Thornton, No. 181, July 13; Colonial Office, October 13, 1871; to Sir E. Thornton, No. 12, January 15, 1872.

1872

terms of the original cessions made to France in that quarter, that country possessed the title to dispose of such territory to another Power by sale, or whether her rights were not confined to those of possession.

In obedience to your Lordship's commands we have taken the matter into consideration and have the honour to report—

That we are of opinion, having regard to the terms of the British Declaration of the 3rd September, 1783, that the French Counter-Declaration of the same day (Hertslet, vol. i, p. 245) is equivalent to a pledge or engagement on the part of the French Government to use the Islands of St. Pierre and Miquelon for the purpose for which they were ceded, and to prevent them from becoming an object of jealousy between the two nations, and that it would be a breach of such engagement for the French Government to dispose of those islands to a third Power if Great Britain objected to it.

We consider the rights of France are rights of property under Article IV of the Treaty of Versailles, but that such rights cannot, consistently with the Declaration and Counter-Declaration, be used by France to the prejudice of Great Britain.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 59.

*The Queen's Advocate to Earl Granville.—(Received January 20.)*

*Temple, January* 19, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 13th instant, stating that upon the receipt of my Report of the 30th ultimo, respecting Mr. Stuart Mackenzie's claim against the French Government, Her Majesty's Ambassador at Paris was instructed to send home a copy of the Decree of the 15th June, 1871, to which I was desirous of referring, in order to ascertain whether both the classes of damage sustained by him are within the scope of it, Lord Enfield was now to transmit to me a despatch from Lord Lyons, inclosing the Decree in question, together with copies of a further correspondence with Mr. Mackenzie; and Lord Enfield was pleased to request that I would take these papers into my consideration, with the former papers also inclosed, and that I would furnish your Lordship with my opinion as to what answer should be returned to his last communications.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Stuart Mackenzie should be informed that the circumstance of his being a foreigner would not relieve him, being resident in France, from the obligation of making himself acquainted with the Decree of the National Assembly of the 21st June, 1871, which appears to have been posted up in every commune, for the information of the parties interested, and that he ought, in accordance with that Decree, to have sent in his claim for compensation, within a given time, to the Prefecture of the department or the Sous-Prefecture of the arrondissement within which he was resident; and that as he has failed to comply with the law applicable to his case, and the Préfet of the Cher has, on that ground, refused to entertain his claim, your Lordship regrets that Her Majesty's Government cannot interfere to obtain a reversal of the Préfet's decision.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 60.

*The Law Officers of the Crown to Earl Granville.—(Received January 20.)*

*Temple, January* 19, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us a letter from the French Chargé d'Affaires at this Court, representing, as it would appear, that Vice-Chancellor Malins had issued certain orders for the deposit in Chancery of funds emanating from the French Treasury in the hands of Messrs. Morgan and Co., bankers, of London, and that he had subsequently refused to remove the attachment laid on those funds.

That the French Chargé d'Affaires observed that no question was raised as to the ownership of the funds in question, which were merely attached for the security of debts said to be owing by the French Government, but they (the French Government) protest against the proceedings in question, on the ground that it is contrary to international law that the French Government should be called upon to defend itself against private persons in a foreign Court of Law, and be thus deprived of the control over its own funds.

And that he (Viscount Enfield) was to request us to take M. Gavard's letter, and its inclosure, into our early consideration, and favour your Lordship with our opinion as to the answer which should be returned to it, or as to the course which Her Majesty's Government should take in the matter.

In obedience to your Lordship's commands we have taken the papers into consideration and have the honour to report—

That if the statement that no question was raised as to the ownership of the funds in question were correct, the judgments referred to would not be justified, being plainly contrary to international law. Not having the pleadings and evidence before us we are unable to state positively that this is incorrect; but, from inquiries made (by the Solicitor-General) it seems that the plaintiffs alleged, and the Judge considered it to be proved, that the funds in question had been deposited in the hands of Messrs. Morgan as trustees for the plaintiffs; in other words, that the then Government of France had so dealt with these funds as to have equitably assigned them to the plaintiffs. If this is correct in fact, the French Government would have ceased to be the owner of the funds, and the judgments would not be contrary to international law, the suit being brought, not against the Government, but against a trustee for the plaintiff, and the Government being only made a party by reason of this claiming the funds.

If the reasons of the judgment are correctly stated above, but the facts on which such judgment proceeds were not proved in evidence, then Messrs. Morgan or the French Government should appeal against the decision of the Vice-Chancellor; but we see no ground for other interference, as the law of England as to the incompetency of a Tribunal to entertain a claim against a foreign Government is the same as that of France.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 61.

*The Law Officers of the Crown to Earl Granville.—(Received January 20.)*

*Temple, January* 20, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Lord Lyons,[*] inclosing a Report of a debate in the French National Assembly on the imposition of duties on raw material,[†] in the course of which M. Thiers claimed a right, on the part of the French Government, to impose a tax on raw materials under the provisions of the IXth Article of the Treaty of Commerce of the 23rd January, 1860, and IIIrd Article of the Second Supplementary Convention of the 16th November, 1860, and also to impose additional duties as "droits compensateurs" on manufactured goods, in the manufacture of which such raw materials entered; and that he (Lord Tenterden) was to request that we would take the same into our consideration, and favour your Lordship with our opinion on the construction put upon those Articles by M. Thiers and the other speakers who addressed the Assembly.

That we would observe that there was nothing to show that it was contemplated to impose an excise tax or inland duty upon articles of French production, and that some of the articles, as for instance cotton, were not of French production at all.

That, moreover, it was a question how far Article IX of the Treaty was limited by the words "comprised among the preceding enumerated articles," and Article III of the Second Supplementary Convention by the expression "duties of excise now imported."

Lord Tenterden kindly inclosed copies of the Treaty of Commerce, Additional

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[*] Lord Lyons, No. 36, January 16, 1872.

[†] "Journal Officiel," January 16.

1872

Articles, and Supplementary Conventions, with a report of the preceding debate in the Assembly.

In obedience to your Lordship's commands we have taken the matter into our consideration and have the honour to report—

That we are of opinion that Article IX of the Treaty of Commerce applies only to the articles enumerated in Article I of the same Treaty, with the additional proviso that they shall be of French production or manufacture, and, consequently, that no increase of customs duties can be imposed on such articles of British origin or manufacture, unless a corresponding excise tax, or inland duty, is previously imposed on similar articles of French production or manufacture.

We are further of opinion that, as to Article III of the Second Supplementary Convention, no increase of customs duties, beyond those specified in the Article itself, can be imposed upon articles of British origin and manufacture, except in the event of such a modification of the excise duties actually levied at the date of the Convention upon French manufactures as would cause a corresponding increase in the cost of similar articles of French manufacture.

It follows from this that the proposal of M. Thiers referred to in the despatch of Lord Lyons of the 16th January is, in our opinion, incompatible with the terms of the existing Treaties.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 62.

*The Law Officers of the Crown to Earl Granville.—(Received February 12.)*

*Temple, February 12, 1872.*

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us the correspondence marked in the margin,* which had passed between the Foreign Office and Her Majesty's Ambassador at Paris, on the subject of a Bill at present before the French Assembly for imposing differential duties on foreign shipping.

Lord Tenterden inclosed a memorandum, drawn up in the Foreign Office, containing a list of the most recent and important Treaties which France had concluded with foreign countries, and showing the bearing of those Treaties upon the question of differential duties, and he (Lord Tenterden) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the rights which British shipping might possess in French ports under existing Treaties, bearing in mind the benefits which France might have accorded by Navigation Treaties to other countries.

And that the French Law of 1866, and other papers bearing upon the question, would be found, as noted in the margin.†

In obedience to your Lordship's commands we have the honour to report—

That with regard to the question referred to in the correspondence between your Lordship and Lord Lyons as to the Bill now pending before the French Assembly for the imposition of differential duties, and which we presume was intended to be submitted to us in the letter of Lord Tenterden of the 3rd February, we are of opinion that, as the duties proposed to be imposed are to be levied not on the ships but on the cargoes according to weight, they are duties on the importation of goods within the meaning of the Vth Article of the Convention of the 16th November, 1860, and that, having regard to the Treaties with Austria and Sweden, no such duties can be imposed on goods imported in British ships while such Treaties remain in force.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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* Lord Lyons, No. 147, September 7; No. 158, September 8; to Lord Lyons, No. 96, September 18, 1871; Lord Lyons, No. 8, January 5; No. 14. January 9; Nos. 62 and 63, January 23; No. 69, January 24; to Lord Lyons, No. 28. January 27; Lord Lyons, No. 95, January 29; No. 109, January 31, 1872.

† Anglo-French Navigation Treaties, 1826.—See "Hertslet's Treaties," vol. iii, p. 123. French Law, May 19, 1866; Decree, June 8, 1866. Anglo-French Commercial Treaties, 1860.—"Hertslet's Treaties," vol. xi, pp. 165, 171, 177, 183, 191.

## No. 63.

*The Queen's Advocate to Earl Granville.—(Received February 14.)*

*Temple, February 13, 1872.*

My Lord,

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 29th ultimo, stating that, with reference to my Report of the 28th August last, he was directed to transmit to me a despatch from Lord Lyons, inclosing further correspondence respecting Mr. Caudwell's complaints against the Tribunal at Boulogne, and to request that I would take the papers into my consideration and report to your Lordship my opinion as to the instructions which should be sent to Lord Lyons in the case. The previous papers were also inclosed for convenience of reference.

I am also honoured with Mr. Hammond's letter of the 12th instant, transmitting a further despatch, and its inclosures, upon the same subject received from Lord Lyons.

In obedience to your Lordship's commands I have the honour to report—

That Lord Lyons should be instructed to inform Mr. Caudwell that, before your Lordship can pronounce any opinion on the subject of his complaint against the administration of justice by the Tribunals of Boulogne, your Lordship requires to be furnished with a statement in detail drawn up by Mr. Caudwell's *avoué*, and verified by him as to the precise points in the case in regard to which Mr. Caudwell impugns the conduct of the French Judges, and asserts that the law of France has been violated by them to his prejudice, and that your Lordship further requires to be informed whether there was not an appeal to the Superior Court at Rouen open to Mr. Caudwell, and if so why Mr. Caudwell did not avail himself of the right of appeal.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 64.

*The Law Officers of the Crown to Earl Granville.—(Received February 17.)*

*Temple, February 17, 1872.*

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 15th instant, stating that he was directed by your Lordship to transmit the accompanying letter from Mr. Farrer, commenting on our Report of the 12th instant, together with a despatch upon the receipt of which that Report was addressed to Her Majesty's Ambassador at Paris respecting the duties imposed on shipping by the Marine Marchande Law recently passed by the French Assembly; and that he (Lord Tenterden) was to request we would take the same into our consideration and favour your Lordship with our opinion, at our earliest convenience, whether Mr. Farrer's observations induced us to alter the views expressed in our Report.

Lord Tenterden inclosed all the correspondence for reference.

In obedience to your Lordship's commands we have the honour to report—

That we agree with Mr. Farrer that it was not the intention of the framers of the Vth Article of the Supplementary Convention of 1860 to give to British ships any advantage at all; but Mr. Farrer appears to us to have missed the point upon which our Report to your Lordship of the 12th February bore, which was that the proposed French duties are not properly duties imposed upon shipping, but duties imposed on merchandizes, being duties imposed on the goods which are in each case the subject of freight, and not on the tonnage of each ship according to measurement. The motive for imposing the duties may be, in fact, to give a preference to French shipping, but they are, in our opinion, proposed to be levied on the merchandize and not on the ships, and as such are not navigation dues but customs duties.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 65.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 24.)

*Temple, February* 24, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th instant, stating that, with reference to our Report of the 17th instant, he was directed by your Lordship to transmit to us a further letter from the Board of Trade on the duties imposed under the recent French Marine Marchande Law.

Lord Tenterden was pleased to inclose copies printed of the previous letters from that Department adverted to in this communication, together with the Treaty of 1860, and its several Annexes, as already placed before us; the Correspondence presented to Parliament in 1867, referred to by the Board of Trade; and the recent Marine Marchande Law and Customs Circular; and in acquainting us that Lord Lyons had been instructed in the sense of our previous Reports; and that he (Lord Tenterden) was to request us to take the matter into reconsideration, and favour your Lordship, at our early convenience, with such further observations as we might have to offer.

In obedience to your Lordship's commands we have the honour to report—

That the only questions upon which we advised was the constructions of the Treaties, and we see no reason to alter our former opinion as to this point. The Board of Trade persists in regarding the "surtaxe de pavillon" as a tax upon shipping, whereas it is a tax upon merchandize, although the motive for imposing it is to secure protection to French shipping, and, therefore, the tax is levied by reason of the flag under which it is imported being a foreign flag. At the same time, we must observe that the letter of the Board of Trade of the 17th instant raises a totally new point, namely, a question of good faith on the part of Her Majesty's Government in insisting upon our construction, having regard to the intentions of the negotiators of the Treaty, as now stated in that letter. If the facts therein mentioned are accurately stated, we must remark that, if our construction is insisted on, the French would be entitled to complain of advantage being attempted to be taken of the wording of the Treaty to impose obligations on them which it was known to the negotiators on both sides were not intended to be enforced; and, assuming that the intention of the English negotiators is known to our Government to have been opposed to what we consider the true construction of the Treaty, then we could not recommend such a course to be taken.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 66.

*The Queen's Advocate to Earl Granville.*—(*Received March* 15.)

*Temple, March* 15, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, on receipt of my Report of the 13th ultimo, Her Majesty's Ambassador at Paris was instructed by your Lordship to require Mr. Caudwell to furnish the information on various points connected with his complaint against the legal Tribunal at Boulonge which were specified in that Report; and Mr. Hammond was now to transmit to me the reply which has been received from Lord Lyons on the subject, inclosing copies of a correspondence which has passed between his Excellency and Mr. Caudwell; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the instructions with which it is desirable that Lord Lyons should now be furnished in regard to his communications with Mr. Caudwell upon this subject.

The former papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Caudwell should be informed that the question upon which your Lordship's intervention has been requested by him is, in your Lordship's opinion, a question of French law to be decided by the competent French Tribunal, and that your Lordship is not satisfied, upon the representations hitherto made by Mr. Caudwell, that your Lordship would be justified in intervening diplomatically in his behalf.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 67.

*The Queen's Advocate to Earl Granville.*—(*Received March* 15.)

*Temple, March* 15, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed to transmit to me a letter, and its inclosures, from Mr. Insley, a British resident at St. Malo, in France, complaining of the manner in which a claim, which he has preferred against the French Government for provisions furnished by him during the late war for the revictualling of Paris, has been dealt with, and requesting that Her Majesty's Ambassador in that capital may be instructed to interfere in his behalf; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion whether the claim in question is one which can properly be supported by Her Majesty's Government, and, if so, what instructions should be addressed to Lord Lyons on the subject.

In obedience to your Lordship's commands I have the honour to report—

That this is not, in my opinion, a claim that can properly be supported officially by Her Majesty's Government.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 68.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 19.)

*Temple, March* 18, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us two despatches which your Lordship had received from Her Majesty's Ambassador at Paris and Her Majesty's Consul at Calais. These despatches related primarily to a question which had been raised as to the supposed right of British subjects holding real property in France to dispose of the same by will according to the provisions of English law; and next, to the question (arising out of the former) of entering into negotiation for the conclusion of a Consular Convention with France.

That your Lordship was of opinion that it would at present be of no practical utility to open a negotiation with the French Government on the last-mentioned point; but your Lordship would be glad if we would take the other point into our consideration, and report to your Lordship our opinion as to the answer which your Lordship should return to the despatches of Lord Lyons and Mr. Consul Hotham.

In obedience to your Lordship's commands we have the honour to report—

That it must be regarded as a settled principle of international law that immovables are to be disposed of according to the laws of the country where they are situate. This principle governs the rights of parties equally as the modes of transfer and the solemnities which should accompany them, and it is recognized in English Courts of Law. Lord Lyons and Mr. Consul Hotham may accordingly be informed that British subjects hold real property in France subject as regards every disposition of it, whether by will or act *inter vivos*, to the law of France alone.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 69.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 19.)

*Temple, March* 19, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us therewith a letter from Mr. E. M. Underdown, inclosing a statement of a case which

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was to be proceeded with before the Tribunal Correctionnel at Lille, on Tuesday, the 19th instant, in which a firm in London, as well as several other British subjects, appear as misdemeanants, being charged with complicity in certain alleged frauds by a French army contractor, in respect of acts done and sales made in England.

We would perceive that the matter was one of great urgency, as the trial was appointed to come on at Lille on Tuesday next, and that he was therefore to request that we would take the matter into our immediate consideration, and report to your Lordship, at our earliest convenience, our opinion as to the instructions which might be given to Lord Lyons thereupon.

In obedience to your Lordship's commands we have the honour to report—

That criminal proceedings in France against English subjects resident in England for a crime alleged to be committed here are contrary to the law of nations, and as far as we are able to form an opinion appear not to be warranted by French law. We think Lord Lyons may be properly instructed to represent to the French Government that the service in England on an Englishman of a citation to appear before a French criminal Tribunal for an alleged offence committed here, and the attempt to try him in his absence for such an offence are contrary to the comity of nations, and would not be permitted by English law as regards French subjects, and a request should be made for information as to whether the acts complained of are lawful according to the laws of France.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 70.

*The Attorney- and Solicitor-General to Earl Granville.—(Received March* 28.)

*Temple, March* 27, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter dated the 23rd March, 1872, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Lord Lyons on the question of the liability to payment of "surtaxes de pavillon" in the case of vessels which may have sailed before the enactment of the French laws on the subject, a copy of which was also inclosed, and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Lord Lyons on the subject.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason to doubt the correctness of M. Treitt's exposition of the French law on the subject; indeed the English law is the same, and in the absence of express exemption, even goods already in bonded warehouses would pay customs duties afterwards imposed, whether they were higher or lower than the duties existing when the goods were warehoused, and the same rule, of course, applies to goods shipped, but not arrived, before the alteration in the duties. Merchants must be taken to be aware that it is possible that the customs duties or navigation dues of a country may be changed between the time of the shipping and arrival of their goods at the port of destination, and that the Legislature of the country imposing such duties may decline to make any exemption in favour of goods previously shipped, and therefore we think that the only instructions which can be properly addressed to Lord Lyons on this subject is to inform him that the claim of M. Benecke is unfounded in law, and that, as there does not appear any reasonable ground for supposing that the French Government would apply to the Chambers to alter their legislation on the subject, it is not necessary to bring the claim before the French Government, unless your Lordship should be of opinion that as a matter of policy it would be well to inform that Government of the complaint, and to direct its attention to it as a case of hardship.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 71.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 1.)

*Temple, March* 28, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 26th March, stating that, with reference to our Report of the 16th January, he was directed by your Lordship to state that you were desirous of consulting us again on the question of the duties levied by the French Government on mineral oils of British origin, and he was requested to transmit therewith a selection of papers, but that, should those papers not be sufficient for purposes of reference, the whole correspondence would be communicated to us.

That we would perceive from the last instruction (dated the 20th March) addressed to Lord Lyons the course which he had been directed to pursue in regard to the three points, of maximum of duties to be levied, of differential treatment of American oils, and of British contracts anterior to the new French law.

That your Lordship now wished to inquire whether we have any remarks to offer on the instructions given on these points; and further, to ascertain our opinion as to the precise amount of duty which the French Government was warranted in levying on mineral oils of British origin, and as to the steps which might be proper for Her Majesty's Government to take with respect to that part of the question.

In obedience to your Lordship's commands we have the honour to report—

We have no remark to offer on the instructions given to Lord Lyons on the three points above referred to. There being, as we understand, no excise duty in France on mineral oils, and no less duty than 25 per cent. charged to a third Power, we are of opinion that the French Government is warranted in levying 25 per cent. *ad valorem* as duty on the importation of mineral oils, and no more. With respect to the steps to be taken, we think that energetic remonstrances should be made to the French Government in the sense of Mr. Farrer's two letters and of your Lordship's own instructions to Lord Lyons, in such manner as your Lordship may think most likely to prove effectual, and that claim should be made for the return of all duty over 25 per cent. *ad valorem* already charged. If these steps should prove ineffectual, there will remain only the usual remedies resorted to by a nation aggrieved by a breach of Treaty committed by another to its prejudice.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 72.

*Law Officers' Opinion, dated Temple, April* 4, 1872.

WE are of opinion that M. de Rémusat may properly be informed that any administrative intervention of whatever kind on the part of the French Government, having for its object the deportation of French criminals to England, would be regarded by Her Majesty's Government as a serious breach of international comity. Whatever may have been the case in former times, it cannot now be tolerated that any country should send its convicts to the territory of a friendly neighbouring Power without previously ascertaining the willingness of such Power to receive them; the continuance of such proceedings would naturally compel the friendly nation in self-defence to enact such laws as would prevent its right of asylum being abused.

(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 73.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 8.)

*Temple, April* 6, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us a despatch from Lord Lyons, together with the papers therein referred to, calling atten-

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tion, with reference to the question of duties in France on British mineral oils, to what appeared to have been the intention of the French National Assembly with respect to increased duties on sugar, namely, that such duties would be chargeable to the buyer in France; and that he (Mr. Hammond) was to request us to take the matter into consideration, with reference to the points in connection with duties on British mineral oils which had formed the subject of our several Reports respecting these duties, and favour your Lordship with our opinion as to the course which would be proper for Her Majesty's Government to pursue with regard to it.

In obedience to your Lordship's commands we have the honour to report—

That the French Tribunals are stated to have decided that a man who contracts to deliver mineral oil in Paris at a given price must perform his contract, although the French import duties have been increased between the date of the contract and the date fixed for the delivery. At or about the same time, it seems a statement was made by a French Minister in the Chamber to the effect that, by the French law, the purchaser must pay the increased duty on sugar. We have no doubt that the decision of the Tribunals is correct; and, indeed, any other decision would be against the well-settled principles of the law of contracts. A vendor who contracts to deliver goods at a given place, on a given day, at a given price, must, of course, pay all sums necessary to be paid in order to procure the goods and to cause them to be transported to the place of delivery; and these sums include not merely the cost of production and transport, but all duties of export and import, and all other charges. If the charges for freight, for example, were, by reason of war or otherwise, suddenly increased, the vendor must bear the loss; and so he must if duties are increased, in all cases when the goods are to be delivered duty paid. In the same way, if freights or duties were diminished, the purchaser would have no right to call upon the vendor to accept a reduced price. It is for the Government imposing the duty to consider whether a sudden large increase in duty is not such a hardship on vendors under existing contracts, who had no reason to expect such increase, as to give such vendors a fair claim to exemption from the payment of such increased duty.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 74.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 9.)

*Temple, April* 8, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the correspondence, as marked in the margin, which had passed between Her Majesty's Government and the Government of France having reference to the circumstances under which Mr. D'Arcy, the British Vice-Consul at St. Valery-sur-Somme, was compelled in the month of September 1870 to abandon his post and, together with his family, to seek refuge elsewhere in consequence of the excited state of popular feeling in that town.

That Mr. D'Arcy, it would be seen, had been accused of having uttered cries of "Vive la Prusse, à bas la France!" and it was the alleged utterances of these cries at a time when the occupation of the surrounding country by the German army had strongly excited popular feeling in France that was stated to have given rise to the disturbances which compelled Mr. D'Arcy to quit his post.

And that a further charge of habits of intemperance was also brought by the French authorities against Mr. D'Arcy.

That these charges Mr. D'Arcy emphatically denied. And we would see that, with the view to arrive at the merits of this case, Her Majesty's Government and the Government of France agreed to appoint a joint Commission to ascertain what foundation there was for the charges preferred against Mr. D'Arcy.

And that the Report of the Commissioners appointed to inquire into this case was annexed, from which it would be seen that several French witnesses deposed to having heard Mr. D'Arcy utter the obnoxious cries; but, on the other hand, beyond the idea stated to be prevalent in the town of St. Valery that Mr. D'Arcy was addicted to habits of intemperance, there did not appear to be a shadow of evidence in support of such a charge.

That, under these circumstances, he (Mr. Hammond) was to request that we would take these papers into our consideration and favour your Lordship with our opinion whether Her Majesty's Government should rest satisfied with the result of the investigations made by the joint English and French Commission in this case, and if not, what further steps it would be advisable that they should take in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That we are of opinion that Her Majesty's Government should rest satisfied with the result of the investigation made by the joint English and French Commission in this case. It seems to us that the French authorities having instituted two regular inquiries into the matter, and the witnesses who made depositions having been afterwards, in the presence of the Commission, confronted with Mr. D'Arcy without varying their statements, the fact that he uttered the cries in question must be taken as sufficiently proved, at all events, as between Her Majesty's Government and the Government of France. The French Government might have insisted on the finality of its own judicial proceedings, and probably would have done so if the depositions had not been mislaid in the first instance, but having, at the request of Her Majesty's Government, agreed to a further investigation before a Mixed Commission, and the Commissioners having taken evidence and having all arrived at the same result, it seems to us impossible for Her Majesty's Government to reopen the question. We think, too, having regard especially to Mr. West's Confidential communication of the 11th March last, that it is by no means improbable that a person who could act in the manner which Mr. D'Arcy did before the Commission might be led away by excitement to say things which he did not intend, and he might have made use of the expressions attributed to him without exactly knowing what he was saying, and without, therefore, being open to a charge of untruthfulness because he had afterwards forgotten that he had made use of them. There is nothing to rebut the positive assertions of the French witnesses, and, apart from the reason we have given for accepting the Report of the Commission, we see no ground to doubt the correctness of their conclusions.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 75.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 9.)

*Temple, April* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 8th instant, stating that, with reference to our Report of the 28th ultimo, he was directed by your Lordship to transmit to us drafts of two despatches which your Lordship proposed to address to Lord Lyons in regard to the question of duties in France on mineral oils of British origin; and that he (Viscount Enfield) was to request us to take the proposed instructions into consideration and favour your Lordship with our opinion whether, in our view, they rightly stated the case as it should be presented in the remonstrance to be addressed by Her Majesty's Government.

Viscount Enfield further stated that he was directed to point out that, in our observations as to the steps to be taken by Her Majesty's Government, no reference was made to claims for damages by British firms in consequence of the change of duty, and he was to request that we would further state what, if any, addition to the instructions to Lord Lyons we would suggest on that point.

And lastly, that he was to add that, as it was desired to send the instructions by Wednesday's messenger, it would be a great convenience if our reply could be received to-morrow (to-day).

In obedience to your Lordship's commands we have the honour to report—

That we think the despatches your Lordship proposes to address to Lord Lyons are such as may properly be sent to him. With respect to damage payable to British firms in consequence of the change of duty, we are of opinion that such firms could not claim as damages a larger sum than the sum which they have had to pay for the increased duty, and the return to them of this sum your Lordship appears to have already instructed Lord Lyons to ask for.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 76.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 12.)

*Temple, April* 11, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us therewith a correspondence (respecting the case of a Mr. Caudwell, a British resident at Boulogne-sur-Mer, who had been in communication with the British Embassy at Paris respecting a lawsuit in which he had been engaged in France to enforce the fulfilment of a contract for the purchase of a house belonging to him at Boulogne, and in regard to which lawsuit he stated that he had been unable to obtain justice at the hands of the legal Tribunal before which the case had come.

That the instructions which had been addressed to Lord Lyons from the Foreign Office upon the subject had been founded upon reports received from the late Advocate-General, in accordance with which Mr. Caudwell had lately been informed that the question upon which he had requested the interference of Her Majesty's Government was one of French law, such as could be decided by a competent Tribunal; and that your Lordship was not satisfied by the representations hitherto made by Mr. Caudwell that you would be justified in interfering diplomatically on his behalf.

That we would perceive, in the correspondence inclosed in Lord Lyons' despatch No. 399 of the 1st instant, that, in addition to other matters of complaint, Mr. Caudwell stated that the Tribunals had not only come to no decision in his case, but had struck the case off the roll, by which means he had been deprived of appeal to any other Court, in consequence of which he renewed his application for the intervention of Her Majesty's Government on his behalf.

And that under these circumstances he (Mr. Hammond) was to request us to take the case into consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Lord Lyons with reference to his last despatch.

In obedience to your Lordship's commands we have the honour to report—

That we think Lord Lyons may be properly instructed not to take any further proceedings in this matter, it not being a subject for diplomatic interference.

Mr. Caudwell makes three complaints—

1. Of a corrupt denial of justice by the French Tribunals at Boulogne, by reason of the President and Judges being under the influence of the wife of his opponent.

2. Of corrupt conduct on the part of his attorney ("avoué") conspiring with his opponent's attorney to institute a frivolous suit, for the purpose of making costs.

3. A denial of justice by the Tribunal at Boulogne irregularly and illegally striking his case out of the list of causes ("radiation"), and thus dismissing the suit without the possibility of appeal.

As to the first two complaints Mr. Caudwell produces no evidence whatever except his own assertion, and that assertion is merely vague and general, without stating any dates, places, or other facts which could form the subject of inquiry, and although requested to send confirmatory evidence, he has not done so; it is evident that no action could be taken with reference to such serious charges without evidence.

As to the third complaint we see no reason to doubt M. Treitt's exposition of the French law and practice as contained in his opinion of the 25th January last. This "radiation" is a judicial proceeding, and Mr. Caudwell was requested to furnish a statement by a competent French lawyer to explain why and under what circumstances it took place, and whether there was any ground of complaint for irregularity or otherwise. This Mr. Caudwell has not furnished, and he has not even stated any reason whatever in support of his general allegation of injustice being committed by such "radiation," and it is not possible for us to find out from the papers that he has any ground of complaint at all; indeed, from a letter of his "avoué," M. Varlet, we should suppose that the case was struck out because the proceedings were not proceeded with in due time, being like the dismissal of a suit in England for want of prosecution, which is a mere matter of course after a certain lapse of time.

We may add that we entirely concur in the views which have been taken of this matter by M. Treitt and Sir T. Twiss.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 77.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 16.)

*Temple, April* 16, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that, with reference to his letter of yesterday respecting the proceedings instituted at Lille against the firm of Messrs. Moses, in the City, as represented by Mr. Underdown, he (Mr. Hammond) was directed by your Lordship to transmit to us a further letter from Mr. Underdown, inclosing a copy of a letter addressed to his clients by the French Consulate-General in London, inviting them to call at or send to the Consulate, in order to receive some judicial document in connection with these proceedings.

That Mr. Underdown appeared to be in doubt as to the exact legal meaning or value of the document received by his clients, which, however, they thought might be open to serious objection; and he (Mr. Hammond) was to request us to take this point into consideration, together with the papers now before us, and that we would favour your Lordship with any observations thereupon which we might have to make.

In obedience to your Lordship's commands we have the honour to report—

We cannot recommend that any step whatever should be taken by Messrs. Moses pending the receipt of the answer to Lord Lyons' communications, to obtain possession of the document, or do anything else to recognize the validity of the criminal proceedings in question.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 78.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 16.)

*Temple, April* 16, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that, with reference to our Report of the 19th ultimo, upon the case submitted by Mr. Underdown on behalf of his clients, Messrs. Moses, against whom proceedings had been taken before the French Tribunals at Lille for complicity in certain alleged frauds by a French army contractor in respect of acts done and sales made in England, he (Mr. Hammond) was directed by your Lordship to transmit to us a further letter from Mr. Underdown, with various inclosures, upon the subject, in which he urged the gravity of the position of his clients, and repeated his protest against their being legally liable to be tried in France for acts alleged to have been committed in this country.

That it did not appear that any other action had been taken in the matter, but Mr. Underdown asked for the intervention of Her Majesty's Government, through Lord Lyons, in order that the proceedings already instituted might be quashed if proved to be illegal, and stated that he was about to proceed to Paris on that business, and solicited Lord Lyons' assistance.

And that he (Mr. Hammond) was to request us to take the case into consideration, and favour your Lordship with our opinion as to what further steps Her Majesty's Government could take with a view to complying with Mr. Underdown's application.

Mr. Hammond was pleased to inclose our former Report, and stated that the documents attached to Mr. Underdown's original representation had been forwarded to Paris.

In obedience to your Lordship's commands we have the honour to report—

That we think no farther step can be taken until an answer has been returned to the communication which we understand Lord Lyons has been instructed by your Lordship to make in accordance with our former Report. If that answer should be that the proceedings are not in accordance with the law of France, we think the Government of France may then be asked to quash them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 79.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 18.)

*Temple, April* 17, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that, with reference to our Report of the 11th January last, and to previous opinions with which we had furnished your Lordship on the subject of Messrs. V. Glehns' claims upon the French Government on account of the destruction, in consequence of the fire at La Vilette, of a quantity of coffee belonging to them, then lying in the bonded warehouse of the Magasins Généraux, he was directed by your Lordship to transmit to us a letter from that firm in reply to one communicating to them the purport of our Report of the 11th January last, in which they inclosed a letter from the French Ministry of Finance declining to entertain their claim, on the ground that the warehouses destroyed were not Government property, and that no duty had been levied by the Government upon the goods received there.

That, under those circumstances, Messrs. V. Glehns desired to know whether they should still persist in legal proceedings or not, and urge their claim to the intervention of Her Majesty's Government with a view of obtaining information as to who is responsible to them for the loss which they have suffered.

Mr. Hammond was pleased further to say that he was therefore to request that we would take Messrs. V. Glehns' present application into our consideration, and that we would favour your Lordship with our opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That the facts stated in M. Pouyer-Quertier's letter, assuming them to be correct, do not appear to us in themselves at all conclusive as to the liability of the French Government; that liability must depend upon other considerations; and your Lordship may, we think, properly inform Messrs. V. Glehns that you are so advised. But the demand of these gentlemen that Her Majesty's Government should interpose diplomatically to ascertain for them the proper persons for them to sue seems to us to be altogether unreasonable, and one which your Lordship may properly decline to accede to; they must, as any French subject would have to do, find it out for themselves. The materials before us do not enable us to advise your Lordship with certainty as to the probable result of such inquiry.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 80.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 20.)

*Temple, April* 20, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 15th instant, stating that, with reference to our Reports of the 15th January and the 26th ultimo, he was directed by your Lordship to transmit to us a despatch from Lord Lyons, inclosing a copy of a note from M. de Rémusat, from which we would perceive that the French Government declined to allow British mineral oils sent to France in pursuance of contracts entered into before the recent alteration of duty to be admitted under the former scale of duty; that the papers connected with this part of the question, as well as the instructions lately addressed to Lord Lyons, and which he had not yet acted on, were therewith inclosed.

And he (Viscount Enfield) was to request that we would take this matter again into consideration, and, at our early convenience, inform your Lordship whether the present note from the French Government induced us to alter the opinion we had already expressed, and, if so, in what respect; and also with any further observations we might have to offer, either on the instructions to Lord Lyons or on other points.

In obedience to your Lordship's commands we have again taken this matter into consideration and have the honour to report—

That the present note from the French Government does not induce us to alter the opinions already expressed by us in any respect. We think that the last instructions sent to Lord Lyons comprise all that we could usefully suggest in relation to this subject.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 81.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 23.)

*Temple, April* 22, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us therewith a draft of a letter which, upon receipt of the Queen's Advocate's Report of the 15th ultimo, was addressed to Mr. Insley, declining to instruct Her Majesty's Ambassador at Paris to support his (Mr. Insley's) claim against the French Government on account of provisions supplied by him, during the late war, for the revictualling of Paris.

That he (Mr. Hammond) was to inclose Mr. Insley's reply, in which he urged a reconsideration of the above decision, and expressed his conviction that the presentation by Lord Lyons to the Minister of Commerce of the documents accompanying his present letter would lead to a favourable result.

And that he (Mr. Hammond) was to request us to take this case (the former papers being annexed) into consideration, and favour your Lordship with our opinion as to the course which it would be advisable that Her Majesty's Government should take therein.

In obedience to your Lordship's commands we have the honour to report—

We concur in the opinion of the late Queen's Advocate that this claim cannot be properly supported officially by Her Majesty's Government. The claim is for the value of certain casks of butter delivered to the French Government through a mistake of Mr. Insley's agents, and which were ordered by the Government to be redelivered to Mr. Insley or his order. He alleges that they were not so delivered by reason of the refusal of some one at the Halles Centrales, and that the French Government are responsible for such refusal; but they do not admit that they are liable. Under these circumstances, as there is a legal question *bonâ fide* raised, and properly triable by the French Tribunals, Mr. Insley must have recourse to them; and as there is no pretence of a denial of justice, there seems to us to be no ground for diplomatic interference on the part of Her Majesty's Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 82.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 24.)

*Temple, April* 23, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th April instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Paris, inclosing a copy of a correspondence which he had had with the Rector of the Irish College at Paris in regard to a pecuniary claim advanced by that establishment against the French Government for compensation for damage alleged to have been sustained by a country house at Arcueil attached to the college in consequence of its occupation by Government troops during the late war, the premises having been placed by the college in charge of a Government officer, who is stated to have abandoned them to their fate.

Mr. Hammond further stated that it appeared that the case had been referred, with others, to the Commission appointed to take cognizance of claims arising out of the war, but the Rector urged its claims to exceptional consideration, and, under the circumstances, Lord Lyons was desirous of being instructed as to the propriety of his interfering in the matter. And that he (Mr. Hammond) was accordingly to request that we would take the case into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to Lord Lyons on the subject.

1872

Mr. Hammond was also pleased to say that a copy of the papers refered to by his Excellency as having been laid before Parliament was annexed.

In obedience to your Lordship's commands we have taken the case into our consideration and have the honour to report—

That we are of opinion that, however inconvenient the present state of things may be to the Irish College, there is nothing in the circumstances to warrant the diplomatic interference of Her Majesty's Government for the purpose of removing the case from the decision of the French Tribunal.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 83.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 25.)

*Temple, April* 24, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd instant, stating that, with reference to Mr. Hammond's letter of the 19th instant, he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Ambassador at Paris, inclosing some additional correspondence with the Rector of the Irish College in regard to the claim of that body upon the French Government for compensation for injuries done to the country house at Arcueil belonging to the College, and to request that we would take these further papers into our consideration, together with those then before us relating to the case.

In obedience to your Lordship's commands we have the honour to report—

That the additional papers forwarded to us by Lord Tenterden do not induce us to alter or modify the opinion we have already had the honour to lay before your Lordship.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 84.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 25.)

*Temple, April* , 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 23rd instant, stating that, with reference to our Report of the 16th instant, respecting the proceedings instituted at Lille against the firm of Messrs. Moses, of this city, as represented by Mr. Underdown, and the communication addressed to Messrs. Moses from the French Embassy; and that he (Viscount Enfield) was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Paris,* inclosing a copy of the answer which he had received to the representation made to the French Government by his Excellency, as instructed in Viscount Enfield's despatch No. 103 of the 18th March, founded upon our Report of the 19th ultimo, and which purported to be a reply to Lord Lyons' remonstrance against the proceedings in question.

And he (Viscount Enfield) was to request that we would take Lord Lyons' despatch into our consideration, with the previous papers therewith transmitted, and that we would favour your Lordship with our opinion as to any steps which should now be taken by Her Majesty's Government, or any advice which could now be tendered by them to Mr. Underdown on behalf of his clients in this business.

In obedience to your Lordship's commands we have taken this despatch, together with the previous papers, into consideration and have the honour to report—

That we think the note of M. de Rémusat does not contain a satisfactory reply. He does not answer the question as to whether by French law criminal proceedings can be taken in France in absence against an Englishman domiciled in England, and who has never been in France, for a crime alleged to have been committed in England; it does not appear to us that it is an answer to say that the crime committed in England would constructively be a crime in France because it was so connected with a crime committed by Frenchmen in France as to make the Englishmen accomplices in the latter crime; for the question is whether a French Tribunal has any jurisdiction to try in his absence a foreigner domiciled abroad for acts done by him out of France; and we think Lord Lyons should press for an explicit answer as to the law of France on this point. We observe that M. de Rémusat makes some observations as to the charge against a Mr. Mansfield, but none as to the charge against Messrs. Moses. We think his attention should be directed to this fact, that the matter complained of is the charge against Messrs. Moses. We think also that an explicit answer should be requested as to the proceedings of the French authorities in serving process on Englishmen in England in a criminal case, an attempt to exercise criminal jurisdiction which is against the comity of nations, and we think that M. de Rémusat may be requested to consider the propriety of quashing the proceedings against Messrs. Moses on this ground. We think Mr. Underdown may properly be informed that an answer has been received from the French Government, and that further representations have been made, and that no step to receive the paper at the French Consulate should be taken until a further answer has been received.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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* No. 489, April 21.

### No. 85.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 25.)

*Temple, April* 25, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us two despatches from Her Majesty's Ambassador at Paris relative to complaints and suggestions made by Mr. Sichel, a British merchant, resident at Paris, respecting the present system of valuation of goods by experts.

That the provisions of the Treaty of Commerce on the subject are contained in the Convention of the 12th October, 1860 (copy inclosed); and that he (Viscount Enfield) was to request us to take the matter into consideration, and favour your Lordship with such observations as we might have to offer thereupon, with more especial reference to the course which Her Majesty's Government would be justified in pursuing with regard to any alteration of the existing system.

In obedience to your Lordship's commands we have the honour to report—

That the system of valuation by experts adopted is in exact conformity with the stipulations of the existing Treaty, and, therefore, there is no legal ground of complaint. The fact seems to be that the French Custom-house officials purposely work the present system in a manner hostile to the interests of British merchants, and that the local Tribunal appoints an umpire who, though honest, is not competent. We think that, although Her Majesty's Government has not any strict right to complain diplomatically, yet, if your Lordship thought it desirable, you would be justified in instructing Lord Lyons to call the attention of the French Government to the complaints of the British merchants, and to request that, if on investigation these complaints proved well founded, the French Government would take measures to secure the appointment of capable and unprejudiced experts.

Whether, considering the views of the present French Government as regards commercial intercourse with England, it is sufficiently likely that any such representations would be of any avail as to make it worth while to make them, is for your Lordship to decide.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

1872

## No. 86.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 29.)

*Temple, April* 27, 1872.

My Lord,

WITH reference to the proceedings against Messrs. Moses at Lille, we are honoured with a memorandum from Lord Enfield, transmitting therewith certain inclosures in two of the letters from Mr. Underdown, forwarded to us in Lord Enfield's letter of the 23rd instant, and which had not at that time been returned by Her Majesty's Ambassador at Paris.

In compliance with the terms of the said memorandum we have the honour to report—

That the inclosures sent do not in any way affect our previous opinions in this matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 87.

*Law Officers' Opinion, dated Temple, April* 29, 1872.

WE think the banishment of these persons, and the payment of their passage by the English Government to the several places to which they elected to go, could not be fairly used by the French Government as a justification of their proceedings, and we do not wish in any way to alter or modify the opinion we have already written in this case. All the Fenian convicts who were sent abroad, with the exception of two, were sent to the United States, the Government of which was not only willing, but desirous, to receive them. The cases of the other two were very special. The convicts, after being pardoned, went to Belgium temporarily only, and there was no complaint on the part of the Belgian Government; and, having regard to their position in life, the nature of their crime, and the temporary duration of their sojourn, it was not reasonable to expect that the Belgians would object to their coming.

(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 88.

*The Attorney- and Solicitor-General to Earl Granville.—(Received May* 7.)

*Temple, May* 7, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 4th instant, stating that, with reference to our Reports on questions connected with the recent French Mercantile Marine Law, he (Viscount Enfield) was directed by your Lordship to transmit to us the correspondence noted in the margin* relative to the exemption of British shipping from the "surtaxe de pavillon," under the terms of the Imperial Decree of the 28th July, 1867; and in stating that sufficient time had not yet elapsed for an answer to be received to the reference made to Her Majesty's Minister at Lisbon in connection with this subject; and he (Viscount Enfield) was to request that we would take the inclosed papers into consideration and favour your Lordship, at our early convenience, with our opinion as to the construction which Her Majesty's Government would be entitled to put on the Decree above mentioned as regarded British shipping.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

We are of opinion that the ships of Great Britain are entitled to the same advantages as the ships of Portugal with reference to the "surtaxe de pavillon." Not having the exact terms of the Treaty between France and Portugal before us, we cannot advise with confidence as to the effect of it; but having regard to the terms of it as stated in Consul Bernal's letter, and the statement of Baron de Seisal, it appears to us that, as no

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* Consul Bernal, No. 3, Commercial, March 12; to Lord Lyons, No. 120, Commercial, April 22; Lord Lyons, No. 267, Confidential, April 23; No. 279, Confidential, April 29; "Bulletin des Lois," pp. 457, 458.

agreement was come to between France and Portugal as to the "surtaxe de pavillon," the ships of the latter Power are not entitled to exemption by virtue of this Treaty. At the same time, if the exemption is actually accorded to goods imported in Portuguese ships, then, so long as it is so accorded, we think goods imported in the ships of Great Britain are entitled to the same exemption, by virtue of the Treaty of 1860, Article XIX, and the Supplementary Convention, Article V.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 89.

*The Attorney- and Solicitor-General to Earl Granville.—(Received May* 20.)

*Temple, May* 20, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that, with reference to our Report of the 24th February, he was directed by your Lordship to transmit to us a copy of a note from the French Chargé d'Affaires at this Court in reply to the representations which Her Majesty's Government had addressed to the French Government respecting the recent French Mercantile Marine Laws; and that he (Mr. Hammond) was to request us to take the note into consideration, and favour your Lordship with such observations as we might have to offer thereupon, more especially with regard to that part which related to the exact nature of the duties levied as "surtaxes de pavillon."

In obedience to your Lordship's commands we have the honour to report—

That we think the arguments adduced by M. Gavard do not really affect the question on which we previously advised. The "surtaxe de pavillon" is a customs duty levied on goods imported because they are imported in a particular vessel, and, indeed, M. Gavard does not deny that it is a duty on the importation of goods, which is all it is necessary to contend for to bring the subject within the terms of the Vth Article of the second Supplementary Convention. M. Gavard contends that the "surtaxe" as levied produces a similar effect to a tax on a ship, but this is beside the point; neither the motive for levying a duty on the importation of goods, nor the indirect effect of levying it, makes it more or less a duty on goods. The second point taken by M. Gavard is that the said Vth Article applies only to English goods, by which he means it does not apply to goods the produce of a third country, for, of course, it would apply to French goods. Now there is nothing in the Article limiting it to such goods only as are the produce of Great Britain or France, and the privilege to be accorded to a third Power would not naturally be restricted to such goods, but would probably include the produce of the country of such Power; indeed, the clause could not be so limited in construction, for if a reduction were made in the duty on any of the articles mentioned in the Treaty, wherever produced, when imported by a third Power, it could not fairly be contended that a similar reduction should not be extended to England. Besides, this clause comes under the category of most-favoured-nation clauses, which are always drawn in the most general terms, and are intended to have a wide and general application. The IIIrd Article of the Treaty of January 1860 would, of course, be got rid of under this clause if other nations were relieved from the differential duties.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 90.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May* 24.)

*Temple, May* 21, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that, with reference to our Report of the 7th instant, relative to the bearing of the Treaty of Commerce between France and Portugal on the application of the "surtaxes de pavillon" to British shipping, he (Mr. Hammond) was directed by your Lordship to transmit to us a Report from Sir C. Murray on the state of the case as regarded such duties or dues between France and Portugal.

1872

Mr. Hammond was pleased to inclose the previous despatches referred to by Sir C Murray, the despatch from Lord Lyons inclosing M. Treitt's opinion, a copy of th Treaty between France and Portugal, and of the French Decrees extending its provision to this country, and also the Treaty of Commerce of 1860 and its Annexes.

Mr. Hammond was further pleased to state that the general question, as set forth in the representations made by Her Majesty's Government to the Government of France, formed the subject of another reference to us dated the 16th instant, and that any other papers which might appear to us useful for reference would at once be forwarded. And that he (Mr. Hammond) was to request that we would take the particular point of the application of the Treaty between France and Portugal to this country into early consideration, and favour your Lordship with our opinion as to the position which your Lordship would be justified in taking with regard to it in the further representation on the general question which you proposed to address to the French Government.

In obedience to your Lordship's commands we have the honour to report—

That we think your Lordship would be justified in taking the position that the French (Imperial) Government had, by the Decree of the 28th July, 1867, authoritatively declared that, according to the true construction of the Commercial Treaty of 1860, England was entitled to the benefit of the whole of the Treaty with Portugal, and as such Treaty contained express provisions as to the "surtaxes de pavillon" (Article XXIII) and other provisions as to navigation dues (Articles XVIII, XXV, and XXVIII), and thereby Portuguese ships have, since the 1st January, 1862, been exempt from the "surtaxes de pavillon," such Decree amounted to a formal acknowledgment by the Government of France that the construction now contended for by Her Majesty's Government of the Treaty and Conventions of 1860, viz., that their provisions extend to the present "surtaxes de pavillon," is the correct construction.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 91.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 27.)

*Temple, May* 25, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, in which he states that he was directed by your Lordship to transmit to us a letter, and its inclosure, from Messrs. Hatton and Cookson, complaining of duty having been levied by the French authorities at Gaboon on palm oil which was simply transhipped from one vessel to another; and that he was to request that we would take this subject into our consideration, and favour your Lordship with our opinion on the legality of the levy of these duties.

In obedience to your Lordship's commands we have taken Mr. Hammond's letter into our consideration and have the honour to report—

That without more information than the letters before us convey it is impossible for us to say that the levying of duty on transhipment is actually illegal. The levying of such a duty, however unwise and unjust, is within the competency of the authorities at Gaboon, and upon our present information we can do no more than suggest that your Lordship may properly remonstrate with the French Government upon the conduct of their colonial authorities.

Before, however, doing so much as this, it would be well to ascertain a little farther the history and exact facts as to these duties.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 92.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 20.)

*Temple, June* 19, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us a draft of a despatch which, upon the receipt of our Report of the 25th April last, respecting Messrs. Moses' case, was addressed to Her Majesty's Ambassador at Paris, instructing his Excellency to press for an explicit answer from the French Government as to French law in regard to criminal proceedings taken in France against Englishmen domiciled in England, for an offence alleged to have been committed in this country, and also in regard to the proceedings of the French authorities in serving process on Englishmen in England in criminal cases, Lord Lyons being at the same time instructed to request the French Government to consider the propriety of quashing the proceedings in question.

And he (Mr. Hammond) inclosed, together with some further papers, a despatch from Lord Lyons containing the answer of the French Government to Lord Lyons' representation, and Mr. Underdown's application on behalf of his clients for leave to present a memorial on their case to the French Government through Lord Lyons; and that he (Mr. Hammond) was to request us to take these papers into our consideration, and favour your Lordship with our opinion as to the further steps, if any, which Her Majesty's Government should take in this matter, and as to the propriety of acceding to the Messrs. Moses' request.

Mr. Hammond was pleased to inclose the earlier papers in the case for convenience of reference.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, the answer of the French Government, contained in the despatch of Lord Lyons of the 3rd June last, is sufficiently explicit but not satisfactory. No sufficient excuse is given for serving criminal process of a French Court in England, and the English law on this subject is evidently misunderstood and wrongly stated. The 33 and 34 Vict., cap. 52, sec. 24, which is referred to has no bearing on the question; it relates merely to taking evidence of witnesses in England in relation to a case pending before a criminal Tribunal.

We think, however, that it is not necessary for your Lordship to take further action in the matter at present, as your Lordship's demand on behalf of Messrs. Moses has been complied with in substance, although not in form, inasmuch as the Minister of Justice proposes to demand the acquittal of Messrs. Moses. We think, however, your Lordship should, while expressing satisfaction at this result, intimate that your Lordship does not recognize the right of the French Government to serve criminal process in England.

2. We think that, under the circumstances, your Lordship should decline to accede to Mr. Underdown's application as to the memorial.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 93.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 12.)

*Temple, July* 11, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 6th instant, stating that, with reference to our Report of the 25th April, he was directed by your Lordship to transmit to us the correspondence, marked in the margin, relative to the question of examination by experts in France.

That we would perceive the question concerned disputes as to the description, and also as to the value of goods; and we would find, in the letter from the Treasury of the 29th ultimo, a statement respecting the practice in this country in such cases. Copy of the Convention of the 12th October, on the subject of such examination, was annexed.

1872

And Viscount Enfield was to request us to take the matter again into consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That in the disputes which may arise between the French Customs authorities and British importers as to the description and value of goods, we cannot suggest any more satisfactory solution than that suggested by Lord Lyons in his despatch dated the 3rd May, 1872, and in the note inclosed in that despatch handed to M. de Rémusat.

The Bradford Tariff Committee have a practical knowledge on these subjects, which makes any opinion there formed of great weight, but it occurs to us, and we state it for your Lordship's consideration, that the production by the importer of the original invoice bearing the signature of the exporter may be open to the suspicion of collusion, and objected to by the French Customs authorities on that ground.

The practice of this country is based upon ideas so totally divergent from those which seem to exist in France upon the subject of customs duties that we are not able to advise any one of English experience in the hopes of inducing the French Government to change any part of the system prevailing in France.

We are still of the opinion expressed in the Report of the 25th April last, that the practice prevailing in France is strictly within the Treaty and Conventions.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 94.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 12.)

*Temple, July* , 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us, together with the previous papers, the accompanying despatch from Her Majesty's Ambassador at Paris, with its inclosures, respecting a complaint made by Messrs. Atkins and Co. against the Custom-house authorities at Boulogne in the matter of the survey of a case of felt shipped by them, and that he (Viscount Enfield) was to request us to take the papers into consideration, and favour your Lordship with our opinion thereupon.

Lord Enfield was pleased to inclose a copy of the Convention of the 12th October, 1860, referred to by Lord Lyons.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the Customs authorities at Boulogne acted in accordance with the VIth and VIIth Articles of the Supplementary Convention of the 12th October, 1860, and that Messrs. Atkins and Co. have no valid ground of complaint.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 95.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 17.)

*Temple, July* 15, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 11th instant, stating that, with reference to our several Reports on the question of duties in France on British mineral oils, he was directed by your Lordship to transmit to us a letter, and its inclosures, from the agent of the Coatbridge Oil Company at Dunkirk, preferring a claim against Her Majesty's Government for losses sustained by the Company in consequence of the change in the duty in France last year on that commodity, to the amount of 13,594*l.* 18*s.* 2*d.*

That the letter being confined to the above specific point, the only papers now transmitted to us were the Treaty of 1860, the instruction to Lord Lyons summing up the position taken by Her Majesty's Government in the matter, and the note which, in pursuance of that instruction, he addressed to the French Government on the subject, but to which as yet no answer had been received. And that should we require farther papers they would be forwarded.

And finally that he (Lord Enfield) was to request us to take the letter from the Coatbridge Oil Company into consideration, and inform your Lordship what answer should, in our opinion, be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Wilson, the agent of the Coatbridge Oil Company at Dunkirk, should be informed by your Lordship that Her Majesty's Government cannot recognize the claim made by his letter, but that your Lordship is in communication with the French Government on the subject of the import duties levied in France on mineral oils of British origin.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 96.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 20.)

*Temple, July* 19, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us two despatches which had been addressed to your Lordship by Her Majesty's Ambassador at Paris on the subject of the 9th Article of the new French Army Bill, relating to the liability of foreigners to military service in France; and that he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with any observations which we might have to make thereupon.

In obedience to your Lordship's commands we have the honour to report—

That as the only representation which your Lordship could with propriety make at present to the French Government would be identical with the remarks of Lord Lyons to M. de Rémusat on the 28th June, we are of opinion that your Lordship need not move in this matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 97.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 30.)

*Temple, July* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 24th instant, stating that he was directed by your Lordship to transmit to us, with a copy of the Treaty of Commerce of 1860, a despatch from Lord Lyons inclosing copy of the Report of a debate in the National Assembly on the taxation of raw materials, and calling attention to the speech of M. Thiers on that occasion; and that he (Viscount Enfield) was to request us to favour your Lordship with our opinion as to the construction placed by M. Theirs on the IXth Article of the Treaty of 1860.

That our Report of the 20th January last, and the correspondence thereupon, in connection with the subject would be found in the inclosed copy of the correspondence respecting proposed modifications of the Anglo-French Commercial Treaty of 1860.

In obedience to your Lordship's commands we have the honour to report—

That we understand M. Thiers to assert that, according to the true construction of the IXth Article of the Commercial Treaty, if the French put on a new customs duty on the importation of raw cotton, they will be entitled to lay an additional customs duty on English manufactured cottons which will be of such an amount as to place the French manufacturer in the same relative position to the English, as regards the cost of produc-

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tion, as he would have been if no new duty had been levied on raw cotton. We think this is not the true construction of the IXth Article; this Article appears confined to matters of home production or manufacture, which raw cotton is not as regards France, and is also restricted to the case of the imposition of an excise or inland duty, and therefore does not extend to a customs duty; lastly, the new duty is to be imposed on the foreign imported article of the same description. Now, cotton manufactured goods are not articles of the same description as raw cotton, and could only be taxed under this clause of the Treaty if an excise or inland tax were levied on the manufacture in France of cotton goods.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 98.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 2.)

*Temple, August* 2, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Kell and Co., of Huddersfield, respecting a claim which they preferred against the French Government on account of four cases of goods, destined for Zurich, which they forwarded viâ Boulogne-sur-Mer on the 27th July, 1870, by the French "Compagnie du Nord," and which had been subsequently "requisitioned" by the Communist troops, the goods at that time being deposited at the bonded warehouse of the "Compagnie de l'Est" at Paris, who had received them from the "Compagnie du Nord," and had failed in their endeavour to deliver them at their destination.

That Messrs Kell and Co. were anxious for the support of their claim against the French Government by the British Embassy at Paris; and that he (Mr. Hammond) was to request us to take the case into consideration, and favour your Lordship with our opinion whether it was one in which Lord Lyons should be instructed to intervene and, if so, to what extent.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship may properly direct Lord Lyons to bring the facts stated in the letter of Messrs. Kell before the French Government, and to press upon that Government the claim of Messrs. Kell for compensation for the loss which they have sustained by the seizure of their property by the *de facto* authorities in Paris, for which loss it appears the French Tribunals are unable to give any redress.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 99.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 16.)

*Temple, August* 16, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating we would recollect that, in our Report dated the 28th July, 1871, regarding the claim of Miss Galloway on the French Government for losses incurred during the late Communist insurrection, we stated that British subjects established in France could not, in respect to such losses, claim privileges beyond those accorded by the French Government to loyal citizens, and we suggested that Her Majesty's Ambassador at Paris should be told to inform Miss Galloway and similar applicants, subject of course to special cases being treated specially, that he (the Ambassador) cannot undertake to bring any claim on their behalf before the French Government until he had been able to ascertain what course that Government proposed to adopt with reference to the claims of loyal French subjects.

That our Reports on the case of Messrs. Carver, Darbishire, and Co., Mr. Hewett, Mr. Metcalfe, and Mr. Myers, dated respectively the 10th, 20th, 21st, and 26th June, 1871, were conceived in similar terms, and in none was it stated that Lord Lyons could properly be instructed to press such claims on the French Government.

That such, however, was not the case in our more recent Report, dated the 2nd instant, on the claim preferred, on grounds similar to the above, by Messrs. Kell and Co., against the French Government, for your Lordship was therein advised that Lord Lyons should be instructed to press the claim of the Messrs. Kell on the French Government, the French Tribunals having been unable to give any redress. And that your Lordship would be glad to know, before instructing Lord Lyons in the sense of our last Report, on what grounds we considered the case of Messrs. Kell differed from the others above referred to, and called for official interference; and he (Mr. Hammond) was accordingly to request us to favour your Lordship with a Report on that subject.

In obedience to your Lordship's commands we have the honour to report—

That where British subjects establish themselves in France they must, with the advantages of such adopted residence, accept and become subject to the inconveniences which other voluntary residents in France may be exposed to, and we adhere to the opinion which we gave in our previous Reports on such cases.

The facts in Messrs. Kell's case were different from those to which Mr. Hammond refers in this material respect, that Messrs. Kell had their property detained in France against their will, and the property was seized and lost to them whilst it was so detained.

We consider the case of Messrs. Kell to be one of those special cases which might arise and call for your Lordship's good offices, as we suggested in our Report on Miss Galloway's application.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 100.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 23.)

*Temple, September* 23, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating he was directed by your Lordship to request us to favour you with our opinion on the following point.

The French Government gave notice, in March last, for the termination of the Treaty of Commerce of 1860 on the 15th March next, and had now made proposals to Her Majesty's Government for the renewal of a Commercial Treaty, one of the conditions being that new customs duties in excess of those authorized by the Treaty of 1860 should be levied on certain classes of British goods before the 15th March next. In connection with this proposed stipulation a question arose, in regard to contracts between British subjects and persons in France, would Her Majesty's Government be liable to any claims for indemnity from persons who might allege themselves to suffer loss in regard to contracts entered into from such alteration in the Treaty engagements between the two countries, before the Treaty as it now stands expired? What distinction should be drawn between contracts now existing and those which might be entered into between any specific date (such as the date when Chambers of Commerce were consulted in regard to the French proposals, when negotiations were really commenced, or when the Treaty was signed), and contracts entered into after that date, and the day when the Treaty of 1860 would otherwise expire?

That supposing any special stipulation to be introduced into a new Treaty in order to prevent such persons from suffering loss, what provisions should, in our opinion, be made with regard to existing contracts, first, as to the date up to which they should be recognized, and secondly, as to the proof to be required of their *bonâ fide* character?

That as bearing on that question he (Mr. Hammond) was to call our attention to the 9th section of the Act 18 and 19 Vict., cap. 97, which contained provisions for dealing with cases of increase of duty in respect to contracts in this country; and he

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was to inquire whether, should Her Majesty's Government think such a stipulation expedient on grounds of policy, any similar provision in the new Treaty would meet the difficulty, and in that case in what terms might it be drawn.

And that, in conclusion, he was to repeat that it would be a great convenience to receive our Report on that matter as early as possible, and he was to add that your Lordship would be glad to receive any suggestions which, in considering the question, might occur to us on points mentioned in that letter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government would not be liable to any claims for indemnity from persons who might allege themselves to suffer loss from such alteration as proposed of the Treaty engagements between the two countries before the Treaty as it now stands expired. Two countries which have entered into a Treaty by which one of them is restricted from increasing the customs duties levied on the goods of subjects of the other are as much entitled to put an end to such Treaty by mutual agreement as they are to determine any other Treaty.

The British Government has entered into no engagement with British merchants not to avail itself of its ordinary rights, to modify or put an end to the Commercial Treaty with France, the only effect of the twelve months' notice clause in the Treaty being to enable one party to put an end to it without the other's consent, and such a notice does not affect the right of both parties by consent to determine the Treaty at any time.

Any merchant who enters into a contract in the belief that the Treaty will not be determined before his contract is fulfilled does so at his own peril, and has no legal right to complain if the Treaty is previously abrogated. At the same time, it is both reasonable and usual not to alter customs duties without fair notice, so as not to inflict loss on parties who conduct their business in this expectation. We think it, therefore, proper that protection should be given to persons who entered into contracts before they had notice of any intention of changing the terms of the Treaty, and we think a period should be fixed for this purpose by the Treaty. What the period should be must be determined by Her Majesty's Government, having regard to all the circumstances of the case, the object being, as above mentioned, to protect all those who entered into contracts without notice of a change being intended to be made. We think that a proper date would be the publication of the notice of the Treaty in the "London Gazette," but as this would be inconvenient, a stipulation might be inserted in the Treaty to protect all contracts entered into before its signature, the Government in the meanwhile giving notice to the Chambers of Commerce that some such change was contemplated, so as to put our merchants on their guard. We think only contracts in writing should be recognized, but that no special stipulations need be inserted as to proof of their *bonâ fide* character, that being left to be shown in the ordinary way.

The provisions in 18 and 19 Vict., cap. 97, are not, in our opinion, applicable to the change in the customs duties nuder the French Treaty; and since that change is made at the instance and for the benefit of the French Government we think the new Treaty should contain a stipulation on the part of the French Government to indemnify the persons who by the change have lost on their contracts made in writing and within the time above pointed out.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 101.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October 5.)*

*Temple, October* 4, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating, with reference to the correspondence which had passed between ourselves and the Foreign Office on the subject of various claims preferred by English subjects against the French Government for losses incurred during the late war, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Paris, inclosing a letter from Mr. David Jones relative to the seizure of his house and property at Blois by the French authorities for the purpose of manufacturing munitions of war on the premises, to the damage done to his property on the capture of the place by the German army, and asking that his claim for compensation be pressed on the French Government by Her Majesty's Ambassador at Paris.

That we would perceive that Mr. West called attention to the fact that that case differed from others which had been under our consideration, and notably from that of Mr. Stuart Mackenzie, upon which Her Majesty's Advocate-General reported on the 27th October last year.

And that he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with a Report thereon.

In obedience to your Lordship's commands we have the honour to report—

That the claims of Mr. David Jones for compensation on the ground of damage done to his house and property at Blois cannot, in our opinion, be pressed on the French Government.

But your Lordship may instruct Her Majesty's Minister at Paris to bring the circumstances of the case, which are peculiar, to the favourable consideration of the French Government, whose officers, by making the premises a military storehouse, were in great measure the cause of the damages subsequently done by the Prussians.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 102.

*The Attorney- and Solicitor-General to Earl Granville.—(Received October 9.)*

*Temple, October* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 8th day of October instant, stating that he was directed by your Lordship to transmit to us the draft of a Treaty of Commerce and Navigation between this country and France, and to request that we would take the same into consideration, and favour your Lordship with our opinion in regard to the stipulations of its several Articles, and to call our more particular attention to Articles VI (prohibitions of importation and exportation); VII (inland and compensatory duties); XXVI to XXIX (the settlement by means of a Joint Commission of questions in regard to existing contracts and duties on mineral oils of British origin); matters which had been already referred to us; and XXXII and XXXIV (for securing most-favoured-nation treatment).

Lord Enfield was also pleased to request that we would state our opinion as to whether the assent of Parliament is required in respect of any of the stipulations of the proposed Treaty, and to say that a copy of the Treaty of 1860, and the Conventions supplementary thereto, was also annexed, and added that, should we wish to receive specific information on any points connected with the stipulations of the draft Treaty, Mr. Kennedy, the head of the Commercial Department of the Office, would attend any meeting we might appoint to-morrow.

Lord Enfield was also pleased to say that he was to request that we would be so good as to cause our Report to be delivered at the Foreign Office before 12 o'clock on Thursday, the 10th instant.

In obedience to your Lordship's commands we have the honour to report—

That, as to Article II, we think that this Article, as it stands, will involve the British

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Government in a great deal of trouble. There are different rules in England and France for deciding the nationality of an individual, and in consequence, a man may be an Englishman by the law of England and a Frenchman by the law of France; he might be, therefore, a British subject living in France by our law and a subject of France by French law, or a British subject living in England by our law and a French subject by French law.

We think the best course would be to add a proviso "that this Article shall not apply to any person who, by the law of the country of his residence, shall be a natural-born or naturalized subject of such country."

With respect to military requisitions, again, our law makes no difference between natives and foreigners. If a foreigner keeps a public-house, he is liable to have soldiers billeted upon him, and a foreign landowner ought not to be allowed to prevent his land being taken for a fort or barracks under the Ordinance Acts, or to hinder the troops passing over his land for the autumn manuœuvres, receiving compensation. We think words should be added to except as to billeting of soldiers and other military requisitions to which subjects of the country are liable under similar circumstances.

As to Article III, we think the words in the second line should be "acquire and possess;" it is not intended that they shall have greater right of disposal than other foreigners. As to the second sentence, there is in most cases no special English law as to dispositions by foreigners, and therefore we think the words should not be confined to "established by the law of the country," but should extend to the words which the laws of the country permit any foreigners to use.

With respect to imposts and taxes, the words "other or" we think should be omitted; according to English law, legacy duty depends upon domicile, not residence or place of death, and therefore the legatees of a Frenchman dying in England, but not domiciled there, would not be liable to legacy duty.

With respect to export, we think foreigners cannot be allowed greater privileges than subjects; where exportation is prohibited to the one it should be to the other, and the right should be limited to those enjoyed by the subjects of the country under similar circumstances. See the exception in Article VI.

Articles VI and VII: we think this should be "foreign nations," so as to prevent any question as to the Colonies and the dominions of the Queen.

Article XIX would appear to require Parliamentary sanction. We are not aware of any enactment exempting transfer from customs duties, but inquiry should be made of the Customs authorities.

Article XXIII also requires Parliamentary sanction; it interferes with the rights of the Crown and of certain Lords of the Manor and others who are owners of the foreshore, or, under grants of wreck or by custom, have a right to take wreck, jetsam or flotsam, cables, &c., for their own use. We think that it is not likely, however, that any such privilege would lead to opposition to so humane a provision.

The provisions as to duties would require the repeal of section 499 of the 17 and 18 Vict., cap. 104.

Article XXIX we understand has been amended so as to make the language grammatical.

Article XXXIV should, we think, be confined to the Treaties; similar Treaties may be made hereafter, and the renunciation of the privileges should not be absolute in terms. We have made some alterations in the margin of the draft Treaty, and have initialed such alterations.

We have, &c.  
[Not signed by the Attorney-General.]  
(Signed) G. JESSEL.

## No. 103.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October 14.)*

*Temple, October* 14, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of this date, stating, with reference to his letter of the 12th instant, he was directed by your Lordship to request that we would favour your Lordship with our opinion whether we saw any objection to the omission from the draft of the proposed Treaty of Commerce and Navigation with France of the stipulations in regard to the functions of the proposed Commission at Paris, and to inserting them instead in a Protocol or Declaration to be signed at the same time as the Treaty. That he was farther to inquire whether in the latter case it would be expedient, in addition to the mention of the Commission in Article II, to insert a short Article to specify its constitution, functions in general terms, and duration; and that, if we thought such a course expedient, we would be so good as to furnish the text of such Article.

And that answer to that letter, if possible, was requested with our reply to his (Lord Enfield's) previous letter of the 12th instant.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion the stipulations in regard to the functions of the proposed Commission at Paris should be in the Treaty, and not inserted in a Protocol or Declaration. We think that the mention of the Commission already made in Article II will be sufficient.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 104.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October 14.)*

*Temple, October* 14, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 12th, stating that he was directed by your Lordship to transmit to us the revised draft of the proposed Treaty of Commerce with France, and he was to request us to take it into consideration, and return it with such verbal alterations as might appear to us to be necessary on the afternoon of Monday (this day.)

And that he was farther to request us to take into consideration the question of giving publicity to the provisions of the present Treaty. That it was not usual (as we were aware) to publish Treaties before they were ratified. The amount and anxiety of British interests involved might to some extent render a departure from the usual practice advisable in the present instance, and he was to ask our opinion on the subject, and as to the best mode of proceeding in regard to it.

In obedience to your Lordship's commands we have the honour to report—

That we have taken the draft of the proposed Treaty into consideration, and return it herewith with such verbal alterations as appear to us to be necessary, which alterations we have initialled. On the subject of the publication of the Treaty we are prepared to advise that, under the peculiar circumstances of the case, and considering that it must be published in France before ratification, by being communicated to the French Legislature, Her Majesty's Government may properly publish the substance of it as soon as it is signed.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 105.

*The Lord Chancellor to Earl Granville.—(Received October 19.)*

*30, Portland Place, W., October* 19, 1872.

Dear Lord Granville,

I TROUBLE you with a letter which I have received from a Frenchman named Cézard, with an inclosure therein; which has been followed up by a formal citation to myself, as Lord Chancellor, to appear before the Tribunal of Commerce of the Seine, such citation being transmitted in a letter of the 16th instant from M. Gautier, the Acting Consul-General of France in London, by the direction (as he states) of the French Minister of Foreign Affairs.

I inclose the originals of all these documents, together with a copy of the answer which I have returned, through my Principal Secretary, to M. Cézard. To the letter of the Consul-General I do not propose to send any reply, nor do I propose in any manner to notice the receipt of the "assignation," unless your Lordship, upon taking proper advice, should consider that I ought to do so.

It is, of course, entirely for your judgment whether any remonstrance against this proceeding ought to be addressed to the French Government.

I remain, &c.
(Signed) SELBORNE.

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### Inclosure 1 in No. 105.

*M. Gautier to the Lord Chancellor.*

*Londres, le* 16 *Octobre*, 1872.

LE soussigné Consul-Général, gérant le Consulat-Général de France à Londres, a reçu du Ministère des Affaires Etrangères à Paris l'acte judiciaire ci-inclus, relatif à la "Saint-Nazaire Company (Limited)," avec invitation de le faire parvenir à son Excellence le Lord Grand Chancelier d'Angleterre.

Le Consul-Général en adressant aujourd'hui cet acte à son Excellence, le prie d'avoir la bonté de lui en faire accuser la réception.

Le Soussigné à l'honneur, &c.
(Signé) FRÉDÉRIC GAUTIER.

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### Inclosure 2 in No. 105.

*M. Cézard to the Lord Chancellor.*

112, *Boulevard de Neuilly, Paris* (*Batignolles*).

My Lord,

C'EST par suite de manœuvres de deux agents subalternes de la justice Anglaise, et de la justice Française, et qui apparaîtront bientôt, que j'ai été obligé d'adresser à votre Seigneurie une assignation devant le Tribunal de Commerce de la Seine.

J'ai l'honneur de faire parvenir à votre Seigneurie un Mémoire adressé au Tribunal Français. Après avoir pris connaissance de ce Mémoire, votre Seigneurie aura la conviction que la question soumise au Tribunal ne peut en réalité faire l'objet d'un procès, mais provoquera de la part de votre Seigneurie non pas une déclaration, mais une protestation au nom de la justice Anglaise contre une affirmation que Mr. Young a fait au nom de la Cour de Chancery devant un Tribunal Français.

Et en effet, de quoi s'agit-il?

1. Le 29 Septembre, 1865, une Société Anglaise, "The Saint-Nazaire Company (Limited)," a signé à Paris un acte authentique avec une Société Française appelée Société de Commerce de France.

Dans cet acte authentique la Société Anglaise affirme avoir opéré à Londres et en conformité des lois Anglaises une fusion ou une amalgamation avec la Société de Commerce de France depuis le 1er Septembre, 1865; de cette façon, dit l'acte authentique, Article 3, que la Société Française, depuis cette date, sera considérée comme "seule et entièrement propriétaire" de ce qui constituait l'actif de la Société Anglaise, "tant en France qu'en Angleterre." En conséquence de la transmission à la Société Française "de l'unique et entière propriété" de ce qui constituait l'actif de la Société Anglaise, la Société Française pour compenser les intéressés du Saint-Nazaire Company (Limited) lui a délivré environ 5,000,000 fr. en titres de créances sur elle-même.

2. Le 6 Juin, 1867, sur une pétition de Mr. Bright Wool du 21 Mai, 1867, la Cour de Chancery rend un ordre qui vise le Contrat du 29 Septembre, 1865, signé à Paris, et prononce ensuite la liquidation volontaire sous la surveillance du Saint-Nazaire Company (Limited), au profit des intéressés de cette Société.

3. Le 6 Août, 1868, la Cour de Chancery nomme Mr. John Young liquidateur de cette Société.

4. Pour obtenir de la justice Française un jugement qui ordonne le paiement des 5,000,000 fr. de créances consenties au profit des intéressés du Saint-Nazaire Company (Limited), Mr. Young a soutenu que le jugement de la Cour de Chancery du 6 Juin, 1867, avait reconnu valide en Angleterre le contrat signé par la Saint-Nazaire Company (Limited) le 29 Septembre, 1865.

5. Je soutiens que Mr. Young en affirmant un pareil fait n'était nullement autorisé par la Cour de Chancery, et a trompé la justice Française.

6. J'ai appelé votre Seigneurie, Chef de le Cour de Chancery, pour confirmer ma prétention.

Ces faits exposés, votre Seigneurie me permettra de faire observer qu'il ne s'agit aucunement de demander ici une interprétation du jugement de le Cour de Chancery du 6 Juin, 1867.

Le jugement de le Cour de Chancey du 6 Juin, 1867, n'ordonne la liquidation du Saint-Nazaire Company (Limited) sous sa surveillance qu'après avoir pris connaissance du contrat du 29 Septembre, 1865, et par conséquent il n'y a que deux interprétations possibles, du jugement, savoir: (1) que la Cour de Chancery a reconnu le contrat sans force et sans effet en Angleterre; (2) que la Cour de Chancery a reconnu le contrat valide en Angleterre.

Or, de ces deux interprétations, il n'y en a qu'une seule de possible pour ceux qui respectent la magistrature et la justice Anglaise, c'est l'interprétation qui admet que la Cour de Chancery a écarté le contrat comme sans force et nul en Angleterre.

Comment en effet pourrait-on soutenir cette interprétation que la Cour de Chancery aurait reconnu le contrat valide? Le contrat valide fait la Société de Commerce de France "seule et entièrement propriétaire" en Angleterre depuis le 1er Septembre, 1865, de ce qui constituait l'actif du Saint-Nazaire Company (Limited). La Cour de Chancery reconnaissant le contrat valide, c'est-à-dire reconnaissant la "seule et entière propriété" de la Société Française en Angleterre, aurait donc en même temps dépouillé la Société de Commerce de France de la propriété reconnue et ordonné la liquidation de l'actif du Saint-Nazaire Company (Limited) au profit des intéressés de cette Société.

Si une seule interprétation du jugement du 6 Juin, 1867, rendu par la Cour de Chancery est seule possible; si l'interprétation de ce jugement comme ayant reconnu la validité du Contrat du 29 Septembre, 1865, porte atteinte à la respectabilité de la Cour de Chancery, comment se fait-il que Mr. Young, agent subalterne de la dite Cour, ose présenter une telle interprétation devant un Tribunal Français?

Et si Mr. Young a osé présenter une telle interprétation, la justice Anglaise peut-elle ne pas être émue, et protester contre le discrédit qu'un de ses agents cherche à jeter sur elle?

J'ai, &c.
(Signé) ALPHONSE CÉZARD.

## Inclosure 3 in No. 105.

*M. Cézard to the President and Judges of the Tribunal of Commerce of the Seine.*

Messieurs,

MON procès se recommande à l'attention du Tribunal d'une façon toute particulière, surtout aujourd'hui que l'Assemblée Nationale va, dit-on, discuter un nouveau Traité de Commerce avec l'Angleterre.

Le Tribunal accueillera mes conclusions. Leur rejet établirait en principe que le commerçant Français ne doit avoir aucune confiance dans les Traités de Commerce avec l'Angleterre; que l'obligation prise par l'Angleterre, dans ces sortes de Traités, de respecter et faire respecter chez elle les propriétés des commerçants Français n'est pas sérieuse; que le commerçant Français, au cas où ses droits de propriété seraient méconnus en Angleterre, ne doit aucunement compter, en France, sur la protection des Tribunaux Français.

Voici, Messieurs, les faits du procès que vous allez juger:

Le 15 Février, 1865, j'ai constitué à Paris la "Société des Crédits Généraux de Saint-Nazaire."

Le 29 Septembre, 1865, une Société Anglaise, "The Saint-Nazaire Company (Limited)" a signé à Paris, avec moi, Directeur de la Société Française, un acte authentique de sa fusion avec ladite Société Française. Dans les Articles 1, 2, 3, de l'acte authentique, le "Saint-Nazaire Company (Limited)" affirme avoir opéré à Londres sa fusion avec la Société Française, se dit confondu dans cette Société, déclare que les effets de cette fusion remontent au 1er Septembre, 1865, date à laquelle la Société Française "sera seule et entièrement propriétaire de l'actif de la Société Anglaise tant en France qu'en Angleterre."

Le 1er Novembre, 1865, la réunion des deux Sociétés Anglaise et Française fusionnées est annoncée au public dans les journaux désignés par la loi, sous le nom de "Société de Commerce de France," Société Française, dont le siége social est à Paris.

Le 4 Novembre, 1865, les Administrateurs de la Société de Commerce de France déclarent vouloir modifier le contrat de fusion. Je proteste et me retire de l'administration de la Société de Commerce de France. Ma retraite et acceptée par les Administrateurs réunis en séance du Conseil d'Administration de ce jour.

Le 26 Décembre, 1865, le contrat de fusion est modifié. Le Saint-Nazaire Company (Limited), qui devait apporter 290,000 mètres de terrains libres d'hypothéquer et 3,816,875 fr. espèces, est autorisé à n'apporter absolument rien; mais par contre, reçoit environ 5,000,000 fr. de créances sur la Société de Commerce de France.

Le 20 Juillet, 1866, la Société de Commerce de France est déclarée en faillite sans avoir fait une seule opération, et dans son passif figurent les 5,000,000 fr. de créances données aux intéressés du Saint-Nazaire Company (Limited).

Le 28 Mai, 1869, Sur l'instance du Syndic, un Arrêt de la Cour de Paris déclare que la Société de Commerce de France et la Société des Crédits Généraux de Saint-Nazaire n'ont formé qu'une seule Société irrégulièrement constituée, et me condamne, comme fondateur, à payer au Syndic le montant des dettes admises contractées avant le 4 Novembre, 1865, date de ma retraite, soit, à payer les 5,000,000 fr. de créances attribuées aux intéressés du Saint-Nazaire Company (Limited) si elles sont admises.

N.B.—Le Tribunal, après cet Arrêt, a rendu deux jugements: le premier me connaissant recevable à critiquer les créances incrites au bilan; le second me déclarant non recevable à constater les dates de création de ces créances.

Cette dernière décision est d'autant plus malheureuse pour moi, que toutes les dettes de la faillite ayant été contractées après le 4 Novembre, 1865, je ne puis invoquer les conséquences de la chose jugée le 28 Mai, 1869, pour dire que si j'ai irrégulièrement constitué la Société, je suis le seul fondateur ou administrateur qui soit étranger aux actes causes de la faillite.

En raison de la condamnation prononcée en principe contre moi par l'Arrêt du 28 Mai, 1869, j'ai, par une assignation du 11 Juillet, 1871, donné au Syndic, aux créanciers inscrits ou à leurs représentants, demandé au Tribunal un réglement définitif de ma condamnation.

Procédant à l'examen du passif, je concluais au rejet de toutes les créances inscrites au bilan. Le Tribunal, par jugement du 19 Février, 1872, me reconnaissant recevable à critiquer les créances, m'a débouté de mes diverses demandes. J'ai interjeté appel de ce jugement, et fais au sujet de cet appel les réserves les plus formelles.

Mais parmi les créances dont je demandais le rejet, figuraient les 5,000,000 fr. de créances données aux intéressés du Sainte-Nazaire Company (Limited). Pour en obtenir

le rejet, je soutenais contre Mr. Young, Liquidateur nommé à Londres de cette Société, que ces créances avaient été données en raison d'une fusion du Saint-Nazaire Company (Limited), affirmée légalement accomplie à Londres en conformité des lois Anglaises; que cette fusion n'ayant jamais été accomplie à Londres, les créances données sur une fausse cause étaient sans effet, d'après l'Article 1131, Code Civil. Et à l'appui de ma prétention, je produisais un jugement de la Cour de Chancery du 6 Juin, 1867, prononçant à Londres la liquidation du Saint-Nazaire Company (Limited) qui n'avait pas cessé d'exister, en tant que Société Anglaise, deux ans après le contrat de fusion du 29 Septembre, 1865. Mr. Young soutenait que le Saint-Nazaire Company (Limited) avait opéré sa fusion à Londres et que le jugement invoqué de la Cour de Chancery n'avait aucune importance.

Le Tribunal, dans son jugement, a accueilli la défense de Mr. Young et rejeté ma demande en nullité des créances et du contrat de fusion, par ces motifs que le Saint-Nazaire Company a opéré à Londres sa fusion, et transmis à la Société Française ses apports promis, et que le jugement de la Cour de Chancery invoqué a peu ou point d'importance.

Par une assignation du 23 Septembre, 1872, donnée à sa Seigneurie le Lord Grand Chancelier de la Grande Bretagne, à Mr. Young, et au Syndic, je demande au Tribunal, d'après l'Article 480, Code de Procédure Civile, la rétractation du jugement du 19 Février, 1872, seulement pour la partie relative au rejet de ma demande en nullité de contrat de fusion.

### § .—*Rétractation du Jugement.*

Mr. Young, pour faire rejeter ma demande en nullité du contrat de fusion, a, par deux fois, trompé le Tribunal:

1. C'est en détournant ou en dissimulant les documents de procédure du jugement de la Cour de Chancery du 6 Juin, 1867,—propriété de la Société de Commerce de France si, comme le soutenait Mr. Young, la fusion était opérée,—que Mr. Young a pu faire dire par le Tribunal que le jugement du 6 Juin, 1867, de la Cour de Chancery a peu ou point d'importance. J'ai réussi à me procurer ces documents de procédure et les présente au Tribunal.

De ces documents il résulte que si la Cour de Chancery a prononcé le 6 Juin, 1867, la liquidation du Saint-Nazaire Company (Limited), cette liquidation a été prononcée au profit unique des intéressés de cette Société et à l'exclusion de la Société de Commerce de France. Il résulte encore que si la Cour de Chancery a prononcé la liquidation du Saint-Nazaire Company (Limited) au profit des intéressés de cette Société, et ce, après avoir pris connaissance du contrat de fusion qui déclare la Société de Commerce de France "seule et entièrement propriétaire" de l'actif du Saint-Nazaire Company (Limited), tant en France qu'en Angleterre," depuis "le 1er Septembre, 1865," c'est que la Cour de Chancery a jugé le contrat de fusion du 29 Septembre, 1865, comme nul et sans force, ayant été signé par la Société Anglaise ("wholly *ultra vires*"), sans capacité.

2. Mr. Young, qui a bien en Angleterre le titre de Liquidateur, a trompé le Tribunal sur l'étendue des pouvoirs que lui donne ce titre. Le véritable liquidateur du Saint-Nazaire Company (Limited) est la Cour de Chancery. Mr. Young n'est que le commis choisi par la Cour de Chancery pour l'aider dans les opérations de la liquidation. Il ne peut rien faire, ni intenter, ni défendre une action sans l'autorisation de la Cour de Chancery.

Mr. Young n'avait pas cette autorisation pour défendre contre la nullité de contrat de fusion demandée par moi. Il n'était donc recevable à opposer aucune défense. Si Mr. Young justifiait de cette autorisation, le Tribunal la considérerait comme surprise à la bonne foi de la Cour de Chancery qui n'a certainement pas donné à son commis l'autorisation de défendre devant un Tribunal Français la validité d'un contrat qu'elle a jugé sans force et nul en Angleterre.

### § .—*Nullité du Contrat de Fusion.*

Je demande au Tribunal la nullité du contrat de fusion coutre le véritable liquidateur du Saint-Nazaire Company (Limited) ou la Cour de Chancery représentée par sa Seigneurie le Lord Grand Chancelier de la Grande Bretagne.

A l'audience, aucune fin de non-recevoir ne me sera opposée au nom de sa Seigneurie. Le Tribunal, qui m'a reconnu recevable à demander la nullité du contrat de fusion contre Mr. Young, commis de la Cour de Chancery, ne pourrait, d'ailleurs, sans

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se déjuger, me déclarer non recevable à demander cette nullité contre le chef de Mr. Young.

Les causes de nullité du contrat sont nombreuses; mais en raison du respect dû à sa Seigneurie, que je considère dans le débat plutôt comme Juge que comme défendeur, je me borne à invoquer les deux causes de nullité suivantes, fondées sur le Traité International du 30 Avril, 1862:

### I. *Nullité d'après l'Article* 1131, *Code Civil, et en vertu du Traité International de* 1862.

Les créances inscrites au bilan en raison d'une fusion Saint-Nazaire Company (Limited) ont pour cause une fusion que cette Société affirmait avoir opérée en Angleterre en conformité des lois Anglaises.

Cette fusion est un acte Anglais qui, d'après le Traité International de 1862, échappe à l'appréciation des Tribunaux Français.

Je produis devant le Tribunal une lettre du Board of Trade du 24 Juin, 1867, qui déclare que le "Companies Register Office" est une institution gouvernementale Anglaise fonctionnant sous le contrôle du Board of Trade. La mission de cette Administration est d'enregistrer tous les actes légaux constitutifs ou modificatifs des Sociétés Anglaises. La lettre du Board of Trade ajoute qu'une déclaration du Companies Register Office au sujet de l'existence ou de la non existence d'un acte légal constitutif ou modificatif d'une Société Anglaise a "force de preuve" devant les Tribunaux Anglais.

A la lettre du Board of Trade précitée je joins une déclaration du "Companies Register Office" du 14 Juin, 1870, qui déclare que le Saint-Nazaire Company (Limited) n'a opéré aucune fusion avec la Société de Commerce de France, dont le nom est inconnu en Angleterre.

D'après le Traité International du 30 Avril, 1862, le Tribunal est tenu d'accueillir cette déclaration du "Companies Register Office" comme une preuve suffisante, reconnaître que le Saint-Nazaire Company (Limited) n'a réalisé aucune fusion à Londres, et prononcer, d'après l'Article 1131, la nullité des créances inscrites au passif de la faillite de la Société de Commerce de France en raison de cette prétendue fusion.

### II. *Nullité d'après l'Article* 1124, *Code Civil, et en vertu du Traité International de* 1862.

Un actionnaire du Saint-Nazaire Company (Limited), nommé Bright Wool, adresse à la Cour de Chancery, par une pétition du 21 Mai, 1867, une demande de mise en liquidation du Saint-Nazaire Company (Limited) au profit unique des intéressés de cette Société Anglaise.

Le Saint-Nazaire Company (Limited) oppose le contrat de fusion du 29 Septembre, 1865, qui attribue à la Société de Commerce de France "la seule et entière propriété de son actif en Angleterre depuis le 1er Septembre, 1865."

Mr. Bright Wool répond que le contrat a été passé à Paris par la Société Anglaise "wholly *ultra vires*," c'est-à-dire sans capacité de s'obliger.

Le 6 Juin, 1867, la Cour de Chancery, après avoir pris connaissance du contrat de fusion, ordonne la liquidation du Saint-Nazaire Company (Limited) au profit des intéressés de cette Société, et par conséquent a reconnu le contrat de fusion passé par la Société Anglaise "wholly *ultra vires*," sans capacité de s'obliger.

Et comme par le Traité International de 1862, la Cour de Chancery est seule compétente pour apprécier la capacité qu'avait ou n'avait pas la Société Anglaise de s'obliger, le Tribunal, en raison de la chose jugée à Londres et en vertu du Traité International de 1862, est tenu de déclarer en France le contrat de fusion nul d'après l'Article 1124, Code Civil.

En résumé, ma demande en nullité du contrat de fusion se fonde: (1) sur une déclaration du Companies Register Office; (2) sur la chose jugée à Londres par la Cour de Chancery le 6 Juin, 1867.

Par le Traité International de 1862, le Tribunal n'a pas à apprécier la déclaration du Companies Register Office ou le jugement de la Cour de Chancery du 6 Juin, 1867, mais à accueillir la déclaration du Companies Register Office comme une preuve que la fusion n'a pas été réalisée à Londres, et le jugement de la Cour de Chancery comme ayant bien jugé.

Le Tribunal est tenu par le Traité International de prononcer la nullité de la fusion en France, tout aussi bien que dans une circonstance analogue il serait tenu de déclarer nulle en France une Société Anglaise sur une simple déclaration du Companies Register Office de sa non existence à Londres, ou sur la production d'un jugement Anglais qui aurait déclaré cette Société nulle à Londres.

### *Conclusion.*

Aucune fin de non recevoir ne me sera opposée au nom de sa Seigneurie, et de son côté le Tribunal n'en saurait accueillir aucune sans se déjuger.

Aucune défense ne me sera opposée à l'audience au nom de sa Seigneurie.

1. Sur le premier moyen de nullité d'après l'Article 1131, Code Civil, une déclaration faite au nom de sa Seigneurie ne peut que confirmer les déclarations du Board of Trade du 24 Juin, 1870, et du Companies Register Office du 14 Juin, 1870.

2. Sur le second moyen de nullité d'après l'Article 1124, Code Civil, comment un seul instant et sans manquer de respect à la justice Anglaise admettre que sa Seigneurie autorise qu'il soit soutenu en son nom que le jugement de la Cour de Chancery du 6 Juin, 1867, n'a pas considéré le contrat de fusion comme sans force et nul en Angleterre?

Le jugement de la Cour de Chancery du 6 Juin, 1867, a prononcé la liquidation du Saint-Nazaire Company (Limited) à Londres au profit unique des intéressés de cette Société. Avant de prononcer cette liquidation, le jugement de la Cour de Chancery vise le contrat de fusion. Soutenir que la Cour de Chancery n'a pas jugé nul le contrat, c'est soutenir qu'elle a reconnu le contrat valide et conséquemment qu'elle a reconnu valides les Articles 1, 2, 3, du contrat, qui déclarent la Société de Commerce de France "seule et entièrement propriétaire" en Angleterre de l'actif du Saint-Nazaire Company (Limited). Et ce serait après avoir reconnu le droit "d'unique et entière propriété" de la Société Française en Angleterre sur l'actif de la Société Anglaise, que la Cour de Chancery aurait attribué la propriété de la Société Française aux anciens intéressés de la Société Anglaise!

Ainsi donc, il serait monstrueux, en même temps qu'injurieux pour la justice Anglaise, de soutenir que le jugement de la Cour de Chancery du 6 Juin, 1867, n'a pas reconnu sans force et nul en Angleterre le contrat de fusion, car ce serait soutenir que le jugement Anglais contient à la fois la reconnaissance et le mépris par la justice Anglaise d'un droit de propriété de la Société de Commerce de France en Angleterre.

Ma demande en nullité du contrat de fusion ne peut donc à l'audience qu'être appuyée par les déclarations faites au nom de sa Seigneurie.

Le Tribunal peut-il rejeter ma demande? Peut-il refuser la rétractation demandée du jugement, et refuser la nullité du contrat de fusion?

Mais le jugement dont rétractation est demandée a déclaré que le jugement de la Cour de Chancery du 6 Juin, 1867, a peu d'importance. Aujourd'hui qu'il est prouvé que le jugement Anglais a annulé le contrat de fusion à Londres, il n'est pas admissible que le Tribunal refuse la rétraction demandée, sinon il faudrait conclure qu'aux yeux de la justice Française il importe peu que des étrangers viennent en France passer des contrats qui ne les lient pas, et obtiennent de la justice Française l'exécution des obligations consenties par les Français dans de tels contrats.

La rétraction du jugement accordée, le Tribunal peut-il refuser la nullité du contrat de fusion? Mais comment? A ma demande, il sera ou ne sera pas opposé une défense au nom de sa Seigneurie:

1. S'il n'est pas opposé de défénse, le refus par le Tribunal de prononcer la nullité du contrat aurait cette conséquence, que le Tribunal tiendrait la Société de Commerce de France et me tiendrait dans les liens d'un contrat annulé en Angleterre, en d'autres termes, me refuserait la justice rendue par le Tribunal Anglais.

2. S'il est opposé une défénse, si par impossible et ce que je n'admets pas, il était soutenu que la Cour de Chancery par son jugement du 6 Juin, 1867, n'a pas annulé à Londres le contrat de fusion, le Tribunal pourrait-il refuser la nullité du contrat en France? Mais j'ai démontré plus haut que par suite d'une telle défense il faudrait admettre que le jugement de la Cour de Chancery contiendrait à la fois la reconnaissance et le mépris d'un droit Français en Angleterre. Le refus du Tribunal de prononcer la nullité du contrat consituerait donc un abandon complet de ce droit Français.

Je termine, Messieurs, ainsi que j'ai commencé, en disant que le Tribunal accueillera mes conclusions et que leur rejet établirait en principe que le commerçant Français ne devrait avoir aucune confiance dans les Traités de Commerce passés entre la France et l'Angleterre; que l'obligation prise par l'Angleterre, dans ces sortes de Traités, de respecter et faire respecter chez elle les propriétés des commerçants Français, ne serait pas sérieuse; que le commerçant Français, au cas où ses droits de propriété seraient méconnus en Angleterre, ne devrait aucunement compter en France sur la protection des Tribunaux Français.

(Signé) **ALPH. CÉZARD.**

## Inclosure 4 in No. 105.

### *M. Cézard to the Lord Chancellor.*

*Le* 23 *Septembre*, 1872.

A LA requête de M. Alphonse Cézard, propriétaire, demeurant à Paris (Batignolles), Boulevard de Neuilly, No. 112, j'ai, Charles Auguste Tainne, huissier près le Tribunal Civil de la Seine, séant à Paris, y demeurant rue de Turbigo, No. 16, soussigné, donné assignation à sa Seigneurie, le très-honorable Lord Grand Chancelier de la Grande Bretagne, représentant la Cour de Chancery, seule et véritable liquidateur du Saint-Nazaire Company (Limited), demeurant à Londres, Palais de la Cour de Chancery, Chancery Lane, et ce au domicile de M. le Procureur de la République en son Parquet à Paris, portant à l'un de messieurs ses substituts qui a visé le présent original à comparaître le 28 Octobre, 1872, à 10 heures du matin à l'audience du Tribunal de Commerce du Département de la Seine, séant à Paris en la Cité, pour :

Attendu que le 15 Février, 1865, Alphonse Cézard a fondé à Paris la Société des Crédits Généraux de Saint-Nazaire, a responsabilité limitée, capital 6,000,000 fr. ;

Attendu que le 29 Septembre, 1865, une Société Anglaise, "The Saint-Nazaire Company (Limited), dont le siége social est à Londres, a signé à Paris avec la Société des Crédits Généraux de Saint-Nazaire un acte authentique de fusion, que les deux Sociétés déclarées fusionnées ont été désignées comme constituant une Société Française, à responsabilité limitée, capital 10,000,000 fr., sous la dénomination de Société de Commerce de France ;

Attendu que le 20 Juillet, 1866, la Société de Commerce de France a été déclarée en faillite avec un passif comprenant environ 5,000,000 fr. de titres de créances accordées aux intéressés du Saint-Nazaire Company (Limited), en raison de la fusion de leur Société déclarée par eux réalisée à Londres en conformité des lois Anglaises ;

Attendu que divers Arrêts de la Cour d'Appel de Paris déclarant que la Société des Crédits Généraux de Saint-Nazaire et la Société de Commerce de France n'ont formé qu'une seule et même Société irrégulierement constituée, en ont prononcé la nullité dès son origine, et condamne Alphonse Cézard, fondateur, envers le Syndic, au paiement des dettes admises, et par conséquent des 5,000,000 fr. de titres de créances aux mains des íntéressés du Saint-Nazaire Company (Limited) si elle sont admises ;

Attendu que par une Assignation du 11 Juillet, 1861, Cézard demandait au Tribunal le réglement de sa condamnation au profit du Syndic, que tous les créanciérs inscrits au bilan, ou leurs représentants assignés, Cézard concluait au rejet de toutes les créances du passif et à la condamnation du Syndic à lui remettre l'actif, que pour obtenir le rejet des créances inscrits au bilan en raison de la fusion Saint-Nazaire Company (Limited), Cézard rappelait que ces créances ont pour cause une fusion que la Société Anglaise disait avoir réalisé à Londres, et soutenait que la fusion n'avait jamais été réalisée ; qu'en conséquence les dites créances données sur une fausse cause devaient être déclarées sans effet d'après l'Article 1131 du Code Civil ;

Attendu que Young *ès*-nom a soutenu que la fusion du Saint-Nazaire Company (Limited) avait été réalisée à Londres en conformité des lois Anglaises, et ajoutait que par suite de cette fusion la Société Anglaise avait transféré à Londres son actif à la Société Française qui se trouvait aux termes du contrat "seule et entièrement propriétaire" dudit actif depuis le 1^er^ Septembre, 1865, "tant en France qu'en Angleterre ;"

Attendu que le Tribunal, accueillant la défense de Young *es*-nom, a débouté Cézard de ses conclusions par un jugement du 19 Février, 1872, que Cézard a interjeté appel du dit jugement, et fait au sujet de cet appel les réserves les plus expresses ;

Attendu que c'est en trompant à la fois la justice Anglaise et la justice Française, que Young *es*-nom a réussi à surprendre ce jugement à l'équité du Tribunal ;

Attendu que pour tromper le Tribunal, Young *ès*-nom s'est jusqu'à ce jour refusé de produire des documents importants du Saint Nazaire-Company (Limited), ainsi que le prouve la chose jugée, que depuis le jugement Cézard a reussi à se les procurer, que ces documents prouvent non-seulement que la prétendue fusion n'a jamais été réalisée à Londres, mais encore que la Cour de Chancery faisant droit à une pétition de Bright Wool du 21 Mai, 1867, a écarté comme sans valeur en Angleterre le contrat de fusion du 29 Septembre, 1865, signé par les Administrateurs du Saint-Nazaire Company (Limited), lesquels, d'après la loi Anglaise, n'avaient pas capacité d'obliger cette Société.

Attendu en outre que Young *ès*-nom qui a qualité pour représenter le Saint-Nazaire Company (Limited), n'était recevable à opposer une défense quelconque à l'action de Cézard qu'avec l'autorisation de la Cour de Chancery, seul et véritable liquidateur de la Société Anglaise, et dont Young *ès*-nom n'est que l'employé—que le respect dû à la justice

Anglaise ne permet pas d'admettre que la Cour de Chancery ait autorisé son employé à soutenir devant les Tribunaux Français le contraire de ce qu'elle a jugé en Angleterre—que si Young *ès*-nom produisait une autorisation de la Cour de Chancery il faudrait en conclure que pour l'obtenir il a trompé la Cour de Chancery.

Attendu que par les raisons qui précèdent et en vertu de l'Article 480 du Code de Procédure Civile, le Tribunal rétractera le jugement du 19 Février, 1872, en ce qui concerne la nullité du contrat de fusion demandée par Cézard et repoussée par le Tribunal ;

Attendu que mettant en cause la Cour de Chancery seule et véritable liquidateur du Saint-Nazaire Company (Limited), Cézard est fondé à demander contre elle la nullité du contrat de fusion.

Attendu que si, après avoir pris connaissance du contrat de fusion qui déclare la Société Française "seule et entièrement propriétaire" de l'actif de la Société Anglaise depuis le 1^er^ Septembre, 1865, "tant en France qu'en Angleterre," la Cour de Chancery le 6 Juin, 1867, a ordonné la liquidation de l'actif du Saint-Nazaire Company (Limited) au profit des intéressés de cette Société, c'est manifestement que la Cour de Chancery, faisant droit à une demande de Bright Wool du 21 Mai, 1867, a jugé que les Administrateurs de la Société Anglaise avaient excédé leurs pouvoirs en signant le contrat de fusion à Paris, et n'avaient pas capacité d'obliger la Société Anglaise ;

Attendu que le Traité International du 30 Avril, 1862, en autorisant les Sociétés Anglaises à exercer leur droits en France, réserve l'appréciation de l'étendue de ces droits aux seuls Tribunaux Anglais—qu'en conséquence le Tribunal prononcera la nullité du contrat de fusion d'après les Articles 1108, 1124 de Code Civil.

Subsidiairement, et au cas inadmissible de la Cour de Chancery, trompée, autoriserait à soutenir devant le Tribunal que le jugement précité rendu par elle n'a pas jugé nul le Contrat de fusion à Londres ;

Attendu que le jugement de la Cour de Chancery précité vise le contrat de fusion—que si le jugement n'en a pas prononcé la nullité, il en a nécessairement reconnu la validité—que si la Cour de Chancery a reconnu la validité du contrat, elle a d'après les Articles 2 et 3 du dit contrat reconnu la Société de Commerce de France "seule et entièrement propriétaire" de l'actif de la Société Anglaise depuis le 1^er^ Septembre, 1865, "tant en France qu'en Angleterre."

Attendu que si la Cour de Chancery a reconnu la Société Française "seule et entièrement propriétaire" devant les lois Anglaises de l'actif du Saint-Nazaire Company (Limited), elle ne pourrait contester avoir en violation de la loi Anglaise et arbitrairement dépouillé la Société Française de ce droit de propriété reconnu par elle, en ordonnant la liquidation de l'actif du Saint-Nazaire Company (Limited), au profit des intéressés de cette Société ; que le demandeur d'après les Articles 1382 et 1383 du Code Civil serait fondé à demander à titre de dommages et intérêts la condamnation de la Cour de Chancery à payer les créances inscrites au bilan en raison de la fusion du Saint-Nazaire Company (Limited).

Par ces motifs, plaise au Tribunal, donne acte au demandeur de ses réserves au sujet de son appel du jugement du 19 Février, 1872.

D'après l'Article 480 du Code de Procédure Civile retracte le jugement du 19 Février, 1872, en ce qui concerne le rejet de la demande formée par Alphonse Cézard en nullité de la fusion Saint-Nazaire Company (Limited).

En raison du Traité International du 30 Avril, 1862, et d'après les Articles 1108 et 1124 du Code Civil, prononce la nullité du contrat de fusion Saint-Nazaire Company (Limited), et de tous les titres, actions, et créances délivrés aux intéressés du Saint-Nazaire Company (Limited), sans préjudice des dommages et intérêts demandé par Cézard devant la Cour d'Appel.

Subsidiairement, au cas où, sur la défense de la Cour de Chancery, le Tribunal repousserait la nullité de la fusion ;

D'après les Articles 1382 et 1383 du Code Civil, et à titre de dommages et intérêts, condamne la Cour de Chancery envers le faillite au paiement des créances inscrites au bilan en raison de la fusion.

Et je lui ai, étant et parlant comme dessus, laissé cette copie.

(Signé) ALPH. CÉZARD.

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## Inclosure 5 in No. 105.

*Mr. Francis to M. Cézard.*

30, *Portland Place, W., October* 19, 1872.

Sir,

I AM directed by the Lord Chancellor of Great Britain to acknowledge the receipt of your letter (without date) on the subject of a citation which you therein state your intention to cause to be served on his Lordship from the Tribunal of Commerce of the Seine with respect to certain matters connected with the "Société des Crédits Généraux de Saint-Nazaire," a company with respect to which, as his Lordship collects from your letter and its inclosure, some proceedings are now pending in the British Court of Chancery.

His Lordship directs me to state that he declines to recognize any jurisdiction of any foreign Tribunal over the office which he has the honour to hold, or over himself as filling that office; and that if any citation or assignation such as you describe should be sent to him, he will deem it his duty to pass it by without any acknowledgment or notice, and to transmit it to Her Majesty's Secretary of State for Foreign Affairs, in order that such representations as may be deemed suitable may be made to the President of the French Republic on the subject of so improper an assumption of jurisdiction.

I have, &c.  
(Signed) CARRINGTON FRANCIS,  
*Principal Secretary to his Lordship.*

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## No. 106.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 26.)

*Temple, October* 25, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us a copy of the Treaty between this country and Austria of the 16th December, 1865, and to call our attention to the stipulations therein contained for the extension to Austria of the provisions of the Treaty of Commerce of 1860, between this country and France.

And that he was to request us to take into consideration, and report to your Lordship, at our early convenience, how far any, and which, engagements made by Great Britain in the Treaty with France of 1860, would remain applicable to Austria after that Treaty was either cancelled or expired.

In obedience to your Lordship's commands we have the honour to report—

That the Treaty of Commerce between Great Britain and Austria, by providing in the Ist Article for the enjoyment by the subjects of the respective Governments of the advantages conceded by the Treaty with France in 1860, adopts the then existing stipulations thereof as part of the Treaty between Great Britain and Austria. And we are of opinion that the engagements so made with France in 1860 will remain in every respect applicable to Austria after the Treaty with France is cancelled or expires, as if such Treaty had not been cancelled or expired.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 107.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 28.)

*Temple, October* 26, 1872.

My Lord,

IN reference to your Lordship's commands signified in Viscount Enfield's further letter of the 25th instant, relating to the Treaty of Commerce between Great Britain and Austria, and calling our attention more particularly to the Tariffs of French wines, spirits, silks, &c., we have the honour to report—

We are of opinion that, after the expiration of the French Treaty, the English import duties on wines, spirits, and silks fixed by the Tariffs in the French Treaty cannot

be raised as regards Austria so long as the Austrian Treaty endures, and if such duties were reduced Austria would become entitled to an equal reduction on similar articles.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 108.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 29.)

*Temple, October* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Paris, inclosing a copy of a letter from Mr. Arthur Silverthorne, containing an account of some transactions in which his client, Mr. Porter, a manufacturer of ironworks at Lincoln, had become involved in France in consequence of certain contracts entered into by him for the construction of gasworks in various towns of France before the war, and which had resulted in legal proceedings against him before the Tribunal of Amiens.

It was further stated that the Judge of that Court, in consequence, as it was alleged, of the decree of bankruptcy issued by him against Mr. Porter having been annulled by the Superior Court at Rennes, and being thereby actuated by vindictive motives, had instituted a course of legal persecution against Mr. Porter, by which his interests and those of other persons were very prejudicially affected.

That, under these circumstances, Mr. Silverthorne solicited the intervention of Her Majesty's Embassy with the French Government for the protection of his client.

And that he (Viscount Enfield) was to request us to take this case into consideration, and favour your Lordship with our opinion as to the nature and extent of the interference, if any, which Her Majesty's Embassy would be justified in exercising in this matter.

In obedience to your Lordship's commands we have taken this case into consideration and have the honour to report—

That it appears the proceedings in which Mr. Porter's interests are concerned are still pending before the French Tribunals; and we are of opinion that Her Majesty's Embassy would not be justified in exercising any interference in the matters referred to by Mr. Silverthorne.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 109.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 2.)

*Temple, November* 2, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 22nd day of October ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter addressed to your Lordship by the Lord Chancellor, accompanying various documents relating to a citation which his Lordship had received through the Acting French Consul-General in this country, at the instance of a Frenchman named Cézard, to appear in his judicial capacity before the Tribunal of Commerce of the Seine with reference to certain matters connected with the "Société des Crédits Généraux de St. Nazaire," with respect to which it appeared some proceedings are now pending before the British Court of Chancery.

Lord Enfield also states that the citation, as it seemed, had been transmitted to the Lord Chancellor by direction of the French Minister for Foreign Affairs; and that he was to request that we would take these papers into our immediate consideration, and that we would favour your Lordship with our opinion as to the course which you, as Secretary of State, should take therein.

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In obedience to your Lordship's commands we have the honour to report—

That your Lordship may properly call the immediate attention of the French Government to the statement of M. Gautier of the 16th October, 1872, and the Lord Chancellor's answer, and, in adopting that answer, request that such proceedings may not be repeated.

We have, &c.
(Signed) J. D. COLERIDGE.
G JESSEL.
J. PARKER DEANE.

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## No. 110.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 2.)

*Temple, November* 2, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit to us a despatch, and its inclosures, received from Her Majesty's Minister at Paris respecting the case of Mr. Frederick Wilson, who had been arrested in Paris for an offence committed in the public streets, and who, after a detention of one calendar month in prison, had been sentenced to fifteen days' farther imprisonment, that being the period of punishment which it was understood was assigned to the particular offence in question.

That Mr. West, as we would perceive, did not report the case as one in which the legality of the sentence was to be called in question, nor did Mr. Wilson himself claim redress; but as it appeared to be invested with circumstances of hardship which might be repeated on any future occasion of a parallel nature, he (Viscount Enfield) was to request that we would favour your Lordship with our opinion whether there were any grounds on which at least an "officious" representation might be made to the French Government.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that an "officious" representation may properly be made to the French Government, in order to prevent a repetition of a similar hardship of as long (in this case one month's) imprisonment in addition to the imprisonment for fifteen days under the sentence.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 111.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 4.)

*Temple, November* 4, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 2nd instant, stating that he was directed by your Lordship to request that we would be so good as to furnish your Lordship, early on Tuesday next, with such form of notice as we would think it would be right to publish in order to carry out the provisions, with respect to the notification at the Foreign Office of existing contracts, of Article IV of the Protocol to be annexed to the Treaty of Commerce and Navigation with France.

And that he (Viscount Enfield), at the same time, was to inquire whether we think that it would be advisable or necessary to make known, and, if so, in what precise manner, the stipulations of Article V of the Protocol in regard to mineral oil contracts.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That we have drawn the following notice with respect to the notification of existing contracts in order to carry out the provisions of Article IV of Protocol:—

"*Treaty of Commerce and Navigation with France.*

"*Notice.*

"All persons who have entered into contracts for the delivery in France or Algeria of goods the produce or manufacture of the United Kingdom [or British possessions*], and which contracts remain to be executed, in whole or in part, before the 15th day of March, 1873, are required to give notice in writing of the said contracts, at the Foreign Office in London, within fourteen days from the date of this notice, in order that they may be submitted to the Commission, under the XXIst Article of the said Treaty, with the view to ascertain the validity, date, and good faith of the said contracts.

"No notification of any contract will be received after the expiration of fourteen days from the date of this notice."

And that we are of opinion that it is advisable, but not necessary, to make known the stipulations of Article V of the Protocol, for the information of persons whose contracts may have been affected by the operation of the Law of the 8th July, 1871, and whose cases may come within paragraphs 3, 4, and 5 of that Article

This information might be conveyed by advertisement in the official papers, as soon as the Treaty has been signed, in the following form:—

"*Treaty of Commerce and Navigation with France.*

"*British Mineral Oils.*

"A settlement of the questions concerning duties levied in France on British mineral oils will be effected by the Commission, under Article XXI of the Treaty, on the following terms:—

"[Here copy out paragraphs 2, 3, 4, and 5 of Article V of Protocol]."

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 112.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 13.)

*Temple, November* 12, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Mr. West relative to the question of monopolies in France in connection with the stipulations of Commercial Treaties.

Viscount Enfield also inclosed a copy of the Treaty of Commerce and Navigation signed on the 5th instant, and stated that he was to request that we would favour your Lordship, at our early convenience, with our opinion as to the bearing of the question raised in Mr. West's despatch in regard to the provisions of the new Treaty between this country and France.

In obedience to your Lordship's commands we have the honour to report—

That, understanding your Lordship's question to refer only to the monopoly proposed to be created in France as to the manufacture and sale of lucifer matches, we are of opinion that the proposed proceedings of the French Government are not inconsistent with the terms of the new Treaty with France, unless they be inconsistent with the terms of some other Treaty to the benefit of which we are entitled under the most-favoured-nation clause.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* These words are omitted in French notice, but see Treaty, Articles XI, XII, and XIII.

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## No. 113.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 20.)

*Temple, November* 19, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 18th instant, stating that, with reference to our Report of the 12th instant, as to the bearing in regard to the new Treaty of Commerce and Navigation with France of the monopoly granted by the French Government for the manufacture of matches in France, he was directed by your Lordship to point out to us that your Lordship was desirous of obtaining our opinion as to the general question whether the granting of monopolies was consistent with the provisions of Commercial Treaties, and also whether if, in the event of the French Government granting a monopoly for the manufacture of beer or any other commodity comprised in the Tariff annexed to the Treaty, Her Majesty's Government would be justified in remonstrating against it.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion the granting of monopolies in France with provisions permitting the introduction into, but forbidding the sale in France of commodities comprised in a Tariff is not consistent with the spirit and intention of Treaties of Commerce such as the new Treaty with France.

And that, in the event of the French Government granting a similar monopoly for the manufacture of any commodity comprised in the Tariff annexed to that Treaty, Her Majesty's Government would be justified in remonstrating against it.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 113*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 21.)

*Temple, November* 21, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us a copy of the Treaty of Commerce concluded on the 7th instant between the Governments of Great Britain and France; and he was to request us to take the same into consideration, and favour your Lordship at our earliest convenience with our opinion as to whether there was anything in the provisions of the said Treaty which could enable the French Government to levy compensatory duties upon English goods without having previously imposed equivalent taxes upon raw materials of French extraction.

That it was the opinion of the French Chargé d'Affaires that the epithet "compensatory" was decisive against such a power.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that there is nothing in the provisions of the Treaty of Commerce between the Governments of Great Britain and France which would enable the French Government to levy compensatory duties upon English goods without having previously imposed equivalent taxes upon raw materials of French extraction, or upon similar goods, the produce of French industry.

We are not informed whether the French Government claims the power of imposing at once the compensatory duties, or whether that Government relies on the 3rd paragraph of Article II of the Treaty, or upon some other part of the Treaty; but it seems to us that the word "compensatory," and the text of the Vth Article of the Treaty, are clearly against the exercise of the power referred to.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 114.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 4.)

*Temple, December* 4, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Mr. Kennedy, stating certain questions which had arisen in the discussions at the Paris Commercial Treaty Commission upon which it was desirable that he (Mr. Kennedy) should be furnished with instructions.

Lord Tenterden inclosed copies of the printed correspondence and of the Treaty signed on the 5th ultimo.

That we would see that those questions were—

1. Whether Mr. Kennedy could claim the right to discuss the import duty on raw materials at the Commission.

2. Whether, in estimating the compensatory duties, account should be taken of the duties on processes of manufacture, whether connected with machinery or processes used in manufacture in connection with the machinery, and external to the manufactured article, such as machinery bands, oils, &c.

3. Whether, in estimating the compensatory duties, account should be taken of the "surtaxe d'entrepôt."

That upon the first point your Lordship had caused a draft of an instruction to Mr. Kennedy to be prepared, which he (Lord Tenterden) was to submit for our consideration and opinion.

That the passages in the correspondence relating to that matter would be found at pp. 363, 422, 429, and 430 of the printed volume.

That he was also to transmit, for our consideration and opinion, a draft of the reply proposed to be returned to Mr. Kennedy on the second point. Previous correspondence relating to it to be found at pp. 32 and 41 of the second printed volume, marked Part IV.

That upon the third point Mr. Kennedy had been asked for farther explanations; but your Lordship would be glad if we would also in the meanwhile take it into consideration and favour you with our opinion on it. A copy of the statement put in by Mr. Kennedy on the 25th ultimo, in which the abolition of the "surtaxe d'entrepôt" was urged upon the attention of the French Commissioner, was annexed.

That, besides requesting our opinion upon those points, he (Lord Tenterden) was to state that your Lordship had addressed a despatch to Lord Lyons instructing his Excellency to procure from the French Government a record in writing of their agreement with Her Majesty's Government in considering that the compensatory duties in the Annex to the Treaty could not be levied unless the duty on raw materials was collected; and he (Lord Tenterden) was to request that we would favour your Lordship with our opinion as to what would be the position of Her Majesty's Government if the French Government consented to that; that was to say, whether the omission to levy the new duties on the scale specified in the Annex could affect the rest of the Treaty, supposing it to have been ratified by the Chamber.

That in our Report of the 21st ultimo we gave the opinion that there was nothing in the provisions of the Treaty which would enable the French Government to levy compensatory duties upon English goods without having previously imposed equivalent taxes upon raw materials of French extraction, or upon similar goods the produce of French industry, adding that the word "compensatory" and the text of the Vth Article of the Treaty were clearly against the exercise of the power referred to.

That he (Lord Tenterden) was, however, to observe that the Vth Article of the Treaty was prospective, and applied only to the future case of an excise tax or inland duty being levied in France; when it was provided by the Article that a proportionate compensatory duty might be added to the total amount of duties leviable under the Tariff Annex, but that no addition should be made thereafter on account of import duties; and he was to request our farther opinion whether, should the Treaty be ratified by both Governments without provision being made by French law for the imposition of the duty on raw materials, either generally or upon the goods or produce of nations having no Commercial Treaties with France to prevent such an imposition, the Tariff would, nevertheless, come at once into operation as against British goods and produce upon the scale mentioned as "total amount of duties payable" in Annex I.

And that, as it was of importance that the instructions to Mr. Kennedy should be furnished as soon as possible, he (Lord Tenterden) was to ask us to favour your Lordship

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with our opinion upon the several matters at our earliest convenience; and that the law relating to raw materials which was frequently referred to in the inclosed papers would be found at p. 269 of the first volume (Part III).

In obedience to your Lordship's commands we have the honour to report—

1. That Mr. Kennedy having, in compliance with your Lordship's instructions, agreed with M. Ozenne upon the functions of the Commission and the limits within which the discussion of the Tariff on raw materials should be conducted, we are of opinion that the draft of the proposed instruction to Mr. Kennedy is right.

But we are of opinion that it is open to Mr. Kennedy to discuss any of the details not in opposition to or infringing upon this principle.

2. We are of opinion that the instruction to Mr. Kennedy that, in estimating the compensatory duties, no element should be taken into consideration save the duty on the raw material which may form the basis of the manufactured article, is right; and that no duties in processes of manufacture in connection with machinery. or used in manufacture in connection with machinery, and external to the manufactured article, can be taken into account in estimating the compensatory duties.

We are of opinion that in estimating the compensatory duties no account should be taken of the "surtaxe d'entrepôt.'"

In Annex I, column of observations, this surcharge is named three times—twice in the phrase "exclusive of the 'surtaxe d'entrepôt'", and once in the phrase "not including the 'surtaxe d'entrepôt.'"

We do not consider that Her Majesty's Government, by merely admitting this mention of the surcharge in the column of observations, is so pledged to the principle that the abolition of the surcharge, if imposed, should not, as suggested by Mr. Kennedy, "be urged upon the French Government."

The omission to levy the new duties on the scale specified in the Annex would not, in our opinion, affect the rest of the Treaty, supposing it to have been ratified by the Chambers.

And if the Treaty be ratified by both Governments without provision being made by the French Government for the imposition of any duty on raw materials, the Tariff in Annex I would not come into operation against British goods and produce upon the scale mentioned as "total amount of duties leviable" in Annex I, being maximum duties, without a law to that effect.

But supposing the Tariff in Annex I to come into operation, then, if under Article V of the Treaty, which is prospective, an inland tax or duty were imposed by the French Government, a compensatory customs duty might be levied on British goods and produce in addition to the duties leviable under the Tariff, but not till such inland tax or duty were imposed.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 115.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 4.)

*Temple, December* 4, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 3rd December instant, stating that, with reference to his letter of the 2nd instant, he was directed by your Lordship to transmit to us the accompanying drafts of instructions to Lord Lyons and Mr. Kennedy respecting the import duty on raw silk referred to in Mr. Kennedy's despatch No. 19 of the 29th ultimo, which was then before us; and that his Lordship was to request that we would take those drafts into our consideration, and favour your Lordship with our opinion whether they are right and proper to be sent.

In obedience to your Lordship's commands we have the honour to report—

That the drafts of instructions to Lord Lyons and Mr. Kennedy are, in our opinion, right and proper to be sent.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 116.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 6.)

*Temple, December* 5, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying draft of instructions to Mr. Kennedy with regard to the question of a compensatory duty being leviable on manufactured articles in respect of the "surtaxe d'entrepôt," and he (Lord Tenterden) was to request us to take that draft into consideration with the other draft instructions to Mr. Kennedy, and favour your Lordship with our opinion whether it was right and proper to be sent.

In obedience to your Lordship's commands we have the honour to report—

That we recommend the omission of the seventh and following lines on p. 1, and of the first five lines on p. 2.

In other respects the draft instruction is, in our opinion, right and proper to be sent to Mr. Kennedy.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 117.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received December* 9.)

*Temple, December* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of this date, stating that, with reference to our letter of the 7th instant, he was directed by your Lordship to transmit to us a draft of instructions to Lord Lyons respecting the position in which British commerce would be placed in the event of the Treaty with France being ratified, but the Tariff annexed to it suspended; and that he (Lord Tenterden) was to request us to take the same into our consideration, and favour your Lordship with our opinion whether the draft is right and proper to be sent.

In obedience to your Lordship's commands we have the honour to report—

That we have gone through the proposed despatch to Lord Lyons which your Lordship has submitted to us, and, subject to the alterations which we have made and initialled, we think it is such as your Lordship may properly address to him.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 118.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received December* 9.)

*Temple, December* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 7th instant, stating that, with reference to our Report of the 4th instant, he (Lord Tenterden) was directed by your Lordship to request that we would favour your Lordship, at our earliest convenience, with our opinion upon the position in which Great Britain will be placed, should the Treaty of Commerce signed on the 5th ultimo be ratified, but the Tariff annexed to it not be brought into operation in consequence of the law on raw materials not coming into force.

That he (Lord Tenterden) inclosed a copy of the Treaty, together with the volume containing the law in question, and that he (Lord Tenterden) was to call our attention to the provision in the latter.

And that we would be aware that the Treaty of Commerce between France and Austria, and which would preclude the imposition of such compensatory duties in regard to that country (and also in regard to Germany, which possessed "most-favoured-nation" privileges), did not expire until the 1st January, 1872. There were also Treaties of

Commerce of a similar nature between France and Italy, expiring in January 1876, and France and Switzerland, expiring in November 1876.

In obedience to your Lordship's commands we have the honour to report—

That, if the Treaty of the 5th be ratified, but the Tariff annexed to it be not brought into operation in consequence of the law on raw materials not coming into force, the commerce of Great Britain will be subject to the duties imposed by any existing French law, except so far as the duties so imposed are limited in their maximum amount by the Annex to the Treaty of the 5th November, to which we have agreed by the IInd Article of that Treaty. We need hardly say that this opinion refers only to such articles as are expressly dealt with in the Annex. As to others not comprised in the Annex, but comprised in the Treaty of 1860, the Tariff remains as under that Treaty till the 15th March, 1873. After that date the most-favoured-nation clause applies to these articles.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 119.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 13.)

*Temple, December* 12, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that in our Report of the 29th October we stated that we did not consider that Her Majesty's Government would be justified in exercising any influence in certain legal proceedings in which Mr. Porter had become involved in consequence of some contracts entered into by him for the construction of gasworks in various towns of France, and Her Majesty's Minister at Paris was instructed to so inform Mr. Silverthorne, who had brought the matter under notice on Mr. Porter's behalf.

That he (Mr. Hammond) was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Paris, inclosing a letter from Mr. Silverthorne in reply to an intimation from Lord Lyons of the decision arrived at by Her Majesty's Government, in which he stated his reasons for still thinking that the interference of the Embassy would be justifiable and necessary; and he (Mr. Hammond) was to request that we would inform your Lordship whether the arguments advanced by Mr. Silverthorne in the farther letter led us to alter the opinion given on that case in our Report of the 29th October, which was therewith inclosed, together with the despatch from Mr. West upon which it was made.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason to alter the opinion which we gave on the 29th October last.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 120.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 18.)

*Temple, December* 17, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that the question of the liability of certain classes of foreigners in France to the military service of that country was, as we would remember, recently raised by the introduction into the French Assembly of a new Army Bill. An amendment to the 9th Article of that Bill was moved rendering liable to military service the sons born in France of foreign parents, unless they should prove that they had discharged the obligations imposed by the laws of recruiting in their own country. That amendment was, however, opposed, and ultimately withdrawn by its mover, on its being represented to him that any change in the status of foreigners should be effected, not by an Article in a military law, but by a deliberate alteration of the civil law, and on his

receiving an assurance from the President of the Republic that such an alteration would receive his support.

That the correspondence with Her Majesty's Representative at Paris was submitted to the Secretary of State for the Home Department, who consulted us on the matter, and our opinion was embodied in a letter from the Home Office.

That a Bill had now been brought in in the Assembly by which the sons born in France of foreign parents were declared to be French, and as such liable to military service, unless, in the year following their majority, they made a formal declaration repudiating French nationality, and showed, moreover, that they had fulfilled the obligations imposed upon them by the recruiting law of the country of their origin.

That the Committee which had reported in favour of the Bills being taken into consideration by the Assembly also suggested that these sons of foreign parents should be allowed to contract, at the age of 19, voluntary engagements in the army for one year.

That he (Mr. Hammond) inclosed, with previous correspondence, four despatches recently received from Her Majesty's Ambassador at Paris, the last of which recorded a conversation he had had with the French Minister for Foreign Affairs; and he (Mr. Hammond) was directed by your Lordship to request that we would take them into our consideration, and inform your Lordship whether we had anything to add to the opinion given by us which was contained in the Home Office letter of the 17th October last.

In obedience to your Lordship's commands we have the honour to report—

That we have nothing to add to the opinion given by the Law Officers and contained in the Home Office letter of the 17th October last.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 120*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 17.)

*Temple, December* 17, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch, and its inclosures, received from Her Majesty's Ambassador at Paris, referring to a question which had arisen in regard to the succession duty levied by the revenue authorities at Boulogne, under a new law passed by the National Assembly in the month of August 1871 upon the property of Mr. John Bass, a British subject, the 4th Article of the law in question authorizing the levying of succession duty in France upon foreign securities, &c., belonging to the estates of deceased foreigners, who were, with or without authorization, domiciled in France.

That we would see that one of the executors of Mr. Bass had applied to Lord Lyons with a view to obtaining a remission of the duty levied on the estate under that law, but that the legal adviser to the Embassy, whom Lord Lyons had consulted, pointed out that it was open to the executors of the deceased to appeal themselves to the Minister of Finance, and, if dissatisfied with his decision, to bring the case before a Court of Law, as in its present aspect it did not afford grounds for the intervention of Her Majesty's Embassy.

That Lord Lyons, foreseeing that many similar cases were likely to arise under the new law, was desirous, as the course pursued on the present occasion would afford a precedent for dealing with them, of receiving instructions for his guidance, both as regarded the present and any future cases of a like nature; and he (Mr. Hammond) was accordingly to request that we would take the matter into consideration, and favour your Lordship with our opinion as to the instructions with which Lord Lyons should be furnished.

And that a copy of the law, as originally promulgated, would be found in Lord Lyons' despatch (inclosed), and he (Mr. Hammond) also inclosed a correspondence with the Treasury upon the subject, and a draft of an instruction which was in consequence addressed to Her Majesty's Minister at Paris.

In obedience to your Lordship's commands we have the honour to report—

That the observations of the French Counsel to the Embassy in Paris on this case, are, in our opinion, well founded.

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The question in each case of a British subject dying in France will be for the purpose of legacy duty, whether he was domiciled in France or not.

That question the French Tribunals may try and decide where it is raised before them is in Mr. Merridew's case on the claim to the duties on the property of his testator by the French Government.

We see no reason for supposing that the French Government will stretch the meaning of the word "domicilié" to the case of a mere traveller or sojourner dying in France, and we cannot say what general instructions can be given to Lord Lyons for his gnidance in any future case. But in the present case Lord Lyons may be, in our opinion, properly instructed to inform Mr. Merridew that Lord Lyons cannot interfore, the matter being one for the decision of the French Tribunals.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 121.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 20.)

*Temple, December* 20, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th instant, stating that, with reference to our Report of the 9th instant, he was directed by your Lordship to transmit to us the accompanying despatches from Lord Lyons and Mr. Kennedy respecting the agreement to be made with the French Government as to the operation of the Treaty of Commerce of the 5th ultimo.

That we would see from the papers that Mr. Kennedy suggested that that agreement might be effected by means of explanatory notes to the Tariff (Annex I), which, having been recast by the Commission, would have, Lord Lyons considered, to be formally signed in its amended shape.

That it appeared to your Lordship that that suggestion might to some extent be adopted; but that, instead of being inserted as a note to the Tariff, it might be better to include the agreement incidentally in a Protocol or exchange of notes recording the substitution of the amended Tariff for the Tariff now forming Annex I to the Treaty.

That your Lordship would be glad to be favoured with our opinion on that point, and, should we agree with you, also on the further question whether an Additional Article, a Protocol, or exchange of notes would be preferable.

That your Lordship also directed him (Lord Tenterden) to request our opinion upon the precise language in which the agreement or declaration contemplated should be made, and with the view of facilitating the matter, had caused the accompanying draft of instructions and Protocol to be drawn up, but that your Lordship wished it to be understood that you left the form in which the agreement should be made for our judgment, either to reject the drafts altogether or to amend them as we might deem advisable.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the course of including the agreement incidentally in a Protocol or exchange of notes recording the substitution of the amended Tariff for the Tariff now forming Annex I to the Treaty is to be preferred to the use of explanatory notes to Tariff I.

We are further of opinion that a Protocol is the best mode of affecting the objects intended.

The drafts do not, in our opinion, require any change in form or language except the omission of the words "in virtue of the provisions of the IInd Article of the Treaty of the 5th November, 1872," in paragraph 4 of the draft Protocol. This omission we suggest for your Lordship's consideration.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 122*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June 25.)*

My Lord, *Temple, June 24, 1872.*

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us therewith a telegram from Mr. Scott, Second Secretary in Her Majesty's Diplomatic Service, and at present in charge of Her Majesty's Legation at Stuttgardt, inquiring whether a marriage could be legally celebrated by himself in the absence of Her Majesty's Chargé d'Affaires.

That he was to inclose copies of the Act 4 Geo. IV, c. 91, and of an instruction addressed to Mr. Morier in March last, defining the position which officers like Mr. Scott held, and that he (Lord Enfield) was to request us to take the papers into consideration, and favour your Lordship with our opinion at our early convenience on the point at issue.

In obedience to your Lordship's commands we have the honour to report—

That a marriage can be legally celebrated by a Minister of the Church of England in the chapel or house of the Chargé d'Affaires at Stuttgardt, notwithstanding the temporary absence of the Chargé d'Affaires from the country of Würtemberg.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### Annex.

### ANNO QUARTO GEORGII IV REGIS.

Cap. XCI.—*An Act to relieve His Majesty's Subjects from all Doubt concerning the Validity of certain Marriages solemnized Abroad.*

[*18th July*, 1823.]

**Marriages solemnized abroad by Ministers of the Church of England, &c., declared as valid as if solemnized in His Majesty's Dominions.**

WHEREAS it is expedient to relieve the minds of all His Majesty's subjects from any doubt concerning the validity of marriages solemnized by a Minister of the Church of England in the chapel or house of any British Ambassador or Minister residing within the country to the Court of which he is accredited, or in the chapel belonging to any British factory abroad, or in the house of any British subject residing at such factory, as well as from any possibility of doubt concerning the validity of marriages solemnized within the British lines by any chaplain or officer, or other person officiating under the orders of the Commanding Officer of a British army serving abroad; be it declared and enacted, and it is hereby declared and enacted, by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that all such marriages as aforesaid shall be deemed and held to be as valid in law as if the same had been solemnized within His Majesty's dominions, with a due observance of all forms required by law.

**Not to affect the validity of marriages solemnized beyond seas.**

II. Provided always, and be it further enacted, that nothing in this Act contained shall confirm or impair or anywise affect, or be construed to confirm or to impair or anywise to affect, the validity in law of any marriages solemnized beyond the seas, save and except such as have been or shall be solemnized in the places, form, and manner herein specified and recited.

### No. 122.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December 31.)*

My Lord, *Temple, December 31, 1872.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a correspondence respecting the case of a child named Hannah Huggett, who, in the year 1867, was, by a bond entered into by her mother with a man named Henry Holland Keys, of New York, the proprietor of a circus, made over to the latter in consideration of a sum of money to be paid by him, and who subsequently placed the child in the charge of a French family at Paris of humble station, named Pihan, who were to receive from him a certain sum of money for her maintenance. Ultimately, however, the mother, who was stated to be a domestic servant in this country, was desirous of regaining possession of her child, and on the solicitation of Mr. Becke, who had been acting as attorney for her, Her Majesty's Minister at Paris was instructed, under the circumstances which appear in the correspondence, to take steps for claiming the child on its mother's behalf, the British Charitable Fund in that city having undertaken the arrangements for her being forwarded to this country.

That we would perceive, however, from Lord Lyons' despatch No. 1172 of the 16th instant, that the Pihans absolutely refused to part with the child, and, acting under legal advice, were prepared to resist an action at law for the child's restitution.

That he (Mr. Hammond) was accordingly to request that we would take the papers into consideration, and favour your Lordship with our opinion as to the course which should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship should not instruct Lord Lyons to make any official application to the French Government on behalf of the child, Hannah Huggett, or her mother.

The proper course will be for the mother to make her application to the French Tribunals for the restoration of her child, and Lord Lyons might be instructed to support officiously that application as on behalf of British subjects (the mother and child), and also, if he is satisfied he can properly do so, to give some assurance to the French Tribunals that the child will be properly brought up by the relations of the mother.

The transfer of the child to Keys was invalid in law, and we are of opinion that Lord Lyons may properly be instructed to use his influence, if required, with the French Government to prevent the child being given up to Keys, an American.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## General.

### No. 123.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October 15.)*

My Lord, *Temple, October 14, 1872.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th ultimo, stating that, with reference to the Report drawn up on the 2nd August, 1861, by the then Law Officers of the Crown (copy inclosed) relative to the right claimed by the British Admiral on the North American station to search merchant vessels, foreign as well as British, in British waters, for deserters, he (Mr. Hammond) was directed by your Lordship to transmit to us therewith a letter from the Admiralty,

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setting forth the circumstances under which Lieutenant Yeatman, commanding Her Majesty's ship "Minstrel," tried to capture two deserters from Her Majesty's ship "Sirius," who were believed to be on board the Brazilian steamer "Tegeira Rinz," at Barbadoes; and he (Mr. Hammond) was to request that we would favour your Lordship with our opinion on the several points detailed in the Admiralty letter, in order that instructions might be framed accordingly for the guidance of naval officers with regard to their powers under the Naval Discipline Act, sec. 50, the 10 & 11 Vict., cap. 62, sec. 9, and the laws generally.

In obedience to your Lordship's commands we have the honour to report—

1. That neither under the Naval Discipline Act, sec. 50, nor under the 10 & 11 Vict., cap. 62, sec. 9, nor under the law generally, has a naval officer, in our opinion, a right, with or without the warrant mentioned in section 50 of the Naval Discipline Act, to board and search a British vessel for particular deserters in British harbours or territorial waters, on the high seas, or in foreign territorial waters.

2. But we are of opinion that if a naval officer be furnished with the warrant named in section 50 of the Naval Discipline Act, he may apprehend or arrest the person or persons named in such warrant if met with in a British or foreign vessel in British harbours or British territorial waters, or in British vessels on the high seas, but not if such British vessels be in foreign territorial waters, and a naval officer authorized by such warrant may use all necessary force for effecting such arrest, but towards such person or persons only as are subject to the Naval Discipline Act.

3. We are of opinion that no naval officer has the right to search for and apprehend deserters generally, though he may, in the absence of a constable, apprehend, or cause to be apprehended, any suspected deserter found in any vessel in British territorial waters, and cause him to be brought before any Justice in the United Kingdom, or in any of Her Majesty's possessions or territories, under 10 & 11 Vict., cap. 62, sec. 9.

4. We are of opinion that no naval officer can search for deserters generally on board any foreign ship.

5. We are of opinion that the fact of the deserter having shipped on board a foreign ship in foreign waters makes no difference.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 124.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 23.)

*Temple, October* 22, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 4th ultimo, stating that he was directed by your Lordship to inform us that the Circular of which a copy was inclosed was sent to Her Majesty's Diplomatic Representatives, in accordance with the tenour of our Report of the 28th February last; that to this Circular no objection has been raised; that by some misconception, however, a Circular, in very similar terms, was addressed to Her Majesty's Consuls; and that he (Lord Enfield) was to transmit to us a copy of this Circular, as well as despatches marked in the inclosed list, from several Consuls, pointing out the difficulties they have experienced in consequence of it, and offering remarks on the question of marriages abroad generally. That two memoranda were also inclosed, which had been drawn up at the Foreign Office, together with a file of papers, being the Acts of Parliament and instructions with which all Consulates are furnished on being for the first time supplied with a marriage warrant from the Secretary of State. That your Lordship thought it clear from these papers that the Circular of the 18th March must be rescinded, and another issued in its place, in which your Lordship proposed to omit the paragraph No. 1 as being superfluous. That in view of the remarks in Mr. Consul Bernal's despatches of the 25th March and the 11th July, your Lordship would propose that paragraph No. 2 should be modified so as to make it run in some such manner as follows:—

"It must be clearly understood that she must have previously complied with the requirements of the marriage laws of such country so far as it may be possible to do so."

That Mr. Bernal's remarks would seem to point to a defect in the French rather than the English law, and that your Lordship did not imagine that it was necessary, on account of international comity, to go farther than to insist, in the case of one of the parties to a marriage being a subject of the country in which it is celebrated, that the laws of that country on the matter should be complied with as far as possible before the marriage can take place before the Consul. That as regards the paragraph No. 3, it appeared to your Lordship very doubtful whether, in view of the wording of the preamble of the Act 12 & 13 Vict., cap. 68, your Lordship is able to forbid marriages at Consulates where the woman is a British subject.

That it would seem that the case would be sufficiently met if in such cases greater stress than usual were laid by Consuls on the warning which your Lordship considered should be given on the occasion of every Consular marriage, that such marriages are not necessarily valid out of Her Majesty's dominions, and that the parties must make themselves acquainted with the law on the subject of any country not within those dominions in which it is desirable that the marriage should be recognized as valid, and take steps accordingly. That your Lordship proposed further that Consuls should be told that the declaration appended to the Circular of the 18th March would no longer be required, its purpose being answered by the entry in Schedule A of the nationality of the parties to each marriage. That the draft of a Circular in the above sense was inclosed, and that he (Lord Enfield) was to request that, in favouring your Lordship with our opinion on the foregoing points, we would suggest such alterations in the proposed Circular as we might deem desirable.

That the primary object of this reference to us was the proper wording of the Circular, so as to bring it in accordance with the law, but that he (Lord Enfield) was further to request our opinion as to whether there was anything in the inclosed despatches which would lead us to consider that a change in the law is desirable, or that any alteration in the instructions now given to Her Majesty's Consuls, as set forth in the file in paper binding, was needed under the present state of the law.

That the question of marriages at Riga, which is alluded to in the inclosed memoranda, would shortly form the subject of a further reference to us.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Circular of the 18th March, 1872, should be, as your Lordship proposes, rescinded and cancelled.

The security of property and the interests of the children and status of the parties are the matters for the sake of which the validity of any marriage is most essential.

With the view of obtaining this object we consider it of great importance to make no distinction between the cases of the man or the woman not being subjects of Great Britain. If the marriage is illegal by some law personal to the man or to the woman, either may repudiate it, as in the case referred to by Mr. Consul Abbott in his despatch of the 20th March, 1872.

We therefore consider the direction in the draft Circular preferable to the modification suggested in Lord Enfield's letter, which applies only to the case of the woman being a British subject.

We entirely concur in the view which your Lordship takes of the paragraph 3 in the Circular of the 18th March, 1872, and which is contrary to the Statute 12 & 13 Vict., cap. 68. The declaration appended to the Circular of the 18th March will go with the Circular itself, and we see no objection to adding a column in Schedule A for the nationality of the parties to each marriage.

In reference to the wording of the draft Circular, we would suggest that the paragraph, "You will lay especial stress on this warning, where the woman is a British subject, and the man not," be omitted, since, in our opinion, as already stated, the possible mischiefs are as great in the case of a man who is a British subject, as in the case of the woman, and this instruction may mislead.

Under the present state of the law no instructions beyond those in the draft Circular are needful.

But we consider that it is desirable to change the law in reference to mixed marriages before Consuls and Consular authorities, so that such marriages should either be put an end to altogether, at least so far as their celebration at British Consulates is concerned, or made of as extensive obligation as can be by Treaties.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 125.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December* 6.)

My Lord, *Temple, December* , 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th November ultimo, stating that your Lordship had communicated to the Lords Commissioners of the Admiralty a copy of our Report of the 14th October last, respecting the circumstances under which Lieutenant Yeatman, commanding Her Majesty's ship "Minstrel," had endeavoured to capture two deserters from Her Majesty's ship "Sirius," who were believed to be on board the Brazilian steamer "Texeira Ruiz" at Barbadoes; our opinion on that matter having been requested with a view to framing instructions for the guidance of naval officers with regard to the powers possessed by them, whether under the Naval Discipline Act or otherwise, in cases of desertion.

Mr. Hammond was also pleased to say that he transmitted to us a further letter from the Admiralty in reply, requesting that our attention might be called to the Naval Discipline Act of 1866, section 25, and the Merchant Shipping Act of 1854, section 13, bearing upon which Acts the Admiralty were desirous of information on certain points, which are fully stated in their letter, and that he was accordingly to request that we would take the matters into our consideration, and favour your Lordship with our opinion upon them for communication to the Admiralty.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Naval Discipline Act, section 25, deals solely with the case of naval deserters, and the Merchant Shipping Act, 1854, section 13, solely with merchant seamen, and that it would be contrary to the spirit and wording of either enactment that a case of non-compliance with a provision of the laws relating to merchant seamen and to navigation should be considered within the scope of the laws relating to naval discipline or *vice versâ*, though no doubt the captain of a merchant ship may, like any one else, come within the penalties (29 and 30 Vict., cap. 109, sec. 25).

No constable has, under 10 and 11 Vict., cap. 62, or otherwise, a power, without a warrant, to search any merchant ship in a British port for naval deserters, whether for deserters generally, or for particular persons.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Germany.

### No. 126.

*The Queen's Advocate to Earl Granville.—(Received February* 10.)

My Lord, *Temple, February* 9, 1872.

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 7th instant, stating that he was directed to transmit to me two notes, with translations, from the German Ambassador and German Chargé d'Affaires at this Court, announcing the entry of Alsace and Lorraine into the German customs and commercial dominion, and thereby also into the Treaties existing between the State forming that dominion and other States, and requesting to be put into possession of the views of Her Majesty's Government on the bearing of this matter on the Treaty engagements between this country and the German Customs Union.

Lord Tenterden was accordingly pleased to request that I would take these notes into my consideration, and furnish your Lordship with an opinion, at my early convenience, as to the answer which should be returned to the German Government.

### No. 125*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December* 16.)

My Lord, *Temple, December* 13, 1872.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th instant, stating that, with reference to our Report of the 9th August relative to the inability of a person acting in the place of a deceased British Consul to solemnize marriages under the warrant issued to the deceased, he (Lord Tenterden) was directed by your Lordship to request that we would favour your Lordship with our opinion as to whether the same inability attached to a person duly authorized to act in the absence of a Consular Officer provided with a marriage warrant, who was still alive, but had left the service subsequently to the date of authorization to act given to his *locum tenens*.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion the *locum tenens* of a Consular Officer provided with a marriage warrant, but having left the service subsequently to the date of the authorization to act given to the *locum tenens*, is not empowered to solemnize marriages.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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In obedience to your Lordship's commands I have the honour to report—

That I am not aware how far it may have been the practice for Her Majesty's Government to notify in the "Gazette" changes in the fiscal system of friendly States which may be formally announced to it from time to time by their respective Governments. If no such practice has been thought expedient in the interest of British trade, I should be of opinion that all that would be necessary on the present occasion would be for your Lordship to acknowledge the communication on the part of the Ambassador of the German Empire of the entrance of Alsace and Lorraine into the German Union of Customs.

I should add that I have not before me the Treaty of the 30th May, 1865, between the German Union of Customs and Great Britain, to which reference is made in Count Bernstorff's letter of the 6th January, 1872, so that I write subject to any peculiar provisions to be found therein having reference to the extension from time to time of the Customs Union.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 127.

*The Attorney- and Solicitor-General to Earl Granville.—(Received May 22.)*

My Lord, *Temple, May* 21, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that he was directed by your Lordship to refer to us the inclosed correspondence with the German Ambassador and the Treasury upon the case of the "Gauntlet," and he (Mr. Hammond) was to request us to favour your Lordship, at our earliest convenience, with our opinion upon the case, and as to the conflicting views taken by Her Majesty's Government and by Count Bernstorff as to the propriety of releasing the "Gauntlet."

And that your Lordship felt inclined, subject to our advice, to endeavour to effect a compromise of the dispute by only releasing the vessel on condition of the owners paying a certain sum as compensation to the owners of the "Lord Brougham;" and that you would be glad to have our opinion also upon that suggestion, which was prompted by your Lordship's recollection of the behaviour of the German Government in the case of the colliers seized by their military authorities in the Seine during the late war.

In obedience to your Lordship's commands we have the honour to report—

We think that the German Government has no right to claim any indemnity, there being no breach of neutrality on the part of the British authorities. The act of these authorities in requiring the prize to go away being an act in accordance with the rules laid down by themselves to preserve their neutrality, and so far as it gave the Germans a chance of recapture, it was an act favourable to them, for it must not be forgotten that if the prize had been allowed to remain it might have been condemned in a French Prize Court and lawfully sold without quitting the neutral waters. It is therefore impossible to say that the loss of the "Lord Brougham" was in any way attributable to the act of the British authorities. We think also it could not be fairly attributed to anything done by the "Gauntlet," for if she had not towed the prize the latter must have remained till a change of wind, and there is nothing to show that there was any reasonable chance of recapture by the German man-of-war mentioned. We think also that the owners of the vessel have shown very strong grounds for a release of the vessel on the terms of paying the costs incurred. The only remaining question is not a question of law but of policy, of which your Lordship must be the best judge. We can only say that we see no legal objection to the course proposed by your Lordship, and that it is for your Lordship, if you think fit, to overrule the moral and substantial objections to it, which are such as we have ventured to indicate.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 128.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June* 19.)

*Temple, June* 18, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 17th instant, stating that, upon receipt of our Report of the 21st ultimo, upon the case of the "Gauntlet," your Lordship addressed the accompanying letter to Count Bernstorff, maintaining, in accordance with our advice, the view of Her Majesty's Government that the vessel might properly be released on payment of all costs incurred in the case.

2. That he (Lord Enfield) was to refer to us Count Bernstorff's reply, in which his Excellency restated, on behalf of his Government, their strong objections to the release of the "Gauntlet" without adequate compensation being made to the owners and crew of the "Lord Brougham."

3. That we would observe that the arguments used by Count Bernstorff in support of his views were—

(1.) That the recapture of the German prize by a German man-of-war was rendered impossible, or, at all events, much more difficult, by the interference of the "Gauntlet."

(2.) That the British authorities induced the French prize crew to make use of the "Gauntlet" for the purpose of towing away the prize, whereas their proper course should have been, at the expiration of the legal period, to lay an embargo on the prize, and to release the German crew.

(3.) That the British authorities should have warned the owners of the "Gauntlet" of the illegality of their proceedings before, and not after, the act was committed.

That, finally, Count Bernstorff contended that either the "Gauntlet" or the British authorities were responsible for her illegal act, and that, in either case, sufficient satisfaction would not have been given if the vessel was released without some compensation.

And that he (Lord Enfield) was to request our careful opinion upon Count Bernstorff's pretensions on all these points, and especially upon the claim which his Excellency put forward to compensation for the "Lord Brougham," and as to the answer which should be returned thereto.

In obedience to your Lordship's commands we have the honour to report—

That the possible recapture of the "Lord Brougham" by a German man-of-war is a contingency which, in principle, cannot, in our opinion, be entertained. The same argument would apply against receiving a prize of war within the asylum of neutral waters; and a neutral Power is clearly at liberty to give such asylum.

2. The suggestion that the British authorities induced the French prize crew to make use of the "Gauntlet" for the purpose of towing away the prize seems to us to rest on a mistaken apprehension of the facts.

All the British authorities did was to warn the prize crew that the "Lord Brougham" must not remain longer in British waters. The British authorities in no way pointed out how the "Lord Brougham" was to be removed, and did not induce the prize crew to employ the "Gauntlet."

The "Lord Brougham," as a sailing vessel, could not have left the Downs till the wind enabled her to do so; and the time for laying an embargo on her, and releasing the German crew, would not have come till the prize crew of the "Lord Brougham" had neglected to avail themselves of the opportunity for sailing, by which time a French fleet might have been near to protect her on her passage to a French port.

3. We are not aware of any obligation binding the British authorities to have warned the owners of the "Gauntlet" of the illegality of their intended proceedings, and it does not appear that the British authorities knew that the "Gauntlet" was to be employed by the prize crew so that they could in fact have interfered.

4. In our opinion, and for the reasons stated in our Report of the 22nd May last, the British authorities did not commit, and were not responsible for, any breach of neutrality.

It appears to us that the owners of the "Gauntlet" have been sufficiently punished for the commission of the act of which in the circumstances they have been found guilty.

5. As respects any compensation for the loss of the "Lord Brougham," in consequence of the acts or defaults of the British authorities, or of the acts of the "Gauntlet," we are of opinion, as stated partly in our Report of the 22nd May last, that—

(1.) The British authorities strictly fulfilled the obligations of a neutral inwarning the French prize crew that the "Lord Brougham" must be moved.

(2.) The British authorities are not responsible for the employment of the "Gauntlet" by the French prize crew.

(3.) In prosecuting the "Gauntlet," the British Government showed, beyond all doubt, the determination to exercise all the rights, and discharge all the obligations, which the Government had or was under to both belligerents.

(4.) The owners of the "Gauntlet" have been sufficiently punished for a breach of the municipal laws of England not wilfully committed.

(5.) The recapture of the "Lord Brougham" is a contingency too remote for consideration in the case, but which need not be argued out, since the case should depend upon a principle.

(6.) In any answer which is sent to Count Bernstorff, his Excellency may be informed that the claim for compensation for the loss of the "Lord Brougham" cannot, on legal grounds, be acceded to by your Lordship.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 129.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December* 7.)

*Temple, December* , 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 2nd instant, stating that he had the honour to transmit to us, by your Lordship's direction, three letters, which had been received from a Mr. Onions, complaining of the ill-treatment which his aunt, Mrs. Barnard, while residing at Orleans, sustained from Bavarian soldiers during the occupation of that town by the German army, and further alleging that property to the value of at least 750*l.* was either taken away, destroyed, or allowed to be taken away by the proceedings of the German soldiers during that and a subsequent occupation.

Lord Enfield added that he was to request that we would take the matter into our consideration, and inform your Lordship whether there is anything in the letters, or in the papers accompanying them, on which a representation to the German Government may properly be founded.

In obedience to your Lordship's commands we have the honour to report—

That there does not appear to be any evidence in the papers submitted to your Lordship by Mr. Onions upon which it is possible, in our opinion, to found a claim upon the German Government for compensation, either with regard to the acts alleged to have been committed on the person of Mrs. Barnard, who appears to have been in London in September 1870, or the amount of property alleged to have been destroyed or taken away.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 130.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December* 9.)

*Temple, December* 7, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 2nd instant, stating that he was to transmit to us, by direction of your Lordship, a letter, with its inclosure, which had been received from Messrs. Paul Hirsch and Co., urging their claim against the German Government for the value of a case of woollen goods forwarded by them for delivery to a firm at Bischweiler, in Alsace, on the 5th July, 1870.

That the waggon containing that case was stated by the French Railway Company to have been stopped on the 18th July, the day before the official declaration of war

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between France and Prussia, at Vandenheim, between Strasburg and Bischweiler, in consequence of military operations, and the goods to have subsequently fallen into the hands of the Germans with other articles abandoned in the neighbourhood of Strasburg.

And that he was to request us to take the papers into consideration, and favour your Lordship with our opinion whether the claim was one which could properly be represented to the German Government.

In obedience to your Lordship's commands we have the honour to report—

That we recommend your Lordship to inquire of Messrs. Hirsch and Josephy whether they are British subjects before taking any further proceedings.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 131.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 18.)

*Temple, December* 17, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that, with reference to our letter of the 7th instant on the subject of the claim of Messrs. Hirsch and Josephy against the German Government for goods which were stated to have fallen into the hands of the German army in transmission to Alsace, he (Mr. Hammond) was directed by your Lordship to transmit to us a further letter from that firm, stating that they were naturalized British subjects, and he was to inform us that it had been ascertained from the returns of persons naturalized that their (Messrs. Hirsch and Co.'s) native country was Mecklenberg-Schwerin.

That he (Mr. Hammond) was accordingly to return to us the previous papers relating to the case, and to request that we would inform your Lordship whether, in our opinion, the claim could properly be supported by Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

The evidence that the property in question was taken possession of by the German troops is very slight. But your Lordship may, in our opinion, bring the circumstances of the case before the German Government, and request the favourable consideration of the German Government to the claim of Messrs. Hirsch.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Greece.

### No. 132.

*The Queen's Advocate to Earl Granville.*—(*Received March* 16.)

*Temple, March* 15, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed to transmit to me, together with the former papers in the case, a despatch, and its inclosures, from Her Majesty's Minister at Athens, respecting the proceedings which have been taken against the Archimandrite Skiotis, who had been appointed Prior for life of the Convent of Catheras, in Ithaca, by the Ionian Government; and to request that I would furnish your Lordship with my opinion on the course which Her Majesty's Government should take in this matter.

In obedience to your Lordship's commands I have the honour to report—

That the opinion expressed by Her Majesty's Minister at Athens, that the case of the Archimandrite is not one in which Her Majesty's Government can with propriety interfere, is, in my opinion, correct. With regard to a possible refusal of the Hellenic Government to reinstate him in his former position at Catheras after the expiration of his sentence, it is difficult for me to advise your Lordship whether the good offices of Her Majesty's Government should be exerted on his behalf in such an event, but I am of opinion that Her Majesty's Government would be under no obligation to interpose their good offices in his behalf.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 133.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 25.)

*Temple, June* 24, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us the accompanying papers as marked in the margin,* relating to the prohibition by the Greek Government of the farther use of the British cemeteries at Zante; and that he (Mr. Hammond) was to request that we would take the papers into consideration, and favour your Lordship with our opinion as to what action Her Majesty's Government should take in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the closing of the British cemeteries at Zante to the extent and in the manner proposed by the authorities of the island is a matter entirely within the discretion of the Greek Government, whose action, in our opinion, ought not to be interfered with.

We see no objection to your Lordship's claiming, as suggested by Mr. Stuart, the assignment to British residents in Zante of another burial-ground. Your Lordship, however, will be able to form the best judgment whether such an application would be expedient, and whether a right of gratuitous sepulture in the Greek cemetery should be asked for on behalf of British subjects.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 134.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 28.)

*Temple, October* 28, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 15th instant, stating he was directed by your Lordship to transmit to us a despatch, and inclosures, from Her Majesty's Consul at Corfu, regarding a fine inflicted by the police authorities upon the manager of the Corfu branch of the Malta and Mediterranean Gas Company, on the ground that the gas supplied by the company was not of the quality specified in their contract.

And that he (Viscount Enfield) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to whether any representation in the matter should be made to the Hellenic Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, no representation should be made to the Hellenic Government in this matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* Mr. Stuart, No. 85, May 28.

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# Hayti.

## No. 135.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 29.)

*Temple, November* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 20th instant, stating he was directed by your Lordship to transmit to us the accompanying letter from Mr. Jenkins on behalf of British claimants on Hayti, submitting certain conditions which they wished to be required of the Haytian Government in regard to the payment of the principal and interest of such sums as might be awarded to the claimants on account of their claims, which were then being examined at Port-au-Prince by two gentlemen, nominated by the Haytian Government and Her Majesty's Chargé d'Affaires respectively.

That before instructing Her Majesty's Chargé d'Affaires upon the subject, your Lordship would be glad to be favoured with our opinion as to the justice of the conditions urged in Mr. Jenkins' note.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there is nothing in the conditions urged in Mr. Jenkins' note inconsistent with justice.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 136.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 29.)

*Temple, November* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 17th instant, stating he was directed by your Lordship to transmit to us a correspondence relative to a claim which Her Majesty's Government had made on the Government of San Domingo for the repayment of expenses, amounting to 13,913*l.* 8*s.* 2¼*d.*, arising out of the detention at Tortola of the steamer "Telegrafo" in 1869.

That we would see from the papers that the "Telegrafo" was detained at the request of Mr. Victoria, the Dominican Vice-Consul at the Danish Colony of St. Thomas, who undertook, on behalf of his Government, the responsibility of all expenses that might be incurred, The vessel was released by the Colonial Court, and an appeal (made at the instances of Mr. Victoria, and by advice of the Law Officers of the Crown) was rejected.

That an action was then brought against the Colonial officers for losses caused by the detention of the vessel, and damages were awarded to the amount of 18,000*l.*, which had, however, since been compromised for 11,500*l.*

That Her Majesty's Secretary of State for the Colonies, and the Lords of the Treasury, who had had the matter under their consideration, held that the Dominican Government was bound to repay those expenses, on the ground that Mr. Victoria was an officer of the Dominican Government; that he gave a very wide guarantee, after having had time to communicate with his Government, which they therefore presumed he did; and that the guarantee was not disavowed by the Dominician Government until a claim for repayment was made nearly two years afterwards.

That on the other hand we would see, from Colonel Mendez's letter of the 6th instant, that the Dominician Government denied their liability on the ground that Mr. Victoria, being only a Vice-Consul, and that at a port not in British territory, was not competent to give such a guarantee as he did, which they did not, therefore, considered binding on them.

That in these circumstances he (Lord Enfield) was to request that we would take the papers into consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government was justified in holding the Dominican Government liable for the expenses in question.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Victoria informed his Government of the guarantee given on the 26th July, 1869, by him in the name of his Government is almost certain. If any doubt could remain on that point, the argument used by Colonel Mendez in his note of the 6th November, 1872, would remove that doubt, since he there says that to repudiate Mr. Victoria would have been to acknowledge his agency. Mr. Gautier nowhere denies that his Government was aware of the several steps taken by Mr. Victoria, and the appeal to the Privy Council is expressly demanded by Mr. Gautier.

We are of opinion, therefore, that the Dominican Government was at the time aware of the guarantee given by Mr. Victoria, was bound at once to inform Her Majesty's Government that it did not endorse that guarantee, and not having done so must be considered to have ratified the acts of Mr. Victoria in giving the guarantee.

That Her Majesty's Government consequently is justified in holding the Dominican Government liable for the expenses.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE

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## No. 137.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 2.)

*Temple, December* 2, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that, with reference to Lord Enfield's letter of the 20th ultimo, he (Mr. Hammond) was directed by your Lordship to transmit to us a letter from Mr. Jenkins, and its inclosures, to be considered with the other papers relating to the Haytian claims.

In obedience to your Lordship's commands we have the honour to report—

That the matters contained in the statement on the claims on the Haytian Government may properly be laid before the Mixed Commission for its consideration.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# Italy.

## No. 138.

*The Queen's Advocate to Earl Granville.*—(*Received February* 1.)

*Temple, February* 1, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Viscount Enfield's letter of the 29th ultimo, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Minister at Rome, inclosing a correspondence received from Mr. Dennis, Her Majesty's Consul at Palermo, respecting the case of the cutter "Lara," of Malta, which was captured by the Italian Custom-house officers off the coast of Palermo on the 27th October last on a charge of attempting to smuggle tobacco into

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Sicily, the capture being effected whilst the "Lara" was in the act of transferring a portion of the tobacco into small fishing-boats. That it appears that the owner, Signor Vincenzo Stivala, of Malta, in protesting against the capture of his vessel, does so, not on the ground of the charge being an unjust one, but that the distance at which the capture took place from the shore renders this proceeding illegal.

That the evidence upon this latter point is, as I should perceive, contradictory, and Mr. Dennis has applied for instructions for his guidance, not only in the present case, but in view of any future question of a similar nature arising; and Lord Enfield was pleased to request that I would take these papers into my consideration, and furnish your Lordship with any observations I might have to offer upon the case, and with my opinion as to the instructions with which it may be proper to furnish Mr. Dennis.

In obedience to your Lordship's commands I have the honour to report—

That the fiscal zone of every State is in practice more extensive than its proper territorial waters, and under the comity of nations, a State is allowed to enforce its municipal laws for the protection of its revenue against foreign vessels which have not yet come within the limits of its maritime jurisdiction, provided such vessels are approaching its coasts with an intention to carry on illicit trade.

In the present case it is admitted that the Maltese vessel had approached the coast of Sicily with the intention of smuggling, and was, when seized, in the act of transhipping its cargo into boats for that purpose.

There does not appear to me to be anything unreasonable in the distance from its coast at which the Italian Government has claimed to make seizure of the "Lara," and as Her Majesty's Government claims in cases of a like nature, namely, in cases of vessels, of which more than half the crew are British subjects—and I would remark that more than half the crew of the "'Lara" are stated to have been Italian subjects—to make seizures at a distance of 4 leagues from its coasts, and in certain localities at a distance of 8 leagues (16 and 17 Vict., cap. 107), Her Majesty's Government cannot properly object, in my opinion, to the Italian Government exercising, on principles of reciprocity, a like power over British vessels which are approaching its coasts for the purpose of smuggling under similar circumstances.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 139.

*The Queen's Advocate to Earl Granville.*—(*Received March* 9.)

My Lord, *Temple, March* 8, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed to transmit to me the accompanying letter from Mr. Benjamin d'Oyly Reynolds, stating the circumstances under which, having contracted a marriage with an Italian lady, she ultimately deserted him, and succeeded, after certain preliminary proceedings, in obtaining a Decree from the President of the Civil and Correctional Tribunal at Florence ordering a provisional separation, and the payment to her by her husband of a certain monthly allowance until the cause should be decided by public trial.

That Mr. Reynolds, as I should observe, denies the competence of the Italian Tribunals to intervene in this matter, as he is a British subject, and affirms that his wife has also become a British subject by the fact of her marriage, and he appeals for the protection of Her Majesty's Government in the matter. Mr. Hammond was, therefore, pleased to request that I would take this case into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to Mr. Reynolds' application, or the steps, if any, which Her Majesty's Government can take in the matter.

In obedience to your Lordship's commands I have the honour to report—

That Mr. Reynolds should be informed that the circumstance of his being a British subject would not be a bar to proceedings against him, on the part of his wife, before the Civil and Correctional Tribunal of Florence, if that Court is authorized by Italian law to exercise jurisdiction in matrimonial matters, and that he must seek legal advice to defend the action which his wife has brought against him. That your Lordship cannot by reason of his being a British subject intervene diplomatically on his behalf to stay the proceedings before a Tribunal the competency of which is not affected by the national character of the parties, if they are resident within its jurisdiction.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 140.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 27.)

**My Lord,** *Temple, May* , 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Rome, inclosing a correspondence respecting a complaint advanced by Dr. de Meschin, a British subject, against the Italian Government on account of his arrest and confinement in the guard-house on a charge of attempting to blow out some lights forming part of an illumination in Rome on the occasion of the opening of the Italian Parliament on the 27th November last, Dr. Meschin's complaint being accompained by a claim for compensation to the extent of 5,000*l*.

Mr. Hammond also stated that he was to request that we would take this case into our consideration, and favour your Lordship with our opinion whether it is one which calls for the intervention of Her Majesty's Legation at Rome, and, if so, what instructions should be addressed to Sir A. Paget upon the subject.

In obedience to your Lordship's commands we have taken Mr. Hammond's letter into consideration and have the honour to report—

That Dr. de Meschin admits that, however innocent his intentions may have been, he did in fact blow upon some of the lights which formed part of the illumination in Rome in celebration of a great political event in that capital.

He also admits that, although warned (he denies having been arrested in the first instance as stated by the Pompieri), he repeated the same or a similar experiment upon a still glowing wick.

It is obvious on his own showing that, if Mr. de Meschin had attended to the warning, or temporary arrest, he would have suffered little or no annoyance. Instead of so acting, by his conduct he persisted, and naturally excited the suspicions of the Pompieri.

The least consideration would have led Mr. de Meschin to know that on such an occasion there would be persons willing to follow and go beyond his example, and that by his conduct he was endangering the public peace.

We think, therefore, that the arrest of Mr. de Meschin was justifiable.

Once in the guard-house, Mr. Meschin had no reason to expect, and, in our opinion, had no right to complain that he did not receive, treatment better or other than the persons there confined.

And upon the whole facts, we are of opinion that the case is not one which calls for the intervention of Her Majesty's Legation at Rome.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 141.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 10.)

**My Lord,** *Temple, July* 9, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 5th July instant, stating that he was directed by your Lordship to transmit to us, together with the previous papers, the accompanying despatch from Her Majesty's Minister at Rome, with its inclosures,* relative to the seizure by the Custom-house authorities at Bari of a consignment of tobacco on board the steam-ship "Emperor," and the infliction of a heavy fine in consequence of the tobacco not having been entered

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* Sir A. Paget, No. 57, Commercial; Board of Trade, May 29; to Sir A. Paget, No. 26 Commercial; Board of Trade, June 3; Messrs. Nickols and Colven, June 3.

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on the vessel's manifest; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That it appears from the note of the Italian Minister (27th April, 1872)—

1. That the master of the steamer "Emperor'" has once before contravened the Customs Regulations at Bari with respect to some smoking tobacco.

2. That the cigars in question were found amongst the goods destined for Bari.

3. That the master did not produce his report, in which document alone the goods were named, till after the goods had been discovered by the Customs authorities.

4. That the master has taken some steps at Bari towards bringing the case on for trial before the local Tribunals.

The single explanation of the omission of the cigars from the ship's manifest does not appear to us a sufficient ground for your Lordship's interference whilst the facts stated in the Italian Minister's note are unanswered.

We are therefore of opinion that your Lordship should direct inquiries to be made whether Messrs. Nickols and Colven can offer any and what explanation of the alleged acts and conduct of Captain Leighton.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 142.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 3.)

*Temple, August* 3, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that Lord Odo Russell, in November 1858, being employed as Diplomatic Attaché to Her Majesty's Mission at the Court of Tuscany, was stationed at Rome with a Commission as Secretary of Legation.

That after the political events in the north of Italy which occurred subsequently to that date, he was named Attaché to Her Majesty's Legation at Naples on the 25th March, 1860, through still required to reside at Rome.

That on the withdrawal of Her Majesty's Legation from Naples, in consequence of further political events, his appointment as Attaché to that Legation came to an end, but he was directed to continue to reside at Rome, as we would see by the accompanying instruction to him, and he did so until the 21st July continuously, with the exception of short periods during which he was on leave of absence.

That during the sitting of the Conclave Lord Odo Russell, being hardly pressed for assistance, obtained your Lordship's leave to summon to Rome Mr. Jervoise, a clerk in the Foreign Office, who was temporarily attached to Her Majesty's Legation at Florence, and on Lord Odo Russell's final departure from Rome Mr. Jervoise, on his recommendation, was authorized to continue to reside for the present at Rome, and had in fact resided there ever since that time, except when on leave of absence, as he now is.

Mr. Hammond was pleased to inclose the correspondence on this subject.

The Pontifical territories, with the exception of the quarter of Rome in which the Vatican is situated, had been held by the King of Italy as Sovereign since September 1870, but the Pope had refused to recognize that state of things, or to communicate in any way with the Representatives of Foreign Powers accredited to the King of Italy.

That Mr. Jervoise, through not invested with any diplomatic character, not holding any Commission accrediting him to the Papal Government, had, like Lord Odo Russell, who was in the same position in both respects, been received occasionally by the Pope, and more frequently by Cardinal Antonelli, the Papal Secretary of State, and had learned their views on matters of general political interest which he had reported to Her Majesty's Government, direct and not through Her Majesty's Minister accredited to the King of Italy, and had generally, as far as he was able, kept Her Majesty's Government informed of the views of the Pope as regarded his Holiness' position, and of the relations between his Holiness and Foreign Powers.

And that he (Mr. Hammond) was to request that we would take the present position of Mr. Jervoise at Rome, as thus described, into our immediate consideration, and report to

your Lordship, at our earliest convenience, our opinion as to whether there is anything illegal in it.

Mr. Hammond was pleased to add, for our more complete information, a memorandum respecting intercourse with Rome which was prepared some years ago, before the passing of the Act of 1848, and also a copy of the Act itself.

In obedience to your Lordship's commands we have taken the present position of Mr. Jervoise at Rome into consideration and have the honour to report—

That we are of opinion that there is nothing illegal in the employment of Mr. Jervoise in his present position at Rome.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 143.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 10.)

*Temple, August* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 3rd instant, stating that, with reference to our Report of the 9th ultimo, relative to the seizure by the Custom-house authorities at Bari of a consignment of tobacco on board the steam-ship "Emperor," and the infliction of a fine in consequence of the tobacco not having been entered in the ship's manifest, he was directed by your Lordship to transmit to us a letter from Messrs. Nickols and Colven, containing farther explanations as to the circumstances of the case; and he was to request us to take the same into consideration (with previous papers inclosed), and inform your Lordship whether there was anything in Messrs. Nickols and Colven's letter to alter the opinion already expressed by us in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the letter of Messrs. Nickols and Colven to your Lordship of the 29th July shows, in our opinion, a very slight case indeed for your Lordship's interference on their behalf.

But your Lordship may direct those gentlemen that if they will, as suggested by Signor Peiroleri in his note to Sir A. Paget of the 27th April, present a formal demand in the sense of Article 26 of the Italian Customs Regulations, declaring that they submit without any reserve to the decision of the Royal Administration, your Lordship will direct Sir A. Paget to again submit their case to the favourable consideration of the Italian Government.

Messrs. Nickols and Colven should, if your Lordship thinks fit to adopt this course, be informed that if they make the submission, the Ministry of Finance in Italy can only apply the fine within its maximum and minimum limits, yet some lenity may be shown, but not to the extent of altogether remitting the fine, it being reserved to the Royal prerogative to release a fine inflicted under legal sentence.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 144.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received September* 2.)

*Temple, September* 2, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that he transmitted to us a correspondence which had passed between Her Majesty's Minister at Rome, Mr. Denman, and the Foreign Office concerning the claim preferred by two British subjects, Mrs. and Miss Clark, against the Italian Government, in the matter of the estate of the late Signor Eugenio de Marchio de Riso, which was stated to have been taken possession of by the Bourbon Government, and to be now retained in the hands of the present Italian Government.

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And that we would perceive Mr. Denman requested Her Majesty's Government to interfere on behalf of the claimants; and he (Mr. Hammond) was to request that we would have the goodness to inform your Lordship whether we considered the claim in question well founded, and whether we would advise your Lordship to press the Italian Government for a decision in the matter.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That there is no evidence upon which we can advise your Lordship that the claim of Mrs. and Miss Clark is well or at all founded.

We would advise your Lordship, therefore, not to press the Italian Government for a decision.

And we would suggest that Mr. Denman be informed that your Lordship cannot interfere further, and be referred to your letter to him of the 5th instant.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 145.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December* 31.)

*Temple, December* 31, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed by your Lordship to transmit to us a correspondence on the subject of a representation addressed to your Lordship by the Italian Chargé d'Affaires at this Court respecting the Italian brig "L'Antonio," which was shipwrecked, in the month of May last, in the neighbourhood of Tarifa, and which, having been towed to Gibraltar, was there placed under sequestration, with her cargo, by order of the Vice-Admiralty Court, as a deserted vessel.

That the Italian Chargé d'Affaires complained that that proceeding was not justified by the facts of the case, which could only have warranted the levying of the ordinary dues for salvage, &c., since the vessel, so far from being derelict, had not been deserted by her crew, except temporarily, for the purpose of obtaining assistance, and the crew and one of the owners of the vessel were actually on board at the time the Marshal of the Court took possession.

That he (Mr. Hammond) was to request that we would take those papers into consideration, and favour your Lordship with our opinion as to the answer which should be returned to the Italian Minister on that subject.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship, in answer to the Italian Minister, may properly tell him that you have directed inquiries to be made into the facts connected with the brig "L'Antonio" in reference to the proceedings against her and her cargo at Gibraltar.

That you inclose, for his Excellency's information, a copy of the Report of the Queen's Proctor at Gibraltar in answer to the inquiries so directed by you.

That you hope that Report will satisfy his Excellency that (1) the facts have not been accurately stated to him, and (2) that the measures taken at Gibraltar were right.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Japan.

### No. 146.

*The Attorney- and Solicitor-General to Earl Granville.—(Received March* 27.)

*Temple, March* 26, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Afaires in Japan, forwarding correspondence respecting a claim put forward by Messrs. Howell and Co., of Hakodate, to be compensated by the Japanese Government for the cost of 40 tons of coals which were requisitioned from them by the insurgents who held possession of the port in June 1869.

Mr. Hammond was pleased to inclose a memorandum on the case which had been furnished by Sir H. Parkes, and stated that he was to request that we would take the papers into consideration, and report to your Lordship our opinion as to the course that should be pursued in regard to the claim.

In obedience to your Lordship's commands we have the honour to report—

That there are some difficulties attending this claim which arise out of the peculiar facts connected with it. There can be no doubt of the soundness of the general proposition that a Government succeeding to another *de facto* Government is answerable for the acts and contracts of its predecessor. It is also well settled that, in respect to actual damage occasioned to property in the restoration by force of arms of the authority of a Government, the subjects of foreign friendly Powers are in no better position as to compensation than the subjects of the Government itself which has employed successfully force of arms to restore its authority; but we are not prepared to say that the claim of Messrs. Howell comes fairly within the scope of either of these propositions. The coal does not seem to us to have been supplied as a matter of contract with a *de facto* Government; still less was its supply a damage inflicted by the arms of the successful Government in restoring its authority; it seems to have been rather, substantially speaking, an act of plunder by the rebellious or insurrectionary forces; and the absence of all the members of the firm from the place, and the leaving the whole property in charge of a Japanese clerk, who must have been known by the English firm to be wholly incapable of resisting any exactions which yet were not at all unlikely to be made, in the turbulent state of the country, appear to us to be circumstances which greatly, perhaps mainly, brought about the loss which Messrs. Howell have sustained. The delay in preferring the claim originally, the subsequent long delay in serving it after they had heard the first answer of the Japanese Government from Consul Eusden, are also matters which are not explained, and which may fairly influence your Lordship in the course which you may think fit to take.

We cannot advise that it is a case in which it would be right, with a Power like Japan, to insist peremptorily on the payment of the contract price of the coals by that Government to Messrs. Howell. At the same time, it is a case to be pressed upon the equitable consideration of that Government if your Lordship should think fit; but further than this we are not prepared to advise.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 147.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July* 12.)

*Temple, July* 11, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th July instant, stating that he was directed by your Lordship to transmit to us two despatches from Her Majesty's Chargé d'Affaires in Japan, forwarding correspondence

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on the subject of a claim made by the firm of Messrs. Jardine and Matheson to the sale of a steamer belonging to that firm.

That the case was brought by Mr. Adams before the highest judicial authorities of Japan, but after their decision was given, he declined to urge the claim any further on the Japanese Government, and he has now, at the request of the firm, referred the matter to Her Majesty's Government.

Mr. Hammond further stated that he was to request that we would take the papers into our consideration, and report to your Lordship our opinion on the case.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That Messrs. Jardine and Co. appear not to have used so much care as they should in this matter. They acted upon the representation of Amano that he was the Governor of the Mercantile Department of Kawagoyé without making inquiry as to the truth of that representation on the part of a stranger.

If they required, which is doubtful, any seal as a proof of authority or as a guarantee, they seem to have been willing to accept that of some Navigation Company and not to have required that of the Daisanji.

And they were not, so far as appears, aware that the seal of the Daisanji had ever been affixed to the contract, which they never saw, till that fact came out upon the trial.

They did not enter upon the contract upon the faith of that seal, which did not and could not mislead them, nor, in our opinion, can it be considered that Amano, who for a time held, unknown to them, the instrument under that seal, was their agent.

Moreover, the case was fully tried before the proper Court of the country, and referred to the highest Tribunal there and the judgment affirmed.

Under these circumstances, we are of opinion that your Lordship must decline to press the claim upon the Japanese Government, which seems to have acted with vigour and in perfect good faith.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 148.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 7.)

*Temple, September* 6, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating, with reference to our Report of the 26th March, he was directed by your Lordship to transmit to us the accompanying despatch, with its inclosures, from Her Majesty's Chargé d'Affaires in Japan respecting the claim of Messrs. Howell and Co.; and he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the reply which should be returned to Mr. Watson.

In obedience to your Lordship's commands we have the honour to report—

That we are still of opinion that the claim of Messrs. Howell for the price of their coal is one which can only be pressed upon the equitable consideration of the Japanese Government.

The Japanese Minister, who repudiates the claim altogether, does not refer to the delay, or to the other circumstances mentioned in Mr. Consul Eusden's despatch of the 21st June, 1871, to Mr. Adams, that other persons in Hakodadi had successfully resisted the demand made by the insurgents at that port for coals.

And should your Lordship think fit to bring the claim before the Japanese Government, we suggest that the claim should be made only for the price of the coals, and not for interest, since the misfortune of loss of time is one for which, in our opinion, Messrs. Howell should not demand compensation.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# Japan.

## No. 150*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 30.)

My Lord,

*Temple, November* 29, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatches* from Her Majesty's Chargé d'Affaires in Japan relative to the case of the "Maria Luz," a Peruvian vessel carrying coolie emigrants from Macao, which was driven by stress of weather into Yokohama; and he was to request us to favour your Lordship with our opinion as to the proceedings which took place in regard to that vessel.

In obedience to your Lordship's commands we have the honour to report—

That we entirely agree with Sir E. Hornby, and are of opinion that the proceedings of the Japanese authorities respecting the Peruvian barque "Maria Luz," and the coolies on board that vessel, were justifiable and right.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* Mr. Watson, No. 56, July 17; ditto, No. 68, August 4; ditto, No. 76, August 10; ditto, No. 83, September 2; ditto, No. 90, September 3; ditto, No. 100, September 10; ditto, No. 103, September 10; ditto, No. 107, September 14; ditto, No. 109, Confidential, September 17; ditto, No. 113, September 24; ditto, No. 114, September 24; ditto, No. 118, September 30; ditto, No. 119, September 30, 1872.

## No. 149.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 20.)

My Lord,

*Temple, September* 20, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires in Japan, as regarded the power of foreign Representatives to inflict on subjects of their respective countries certain penalties which might be decreed against them by the Japanese Government for endangering the public safety along the line of railway between Yedo and Yokohama.

That he was also to transmit to us a memorandum upon the subject which had been drawn up by Sir Harry Parkes, Her Majesty's Minister in Japan, on leave of absence in this country; and he (Mr. Hammond) was to request us to take the matter into consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the course pointed out by the memorandum of Sir H. Parkes should be followed.

That the Japanese Government should communicate the proposed regulations to Her Majesty's Chargé d'Affaires, who, if he deem them reasonable, should authorize their enforcement, so far as regards Her Majesty's subjects.

Her Majesty's Chargé d'Affaires might properly be instructed to communicate with the Ministers of other Powers in Japan, so that all the foreign Ministers may adopt a similar course in respect to the subjects of the Powers which they represent. With reference to the farther papers and memorandum of Mr. Hammond, sent to us on the 17th instant, we farther report that we agree with the suggestions and opinion of Mr. Hammond.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 150.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 30.)

My Lord,

*Temple, September* 30, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating he was directed by your Lordship to transmit to us a despatch, and inclosures, from Her Majesty's Chargé d'Affaires in Japan respecting a claim which had been put forward by Mr. George Gray, representing the firm of Messrs. Hall and Hoby, of Yokohama, against the clan of Miyadzu in Tango; and he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the transaction upon which the claim of Mr. George Gray depends is of so equivocal a character, that your Lordship should, in our opinion, decline to give your support to it.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 151.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 6.)

My Lord,

*Temple, December* 6, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir E. Hornby, recommending that the provisions of section 62 of the China and Japan Order in Council of 1865, respecting juries, should be extended to the provincial Court of Kanagawa, Japan; and that he (Mr. Hammond) was to request that we would report to your Lordship our opinion whether it would be desirable that your Lordship should carry out this recommendation.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That we see no reason why the China and Japan Order in Council, 1865, section 62, should not be extended to Yokohama in accordance with the expressed opinion of Mr. Hammond and Sir E. Hornby.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

## Mexico.

### No. 152.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 22.)

My Lord,

*Temple, July* 22, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us the inclosed papers, which had been presented to your Lordship by Mr. Mundella, Mr. Rathbone, and other Members of Parliament, respecting the exactions levied by the Mexican Government upon the firm of Kelly and Co., at Mazatlan; and that he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to whether the facts therein set forth were such as would warrant Her Majesty's Government in demanding redress from the Mexican Government if they were in diplomatic relations with it, which they are not; and, in the non-existence of such relations between England and Mexico, whether the intervention of a friendly Power could properly be had recourse to for representing the case of Messrs. Kelly and Co. to the Mexican Government.

In obedience to your Lordship's commands we have the honour to report—

That, assuming the facts stated by Messrs. Kelly and Co. to be true, and that those gentlemen took all the right means in their power with both the irregular *de facto* Government, and afterwards with the general Government, to prevent or formally protest against the acts which they complain of, we are of opinion that Her Majesty's Government (which is not in diplomatic relations with Mexico) may properly have recourse to the intervention of a friendly Power to represent the case of Messrs. Kelly and Co. to the Mexican Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

### No. 153.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 16.)

My Lord,

*Temple, November* 15, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us the accompanying papers upon the subject of an attack lately made by Mexican Indians upon Orange Walk, in British Honduras.

That we would see from the inclosed papers that, in consequence of numerous similar attacks having been made in and before 1857, which the Mexican Government was powerless to prevent, orders were sent in September of that year to the Superintendent of that Settlement, authorizing him to use his discretion as to arresting, on foreign territory, persons shown to his satisfaction to have committed, on British territory, acts of violence amounting by British law to be felonies.

That we would also see from the memorandum of the 31st October, by Mr. Scarlett, late Her Majesty's Minister in Mexico, that not only was the boundary between Mexico and British Honduras unsettled, but the right of Great Britain to any part of British Honduras was denied by the Mexican Government.

That diplomatic relations between Great Britain and Mexico were suspended in 1867, and there was now no Diplomatic or Consular Representative of this country in the Republic.

And that in those circumstances he (Viscount Enfield) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to what steps it would be desirable for Her Majesty's Government to take in the matter.

In obedience to your Lordship's commands we have the honour to report—

That it appears from the papers that the Mexican authorities are either unable to stop, or are encouraging, or at least allowing, the inroads of the Indian Mexican tribes on Honduras.

But Her Majesty's Government ought not, in our opinion, to act upon either of these assumptions, but to consider the attack made upon Orange Walk as proceeding from a body of plunderers, the subjects of Mexico, and starting from the Mexican territory.

And as Her Majesty's Government has no diplomatic relations with the Mexican Government, the most convenient course would be for a strong remonstrance to be made through some friendly Power, demanding compensation for the past outrages, and insisting upon the Mexican Government taking adequate measures to stop future inroads.

This remonstance might properly be accompanied with a plain intimation that Her Majesty's Government will feel itself justified in using force if necessary to obtain the security and satisfaction demanded.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

## Monte Video.

### No. 154.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received March* 25.)

My Lord,

*Temple, March* 25, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a despatch which had been received from Her Majesty's Representative at Buenos Ayres

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(who is also accredited to the Republic of Uruguay), reporting a conversation with the Italian Special Envoy with regard to the state of affairs in the latter Republic, and to the question of a joint occupation of the custom-house by those foreign Governments who had an interest in the revenue arising therefrom.

That diplomatic relations are at present suspended between England and Uruguay, but the Government of the latter country, who are indebted to that of Her Majesty in the sum of 50,000*l.*, had engaged to satisfy that debt in May next; and he (Mr. Hammond) was to request that we would favour your Lordship with our opinion whether, assuming that that public claim was duly met, Her Majesty's Government would be justified in associating with other Powers in landing troops and administering the customs revenue as a security for the payment of private British claims.

Mr. Hammond also inclosed correspondence respecting state of affairs in Uruguay, together with a return respecting occupation of the custom-house on various occasions by British and French troops.

In obedience to your Lordship's commands we have the honour to report—

Assuming that the public claim is duly met, we think Her Majesty's Government would not be justified, except as a belligerent operation, in associating with other Powers in landing troops in Monte Video, seizing the custom-house, and administering the customs revenue as a security for the payment of private British claims. We must observe, however, that this is rather a question of policy for the decision of the Cabinet than one to be referred to the Law Officers. The claims referred to are principally claims by British subjects permanently established in Uruguay for compensation for robbery and other acts of ill-treatment by the troops and officers of the Republican Government, and undoubtedly Her Majesty's Government is entitled to go to war with any Government which ill-treats British subjects so situated. It does not clearly appear from the papers sent what were the circumstances under which the custom-house was occupied on the former occasions referred to, but we understand they were temporary occupations for the purpose of protection from plunder during periods of revolution or anarchy at Monte Video. If our view of the nature of these occupations is correct, they were friendly and not hostile acts, being done with a view of protecting the property for its rightful owners, the lawful Government when established. But however this may be, the landing of troops in a foreign country, and the seizure of its public buildings and forcible detention of its public revenues with a view to the redress of the injuries suffered at the hands of its Government by subjects of the attacking Power, is simply an act of war, and can only be justified as such.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 155.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 29.)

*Temple, August* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed to transmit to us the correspondence which recently took place with Her Majesty's Consul at Monte Video, relative to the privileges of British subjects resident in the Republic of the Uruguay.

Mr. Hammond also transmitted to us a memorandum on the same subject which was prepared at the Foreign Office; and stated that he was to request us to take these papers into consideration, and favour your Lordship with our opinion whether any, and if any what, steps can be taken to preserve to British subjects the protection for their lives and property which was originally granted to them by the Treaty of 1842.

That that Treaty expired in 1854 by notice given by the Uruguay Government, but previous to its cessation the Government then in power officially announced to Her Majesty's Diplomatic Agent resident at Monte Video that, notwithstanding the termination of the Treaty, the Uruguay Government would consider as still in force the guarantees which had been established by that Treaty in favour of British subjects until some new Treaty arrangements should be made.

That a new Treaty was concluded on the 3rd December, 1855, but it was not ratified, and it has therefore never been carried into effect; and that since that date no new Treaty has been concluded.

That your Lordship is therefore desirous of being favoured with our opinion whether a statement of the Committee of the Legislative Body of Monte Video, made in 1857, to the effect that a Declaration given to the British Representative in 1855 was illegal, is sufficient to withdraw from British subjects all the privileges which they have hitherto enjoyed in that country, thereby leaving them without any guarantee whatever for their lives and property.

That the correspondence which passed in 1857 was also transmitted to us.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the right of British subjects under the expired Treaty of 1842 cannot be supported by declarations of the Uruguayan Government, even if the most favourable view be taken of those declarations.

In the absence, therefore, of any Treaty rights, British subjects in Uruguay are without any guarantee for their lives and property other than that which they derive under the laws of the country and the international law of civilized people.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 156.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 30.)

My Lord, *Temple, November* 29, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 20th instant, stating he was directed by your Lordship to transmit to us the accompanying correspondence relative to the relations between this country and the Republic of Uruguay.

That we would observe that shortly after our Report of the 5th December last despatches were received from Her Majesty's Chargé d'Affaires at Monte Video, reporting that, in consequence of the disregard shown to his representations, he had suspended diplomatic relations with Uruguay, and that after full consideration Mr. Macdonell's proceedings were approved by Her Majesty's Government.

That we would also see that the debt due to Great Britain by the Uruguayan Government, which was one of the subjects of complaint, was paid on the 8th May last.

That since the suspension of relations Mr. Macdonell had, in obedience to his instructions, made, through Her Majesty's Consul at Monte Video, friendly unofficial overtures with a view to the re-establishment of relations, but without result.

That the Uruguayan Government had now sent to this country a Special Envoy, Señor Perez Gomar, who had communicated to Lord Enfield a memorandum justifying his Government, and suggesting "a frank admission on the part of the British Government that there is no international base for the foundation" of the claims made by Mr. Macdonell.

That before replying to that memorandum, your Lordship would be glad to be favoured with our opinion on the arguments raised by Señor Gomar as to the injuries to British subjects being unavoidable in the disturbed state of the country, and as to British subjects being only entitled to equal treatment with natives.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the arguments raised by Señor Gomar as to injuries to British subjects being unavoidable in the disturbed state of the country are entitled to some consideration; since a person installing himself in a country other than his own must accept the changes and inconveniences to which he may be exposed in that country. But the arguments must not be pressed so far as Señor Gomar may properly wish to carry them; and in cases where positive maltreatment has been received by, or ordinary justice been denied to, a British subject, Her Majesty's Government may properly decline to accept the disturbed state of Uruguay as a reason for refusing to enforce the right of such British subject to the protection of Great Britain.

Subject to similar exceptions, and to an exemption from military service, we are of opinion that British subjects in Uruguay are only entitled to equal treatment with the natives.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 157.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 18.)

My Lord, *Temple, December* 18, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us a letter which your Lordship had received from the Lords Commissioners of the Admiralty respecting the steps which Captain Strode, of Her Majesty's ship "Pylades," was prepared to take to prevent the threatened detention of the British mail-steamers at Monte Video by the Uruguayan Government.

That we would perceive, from the letters from the Postmaster-General of the 31st October last and 4th instant, that instructions had been sent to the Postal Agent at Monte Video which it was hoped might remove the difficulties created by the Uruguayan Government; but he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to whether, in any fresh attempt to interfere with the sailing of the British mail-packets, the Commanders of Her Majesty's ships would be justified in taking the course which Captain Strode was prepared to adopt.

In obedience to your Lordship's commands we have the honour to report—

That the Commanders of Her Majesty's ships will not be justified in taking the course which Captain Strode was prepared to adopt in the event of any fresh attempts being made to prevent the sailing of the British mail-packets.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Morocco.

### No. 158.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 25.)

My Lord, *Temple, January* 24, 1872.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th instant, stating that, with reference to our Report of the 25th September last, he (Lord Tenterden) was directed by your Lordship to transmit to us, together with the previous despatch, an accompanying further correspondence with Her Majesty's Representatives at Tangier and Washington respecting the question of jurisdiction over a British subject employed in the United States' Consulate at Tangier.*

He (Lord Tenterden) was kind enough to inclose a memorandum on the subject,† and to request that we would again take the matter into consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this matter again into our consideration and have the honour to report—

That Her Majesty's Consular officers are, under the Treaty of 9th December, 1856, between Great Britain and Morocco ("Hertslet," p. 903), entitled, in our opinion, to exercise both civil and criminal jurisdiction over Mr. Scott, being a British subject, notwithstanding he may be in the service of the United States' Consul as interpreter, and in such character may be entitled to the protection of the United States' Consul for certain purposes.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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* Sir J. Hay, No. 54, August 24; to Sir J. Hay, No. 19, Confidential, October 7; Sir J. Hay, No. 32, October 27; No, 39, December 5; Mr. Pakenham, No. 10, November 14.

† Memorandum, December 18.

### No. 159.

*The Queen's Advocate to Earl Granville.*—(*Received February* 26.)

My Lord, *Temple, February* 24, 1872.

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 16th instant, stating that, with reference to the question of the protection of persons in Morocco born of Spanish parents in Gibraltar, which formed the subject of my Report of the 8th December, he was directed to transmit to me herewith a copy of a despatch from Her Majesty's Minister in Morocco asking for instructions as to whether the British Consul should afford protection to persons coming within the following categories, viz.:—

1. To subjects of Spain and other foreign Powers serving on board British vessels in the port of Tangier.
2. To persons residing in Morocco of Moorish parents, but born in Great Britain or Gibraltar.
3. To persons born in British possessions of parents subjects of foreign Powers other than Spain.

The papers bearing on the question reported on by me on the 8th December, and also the Report of the Naturalization Commission, were also inclosed; and Lord Tenterden was pleased to request that I would take these further questions into my consideration, and furnish your Lordship with my opinion as to the answer which should be given to Sir John Hay's inquiries.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Consul may, in my opinion, properly afford protection to persons coming within the first category, namely, subjects of Spain and other foreign Powers serving on board of British vessels in the port of Tangier.

With regard to the second category of persons, namely, natural-born British subjects of Moorish race, Her Majesty's Consul may, in my opinion, properly afford protection to them also. I apprehend such to have been the practice hitherto.

With regard to the third category of persons, I see no reason why Her Majesty's Consul may not also properly afford protection to such persons, as being natural-born subjects of the British Crown.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 160.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received March* 23.)

My Lord, *Temple, March* 22, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us, for our consideration, the papers noted in margin.

We would perceive from them that Sir J. D. Hay, in November last, asked for instructions respecting the nationality of certain persons at Tangier, born at Gibraltar of Spanish parents.

That his (Sir J. D. Hay's) despatch was referred to the Queen's Advocate, who reported on the 8th December that such persons were amenable, when in Morocco, to the jurisdiction of the Spanish Consul.

That on the 10th January, Sir J. D. Hay asked for further instructions as to the protection of natural-born British subjects of foreign origin; this despatch had also been referred to the Queen's Advocate, who reported on the 24th ultimo that persons born in British possessions, of parents subjects of foreign Powers other than Spain, might receive British protection as natural-born subjects of the British Crown; and that even persons born in Great Britain or Gibraltar of Moorish parents might receive protection in Morocco as natural-born British subjects.

It appeared to your Lordship that, unless some Treaty engagements existed of which your Lordship was not aware, by which natural-born subjects of Spanish origin forfeited their nationality whilst living in Morocco, and acquired the nationality of their parents, and that any instructions founded on the opinions above quoted would be inconsistent; and that he (Viscount Enfield) was therefore to request that we would take the correspondence into our consideration, and favour your Lordship with our opinion upon the important questions raised by Sir J. D. Hay.

In obedience to your Lordship's commands we have the honour to report—

That it does not appear to us that the two Reports of the Queen's Advocate, bearing date respectively the 8th December, 1871, and 24th February, 1872, are at all inconsistent, and it does appear to us that they are both correct.

This country has hitherto refused to assimilate its law of allegiance to the law of many other countries (including, as we understand, the law of Spain) by which origin and not the place of birth is made the test of allegiance. It often happens, therefore, that persons born subjects of this country are, by the laws of other countries, subjects of those other countries, and are bound to a double allegiance. It has not, we believe, been heretofore the practice of this country to assert, as against other countries claiming their subjects by virtue of origin, the English law of birth; although, as against all other countries but the country of origin we should, as of course, protect such natural-born subjects of the Queen.

As we understand the Queen's Advocate's Report of the 8th December, 1871, he was asked whether the English Consul should assert the English law of birth in the case of Spaniards against the Spanish Consul claiming jurisdiction over Spaniards as subjects of Spain by virtue of origin. And we think his answer was correct.

In his Report of the 24th February, 1872, he was asked, as we understand, whether the English Consul should afford protection to the various classes of persons mentioned in his Report, as against Powers such as Morocco, or countries other than those in which the law of allegiance by reason of origin prevails, and we think that his Report so understood was perfectly correct and in no way inconsistent with his former one.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.

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### No. 161.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received March* 23.)

My Lord, *Temple, March* 23, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch, and inclosures, from Her Majesty's Minister at Tangier, reporting the particulars of an attack made upon Mr. Broome, a British subject, by three Moors in the district of Haha Haha; and he (Mr. Hammond) was to request that we would take the case into our consideration, and favour your Lordship with our opinion as to whether it would be proper for Her Majesty's Government to demand compensation from the Moorish Government for the outrage to which Mr. Broome had been subjected.

In obedience to your Lordship's commands we have the honour to report—

We think it would not be proper for Her Majesty's Government to demand compensation from the Moorish Government for the outrage to which Mr. Broome has been subjected.

It appears that Mr. Broome voluntarily went on a pleasure excursion into a district which he knew to be in a state of disturbance, if not of actual insurrection, and having neglected every reasonable precaution, was then assaulted and stabbed. We think Her Majesty's Government ought not, under these circumstances, do more than require the Moorish authorities to use their best endeavours to bring the offenders to justice.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.

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### No. 162.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received March* 27.)

My Lord, *Temple, March* 26, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Minister at Tangier respecting the claim of Mr. Broome on the Government of Morocco for compensation on account of the injuries received by him in the district of Haha Haha, and that he (Mr. Hammond) was to request that we would take this despatch into our consideration, and favour your Lordship with our opinion as to whether it contained anything which would induce us to alter our decision as expressed in our Report of the 23rd instant.

Mr. Hammond was pleased to inclose the former despatch from Sir John D. Hay on the subject.

In obedience to your Lordship's commands we have taken the further despatch into consideration and have the honour to report—

That, in our opinion, there is not anything in the further despatch of Her Majesty's Minister at Tangier which would induce us to alter our opinion as expressed in our Report of the 23rd instant.

We have, &c.  
(Signed) J. D. COLERIDGE.  
[Not signed by the Solicitor-General.]

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### No. 163.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received May* 21.)

My Lord, *Temple, May* 18, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 15th instant, stating that, with reference to our letter of the 24th January last, he was directed by your Lordship to transmit to us, together with the former papers, a despatch from Her Majesty's Minister at Washington, inclosing a copy of a note from the United States' Government upon the subject of the jurisdiction claimed by their Consul-General at Tangier over Mr. Scott, his interpreter, who is a British subject; and he, Lord Enfield, was to request that we would take the papers into consideration, and favour your Lordship with any observations which we might have to make upon the position advanced by Mr. Fish.

In obedience to your Lordship's commands we have the honour to report—

That we see no ground whatever for altering our opinion previously stated on this matter, but whether it is worth while to press the British claim to jurisdiction over Mr. Scott under the circumstances must be for your Lordship, as a question of policy, to decide.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.

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### No. 164.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 31.)

My Lord, *Temple, May* 31, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating, with reference to our Report of the 23rd September last, he was to transmit, by direction of your Lordship, a despatch from Vice-Consul Stokes of the 15th ultimo, together with former papers relating to the jurisdiction claimed by the Supreme Court of Gibraltar over British subjects in Morocco;* and that he was to request us to take the papers into our consideration, and favour your Lordship with our opinion as to the instructions which it would be proper to issue to Mr. Vice-Consul Stokes in the matter.

* Mr. White, No. 1, Consular, April 26, 1872.

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In obedience to your Lordship's commands we have the honour to report—

That the instructions which we think it will be proper to issue to Mr. Vice-Consul Stokes be, that in the event of the Judges of the Supreme Court of Gibraltar deciding in favour of that Court's jurisdiction over British subjects in Morocco, Mr. Stokes should appeal, and if the Judge of that Court decide that the jurisdiction cannot be sustained, Mr. Stokes need not move farther in the matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Netherlands.

### No. 165.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 5.)

My Lord, *Temple, February* 3, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 15th ultimo, stating that, with reference to his letter of the 13th November last, he was directed to transmit to us a further letter from Messrs. Swanzy, respecting their claim, together with the documents to which it refers, which were in the hands of the Netherland Government when the other papers in the case were referred to us; and he was to request that we would take these papers into our consideration, and furnish your Lordship with our opinion whether they contain such evidence of the complicity of the Dutch soldiers in the destruction and plunder of Messrs. Swanzy's property as to justify Her Majesty's Government in supporting their claim against the Netherland Government for compensation. The former papers were also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That there is not, in our opinion, sufficient evidence at present to establish conclusively the charge that the soldiers of the Dutch garrison at Dixcove took part in the attack upon and the plunder of Mr. Swanzy's stores. There is, however, a *primâ facie* case made out, as there is evidence that portions of the plunder were in the possession of some of the Dutch soldiers immediately after the attack, and the presumption in an ordinary case would be that they obtained those portions by robbery, but they might possibly have become possessed of such plunder in various other ways, as by gift or barter from the parties who actually plundered the stores, or by forcible extortion or by some other means from the actual plunderers, which would not render the Dutch Government liable to make compensation to Messrs. Swanzy. We must abserve that Mr. Swanzy is in error in stating in the paper marked "No. 1" that "Captain Alvarez has not denied the statements on the other side to the effect that he threatened to call in the Bosswa people," as Baron Geriche, in his letter of the 10th November, 1871, to Admiral Harris, states distinctly that Captain Alvarez has declared on oath that he never made such a threat. Under these circumstances, although we cannot advise your Lordship that there is such conclusive evidence of the complicity of the Dutch soldiers in the plunder of Messrs. Swanzy's property as would justify Her Majesty's Government in maintaining a claim on their part against the Netherland Government for compensation, we think there is enough evidence to entitle your Lordship to call upon the Dutch Government for an answer, it being incumbent, in our opinion, for that Government to explain away, if it can, the *primâ facie* case made out against it.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 166.

*The Queen's Advocate to Earl Granville.*—(*Received March* 8.)

My Lord, *Temple, March* 7, 1872.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 4th instant, stating that he was directed to transmit to me the inclosed letter from Mr. Mackintosh, Her Majesty's Acting Consul at Surinam, stating that he has been ordered to produce before the Supreme Court at Edinburgh all correspondence between the Foreign Office and himself relative to his leave of absence since his arrival in this country, and requesting instructions as to the course which he should adopt under this order.

That the correspondence is in itself unimportant, and no inconvenience would be likely to arise from its production; as, however, a compliance with this order might possibly establish a dangerous precedent, Lord Enfield was pleased to request that I would furnish your Lordship with my opinion as to the right of a Court of Justice to call for official correspondence between a Secretary of State and one of his officers, and also as to the instructions which should be given to Mr. Mackintosh in the present instance.

In obedience to your Lordship's commands I have the honour to report—

That the communications in question, having been made, as I presume, in the discharge of public duty, are, in my opinion, confidential and privileged communications, which the interests of the State will not permit to be revealed, and if the disclosure of the contents of the letters would be, in your Lordship's opinion, inexpedient on public considerations, the proper steps should be taken to bring that fact to the knowledge of the Scotch Court.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 167.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 30.)

My Lord, *Temple, May* 28, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating, with reference to our Report of the 3rd February last, respecting Messrs. Swanzy's claim against the Netherland Government for the destruction of their property at Dixcove, he was directed by your Lordship to refer to us, together with former papers, the accompanying further correspondence upon the subject of that claim; and he was to request us to favour your Lordship with our opinion upon the case as it now stands, and whether Her Majesty's Government would be justified in lending their official support to the claim notwithstanding the adverse view taken by the Netherland Government, as stated in Admiral Harris' despatch No. 75 of the 10th instant.

We are also in receipt of your Lordship's memorandum of the 22nd instant, inclosing two letters from Messrs. Swanzy omitted from previous correspondence.

In obedience to your Lordship's commands we have the honour to report—

That having regard to the evidence adduced by the the Netherland Government, we are of opinion that there is not sufficient affirmative evidence to show—

1. That the Dutch soldiers in the fort, or those who came up to Dixcove after the 13th, joined in the pillage and plunder of the premises or goods of Messrs. Swanzy.

2. Or that any portion of the property of Messrs. Swanzy was taken into the fort and there disposed of.

3. That the evidence of some of the persons whose depositions have been obtained by Messrs. Swanzy in respect to what is alleged to have taken place at Elmina is shown to be untrue by the facts stated in Baron Geriche's note to Admiral Harris of the 8th May instant.

We are therefore of opinion that Her Majesty's Government would not be justified in lending an official support to the claims of Messrs. Swanzy.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 168.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 2.)

My Lord, *Temple, July* 1, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 15th June ultimo, stating that, with reference to our Report of the 28th May last on the subject of the claim of Messrs. Swanzy on the Netherland Government for the destruction of their property at Dixcove, he was directed by your Lordship to transmit to us therewith some further correspondence with those gentlemen, and to request that we would again take the whole case into our consideration and favour your Lordship with our opinion upon the statements now advanced by Messrs. Swanzy, and whether they in any way modify the opinion expressed in our Report of the 28th May that Her Majesty's Government ought not to extend their official support to their claim.

Lord Enfield was pleased also to say that the former papers were annexed, and that your Lordship would be glad to receive our final opinion upon the whole case, with the reasons upon which it is based fully stated.

In obedience to your Lordship's commands we have taken the case into our consideration and have the honour to report—

That, taking into our consideration all the documents which are now before us (with the exception of the affidavit of Kwarter Kwassie, inclosed in Messrs. Swanzy's letter to your Lordship dated the 11th June, 1872), we see no reason which would induce us to alter the opinion expressed in the Report of the 28th May last.

On the other hand, the affidavit of Kwarter Kwassie is so definite in its dates, so detailed in its facts, and so straightforward in its recital, that we think that Messrs. Swanzy are entitled to expect Her Majesty's Government to lay that affidavit, as confirmatory of the previous evidence, before the Government of the Netherlands, and, further, that should the Government of the Netherlands be unable satisfactorily to answer and refute the facts sworn to in the affidavit of Kwarter Kwassie, Her Majesty's Government should officially support Messrs. Swanzy in their claim against the Government of the Netherlands.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 169.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 30.)

My Lord, *Temple, October* 30, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 25th instant, stating he was directed by your Lordship to inform us that a difficulty had arisen in carrying out the provisions of a Treaty concluded in 1870 with Holland, permitting the emigration of labourers from British India to Surinam. That Treaty, which was concluded with the approval of the India Office, contained a stipulation that the Labour Regulations of Surinam of 1861 should serve as a basis for the contracts with the emigrants; but the Governor-General of India objected, on the grounds of the discretion given to him by clauses 23 and 24 of the Indian Emigration Act of 1871, to sanction those Regulations as the basis of the contracts, or to permit the emigration, unless the Netherland Government would adopt the Labour Regulations framed by Her Majesty's Government for British Colonies in respect to days and hours of labour and maximum wage.

And that as the season for emigration was passing away, and the Netherland Government were earnestly and repeatedly pressing for the due execution of the Treaty, he (Viscount Enfield) was directed by your Lordship to request our immediate opinion as to our obligations under the Treaty, and how far they were affected by the provisions of the Indian Act to which he had referred.

The following papers were annexed: copies of the Indian Act, Treaty of 1870, and telegram from Viceroy of India.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that Her Majesty's Government is bound by the stipulations under the Convention with the Netherlands so long as the Treaty exists, and that those stipulations cannot be affected by the provisions of the Indian Act.

If, however, the Governor-General in Council has reason to believe that proper measures in Surinam have not been taken for the protection of the emigrants during their residence in that Colony, he may, notwithstanding the Article XII of the Convention (which provides that the Labour Regulations of Surinam of 1861 shall serve as a basis for the contracts which shall be made with the immigrants), suspend the emigration to the Colony of Surinam.

This power of suspension given by the Convention does not extend, in our opinion, to enable the Governor-General to acquire a diminution of the days and hours of labour below the maximum fixed by Article X of the Convention.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 170.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 2.)

My Lord, *Temple, November* 2, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 28th ultimo, stating that, in his letter marked "Most Pressing" of the 25th instant, he submitted to us certain questions connected with the objections raised by the Indian Government to carrying out the provisions of the Treaty recently concluded between this country and the Netherlands respecting emigration to Surinam.

And that your Lordship hoped shortly to receive an answer to those questions, but he (Viscount Enfield) was meanwhile directed by your Lordship also to request our opinion as to whether the Netherland Labour Regulations, upon which the difficulty was raised (copy inclosed), should be required to contain all the provisions contained in the Treaty, or whether it should only be requisite that they should be so framed as not to conflict with the Treaty. If the latter should, in our opinion, be the correct position, he (Viscount Enfield) was to inquire whether we considered that they did or did not fulfil the Treaty stipulations.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that the Netherland Regulations need not contain all the provisions contained in the Treaty or Convention, and that it is sufficient if they are so framed as not to conflict with the Treaty.

We are farther of opinion that sections 1 and 2 of Chapter XVII of the Netherland Regulations do not fulfil the Treaty stipulations, but the differences are not substantial, and it is for your Lordship to consider whether they are sufficient to be insisted upon.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

1872

# New Granada.

## No. 171.

*The Queen's Advocate to Earl Granville.*—(*Received February* 13.)

My Lord,
*Temple, February* 12, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that he was directed to transmit to me the accompanying letter from Messrs. Robinson and Fleming, complaining that the Colombian Government have failed to pay the interest and sinking fund due on the 1st January last on certain bonds for 70,000*l.* issued on the 31st December, 1868, in satisfaction of a portion of their claims on that Government. That the previous papers in this case, which were also inclosed, would show the nature of the claims in payment of which these bonds were issued, and the amount of support given, by my advice, to those claims by Her Majesty's Government. Mr. Hammond was also pleased to inclose a despatch, dated the 12th June last, from Her Majesty's Chargé d'Affaires at Bogatá, together with the answer thereto, upon the subject of the financial difficulties of the Colombian Government, and the proposal made by that Government to diminish temporarily the amount to be paid to foreign bondholders; and he was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the answer which should be returned to Messrs. Robinson and Fleming.

That the accompanying letters addressed to the Council of Foreign Bondholders explain the general views of Her Majesty's Government in regard to British holders of foreign bonds.

In obedience to your Lordship's commands I have the honour to report—

That under the unforeseen embarrassment of the Colombian Treasury from circumstances beyond its control, and which relieve it from the imputation of bad faith, the proposal of the President should, in my opinion, be accepted by the bondholders, being reasonable in itself, and the best arrangement in the interest of the bondholders which the unforeseen suspension of a portion of the annual income of the State admits of. Your Lordship may, I think, properly decline to instruct Mr. Bunch to put pressure on the Colombian Government in any other sense than to secure that the proposal of the President be carried into effect at the proper time.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 172.

*The Queen's Advocate to Earl Granville.*—(*Received March* 15.)

My Lord,
*Temple, March* 14, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, with reference to my Report of the 10th October last upon the subject of the claim of Messrs. Robinson and Fleming on the Colombian Government arising out of the sale and subsequent loss of the vessel "Cuaspad," he was directed to transmit to me further correspondence upon the same subject; and he was pleased to request that I would take these papers into my consideration, together with the former papers, which were also inclosed, and furnish your Lordship with my opinion as to the course which should now be pursued in the matter.

In obedience to your Lordship's commands I have the honour to report—

That the view put forth by Señor Arosemana as to the proper *forum* in which the respective actions should be brought, is, in my opinion, correct.

But there is nothing to prevent the Colombian Government from seeking a remedy for breach of contract against Messrs. Robinson and Fleming by an action in a British Court without a previous suit in a Colombian Court, as the question at issue upon such action would be the interpretation of the contract, which, being a British contract, must properly be interpreted according to British law.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 173.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 16.)

My Lord,
*Temple, April* 15, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us correspondence (margin) upon the subject of the claims of Messrs. Robinson and Fleming upon the Government of Colombia.

That we would see from the papers that the claims in question arose first out of a contract for a loan which Messrs. Robinson and Fleming alleged to have been improperly cancelled by the Colombian Congress, and, secondly, out of the sale to that Government of three steamers, the "Colombia," "Bolivar," and "Cuaspad."

That on the advice of Her Majesty's Advocate-General, Lord Stanley instructed Her Majesty's Chargé d'Affaires at Bogotá, on the 1st January, 1868, to give his official support to the agent of Messrs. Robinson and Fleming, without, however, pledging Her Majesty's Government to the details of the account. Through Mr. Bunch's exertions the agent succeeded in obtaining a satisfactory settlement so far as the "Colombia" and "Bolivar" were concerned, 15,350*l.* being paid to the agent, and bonds to the amount of 70,000*l.* being given in payment for the rest, as security for which bonds 7½ per cent. of the receipts of three custom-houses were set apart.

That the claim on account of the cancellation of the loan appeared to have been settled without the assistance of Her Majesty's Government, as Messrs. Robinson and Fleming stated in their letter of the 27th August, 1868, that they had proposed to leave it to arbitration, and no mention of it had been made in their subsequent letters.

There remained the claim on account of the "Cuaspad," which vessel was totally lost on her way out, and being only partially insured, Messrs. Robinson and Fleming claimed the balance of her value, which value was originally stated at 7,600*l.*, and subsequently at 7,272*l.* 18*s.* 7*d.*

That the Colombian Government, on the other hand, maintained that the vessel was lost through the fault of the claimants, who were, therefore, liable to the Colombian Government for damage arising therefrom.

That these counter-claims with regard to the "Cuaspad" had given rise, as we perceive, to a long correspondence between the Foreign Office, Her Majesty's Chargé d'Affaires at Bogotá, and the Colombian Minister in this country; and that there did not appear to be much prospect of arriving at a settlement of them.

That it now appeared from Messrs. Robinson and Fleming's letter of the 5th instant that the Colombian Government had discontinued payment of the interest and sinking fund of the bonds for 70,000*l.* issued in 1868, as above mentioned, in satisfaction of the "Colombia" and "Bolivar" claims, which bonds had since passed into the hands of the public; that they further proposed to repudiate the bonds themselves, and that they had sought, by means of the Colombian Minister in this country, to serve Messrs. Robinson and Fleming with a citation to appear before the Supreme Court of the States of Colombia, where those gentlemen stated they had not, nor ever had, any domicile.

And that under these circumstances, he (Mr. Hammond) was to request that we would take the papers into consideration, and favour your Lordship with our opinion as to the steps which should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That we recommend your Lordship not to take any further diplomatic action at present in respect of any of these grounds of complaint of Messrs. Robinson and Fleming.

As to the repudiation of the bonds, this appears altogether unjustifiable, and if a complaint were made on the part of the bondholders we should be prepared to advise your Lordship to protect their interests; but as it appears that Messrs. Robinson and Fleming, having parted with all the bonds, have now no interest in this question and are not authorized to represent the bondholders, we cannot advise any step being taken as to this, their first ground of complaint.

As to their claim in respect of the sale of the vessel "Cuaspad," we find that the Colombian Government *bonâ fide* contest this claim, and allege that not only is there no liability to pay anything to Messrs. Robinson and Fleming, but that they are liable under their contract to pay a sum of money to the Colombian Government. That Government has offered to allow the claim of Messrs. Robinson and Fleming to be litigated in the proper *forum*, viz., the Colombian Tribunals, and has insisted that according to international law no diplomatic support should be given to a claim of a foreigner against the Colombian Government disputed on legal grounds, till after a decision of the Tribunal has been given which should be notoriously unjust. We think this contention well founded, and that Messrs. Robinson and Fleming must have recourse to the Colombian Tribunals exactly in the same manner as a foreign or native contractor with Her Majesty's Government who complained that his contract was broken would be referred to our Tribunals.

As regards the third ground of complaint, viz., the service of a citation in England on Messrs. Robinson and Fleming to appear in a civil suit in Colombia, we are not aware that there is any objection to serving civil process in a foreign country; it is, indeed, the almost daily practice of English Courts to order such process to be served out of their jurisdiction, and the domicile of the party served is not a sufficient ground to prevent service; the Court ordering the service determines whether the case is a proper one for service out of the jurisdiction, and the determination depends upon the municipal law of the country in which such Court is situate.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 174.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 27.)

My Lord, *Temple, July* 26, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that, with reference to our Report of the 15th April upon the claims of Messrs. Robinson and Fleming on the Colombian Government, he (Mr. Hammond) was directed by your Lordship to transmit to us a further despatch from Her Majesty's Acting Consul-General at Bogotá, inclosing a correspondence with the Colombian Government respecting the claim on account of the "Cuaspad."

He (Mr. Hammond) was pleased to inclose the correspondence which had taken place since the date of our above-mentioned Report, together with the former papers; and that he (Mr. Hammond) was to request that we would take same into our consideration, and favour your Lordship with our opinion as to the decision which should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That we see no reason for changing the opinion given to your Lordship in our Report of the 15th April last, to the effect that your Lordship should not at present take any diplomatic action on behalf of Messrs. Robinson and Fleming.

And that those gentlemen should be informed that they must have recourse to the Colombian Tribunals for any claim which they may have against the Colombian Government in respect of the steamer "Cuaspad."

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 175.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 3.)

My Lord, *Temple, August* 2, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th instant, stating that, with reference to that part of our Report of the 15th April which referred to the repudiation by the Colombian Government of bonds for 70,000*l.* sued by them in 1868, in satisfaction of the claims of Messrs. Robinson and Fleming

and Messrs. Barnett, arising out of the sale of the vessels "Colombia" and "Bolivar," he (Mr. Hammond) was directed by your Lordship to transmit to us a letter from Mr. Gustavus Siebel, who had represented himself to be a large holder of the bonds in question, and also representative of other holders, praying for the intervention of Her Majesty's Government to obtain from the Colombian Government payment of the said bonds.

And that he was to request that we would take the letter into consideration, together with the former papers (inclosed), and favour your Lordship with our opinion as to the course which should be pursued in the matter.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Gustavus Siebel should be required to give your Lordship some farther information as to the value represented by the bonds which he himself holds, and how and from whom he purchased those bonds, so that your Lordship may have some more precise information of the interest of Mr. Siebel in a contract arising out of the dealings between Messrs. Robinson and Fleming and Messrs. Barnett with the Colombian Government.

In the event of this information being satisfactory to your Lordship, you might then, in our opinion, lend your unofficial support and friendly remonstrance in support of the claim of Mr. Siebel, and those whom he says he represents, with the Colombian Government in the manner marked out in Mr. Hammond's letter to Mr. Hyde Clarke of the 26th April, 1871.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 176.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 29.)

My Lord, *Temple, August* 29, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that, with reference to our Report of the 2nd instant upon the subject of the Colombian bonds originally issued to Messrs. Robinson and Fleming, and now held by Mr. Gustavus Siebel, he (Mr. Hammond), was directed by your Lordship to transmit to us the accompanying letter from Mr. Siebel, stating the amount which he (Mr. Siebel) holds of the bonds in question, and explaining how they came into his possession.

And that he (Mr. Hammond) was to request that we would take that letter into consideration, and favour your Lordship with our opinion as to whether the information contained therein was sufficient to warrant your Lordship in giving to Mr. Siebel's claim the support indicated in our above-mentioned Report.

In obedience to your Lordship's commands we have taken this letter into consideration and have the honour to report—

That the information given by Mr. Siebel of the manner in which he became the holder of the Colombian bonds in his possession warrants, in our opinion, the support of your Lordship of his claim on the Colombian Government to the extent and in the mode marked out in Mr. Hammond's letter to Mr. Hyde Clarke of the 26th April, 1871, to which we referred in our former Report of the 2nd instant.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 177.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 29.)

My Lord, *Temple, August* 29, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that, on the receipt of our Report of the 26th ultimo,

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your Lordship caused a letter to be addressed to Messrs. Robinson and Fleming, acquainting them with the decision which, upon our advice, your Lordship had come to in regard to their claim upon the Colombian Government arising out of the sale of the "Cuaspad;" and that he (Mr. Hammond) was now to transmit to us a letter which had been received from Messrs. Robinson and Fleming in reply, and he was to request us to take these papers into consideration, and favour your Lordship with our opinion as to the answer which should be returned to Messrs. Robinson and Fleming.

Mr. Hammond was pleased to inclose the former papers for convenience of reference.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That we are still of opinion that your Lordship cannot interfere with the Colombian Government in support of the claims of Messrs. Robinson and Fleming arising out of the sale of the "Cuaspad."

We see no reason why the request of Messrs. Robinson and Fleming, that the communication of the opinion of Her Majesty's Government to the Consul-General at Bogotá and to the Colombian Government should be suspended may not be complied with. This is a matter entirely for your Lordship.

We presume your Lordship will direct the practice of the Foreign Office in like cases to be followed in supplying or refusing to supply Messrs. Robinson and Fleming with the case submitted to and the Report of the Law Officers.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 178.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 30.)

My Lord, *Temple, September* 30, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating he was directed by your Lordship to transmit to us the accompanying papers respecting the claim of Messrs. Cotesworth and Powell against the Colombian Government.

That we would find in Mr. O'Leary's despatch No. 23 of the 13th July last the draft of a Convention by which the Colombian Government proposed to settle that claim.

And that that draft had, as we would perceive, been referred both to Messrs. Cotesworth and Powell and also to Mr. Bunch, Her Majesty's Chargé d'Affaires at Bogotá, who had expressed their approval of the proposed arrangement; and he (Mr. Hammond) was therefore to request us to take the draft Convention into consideration, and favour your Lordship with our opinion as to whether there was any objection to its being signed.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to the signing of the Convention.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Pacific Islands.

### No. 179.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 11.)

My Lord, *Temple, January* 11, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 6th instant, stating that, with reference to our Report of the 22nd July last, he was directed by your Lordship to transmit to us the accompanying despatches from Mr. March, Her Majesty's Consul at Ovalau, reporting the state of affairs in the Fiji Islands arising out of the assumption of authority by Mr. Sydney Burt and certain other British subjects on the Council of Thakombau, one of the native Chiefs, and the complaints of their proceedings made by other white settlers there, especially in the case of J. Lear, whose memorial Mr. March forwarded.*

2. That he (Viscount Enfield) was to inclose the correspondence which had passed with the Colonial Office and Admiralty, and the previous papers, from which we would see that the Governor of New South Wales and Her Majesty's naval officers had been instructed that as long as this newly-constituted Government exercised actual authority they should deal with it as a *de facto* Government so far as concerned the districts which might acknowledge its rule; and that he (Viscount Enfield) was to request that we would take the whole matter into consideration, and favour your Lordship with our opinion on the points raised in Mr. March's despatches, and with any other observations we might have to offer, and that your Lordship would be glad to be furnished with our Report at our early convenience, as you were anxious to submit the despatches to the Cabinet.

In obedience to your Lordship's commands we have taken the whole of the correspondence in this matter into consideration, and have the honour to report—

That we think Her Majesty's Consul should not give any formal recognition at present to any authority at Levuka in lieu of the personal authority of King Thakombau; according to Mr. Consul March's Reports the so-called *de facto* Government is constituted of British subjects self-appointed, and representing no political community of persons, and in whose hands King Thakombau is a puppet; its members would, under these circumstances, in our opinion, be within the scope of 9 Geo. IV, cap. 83, sec. 4, in respect of any assault committed against British subjects by their direction at Levuka if they should be found within the jurisdiction of the Supreme Court of New South Wales, but how they are to be brought within that jurisdiction we do not see. The real question at present seems to us to be rather political than legal, and it will be for the Cabinet to determine under what conditions it will recognize the Chief Thakombau as a sovereign Power to whose laws British subjects in Fiji must pay obedience.

We have more than once taken the liberty of calling your Lordship's attention to the crying evils arising from the present state of things in Fiji, evils which, though resulting chiefly from the growth of British interests in those islands, the existing law affords no adequate means of repressing.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 180.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 15.)

My Lord, *Temple, June* 14, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul in the Fiji Islands, together with its

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* Nos. 6, 8, 12, 14, 15, 16, and 17.

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inclosures, relating to a claim for protection made by a British subject named Daniel Sinclair, who had been imprisoned by order of the authorities who claim to have constituted a Government and to be acting for King Thakombau, one of the principal Chiefs of the Fiji Islands; and that he (Lord Enfield) was to request us to take Mr. March's despatch into consideration, and favour your Lordship with our opinion as to the instructions which it would be proper to give Her Majesty's Consul in this case.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may properly instruct Her Majesty's Consul in the Fiji Islands that, in the circumstances stated by him, the British subject, Daniel Sinclair, is not entitled to any interference at your Lordship's hands.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 181.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 15.)

My Lord, *Temple, June* 14, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us despatches from Her Majesty's Consul in the Fiji Islands, involving questions in regard to which your Lordship would be glad to have the benefit of our opinion, viz.:—

1. To what extent can British subjects, under the circumstances reported by Mr. March, withdraw themselves from British jurisdiction by assuming the nationality of an uncivilized State whose independence as a State has not yet been acknowledged by Her Majesty's Government.

2. Can British subjects, claiming to have thus divested themselves of their nationality, divest also their hitherto British vessels of their British nationality by placing them under the flag of the State whose nationality they claim.

3. To what extent are British subjects, under the circumstances already adverted to, amenable to British laws for acts committed by them, or by their directions, in contravention of those laws.

And that he (Viscount Enfield) was to state that your Lordship would be glad to be favoured with our opinion upon the above points, together with any observations which we might have to offer as to the instructions which should be given to Her Majesty's Consul in the Fijis in the state of things reported by him in the despatches now laid before us.

In obedience to your Lordship's commands we have taken the despatches into consideration and have the honour to report—

That we think your Lordship's questions are to be answered as follows:—

1. That British subjects cannot, by assuming the nationality of an uncivilized State, withdraw themselves from British jurisdiction.

2. That British subjects who claim to have assumed the nationality of an uncivilized State cannot divest vessels owned by them of their British nationality by placing those vessels under the flag whose nationality they claim.

3. That British subjects, under the circumstances referred to in Viscount Enfield's letter, remain amenable to British laws, notwithstanding their attempted adoption of a foreign national character, to the same extent as before their attempted adoption of such national character for acts subsequently committed by them, or by their directions, in contravention of British laws.

4. That your Lordship may properly instruct Mr. Consul March that he should continue to protect British subjects and their interest, taking care not to use force or resort to violent measures in opposition to the *de facto* authorities of the country.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 182.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 3.)

My Lord, *Temple, July* 1, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 25th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul in Fiji, inclosing a letter addressed to him by half-castes residing there, making inquiries as to the protection which could be granted to them on account of their British origin, in connection with the establishment of a *de facto* Government; and that he (Viscount Enfield) was to request us to take this subject into consideration, and favour your Lordship with our opinion as to what instructions should be addressed to Consul March on the matter.

In obedience to your Lordship's commands we have taken this subject into consideration and have the honour to report—

That the half-castes described by Mr. Consul March appear to be illegitimate children of Fiji women, and to have been born in Fiji territory, consequently their nationality is not British, and they are not entitled to British protection.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 183.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 19.)

My Lord, *Temple, July* 18, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 13th instant, stating that, with reference to our various Reports on the question of the recognition of the *de facto* Government established in the Fiji Islands, he was directed by your Lordship to transmit to us the draft of a letter which your Lordship caused to be addressed to the Colonial Office on the subject, together with a letter which had been received from that Department in reply; and he was to request that we would favour your Lordship with our opinion on the question raised by the Colonial Office, namely, whether, beyond the limits of the new State, British subjects, so long as it was not duly recognized, could be accepted as citizens of it, and exempted from British jurisdiction for acts done or engagements entered into with them.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, British subjects, beyond the limits of the new State, not yet duly recognized, should not be accepted as citizens of the new State, nor should they be held exempted from British jurisdiction for acts done by them on British territory, or on board ships which ought to be navigated under the British flag.

Nor should they be held exempted from British jurisdiction for engagements entered into with them in cases where the validity or construction of such engagements would properly, and in ordinary course, be triable before a British Tribunal.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 184.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 9.)

My Lord, *Temple, August* 9, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 6th instant, stating that, adverting to our Reports upon questions relating to the jurisdiction over British subjects in the Fiji Islands, he was directed by your

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Lordship to transmit to us the accompanying letter from the Colonial Office, inquiring whether the recognition by Her Majesty's Government of the Fijian Government as established *de facto*, would preclude Her Majesty's Government from interfering with the acts and engagements of British subjects within Fiji; and he was to request us to be good enough to enable your Lordship to answer that inquiry.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that Her Majesty's Government may interfere with the acts and engagements of British subjects within Fiji, and may declare certain acts and engagements to be legal or illegal in the case of British subjects within Fiji.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 185.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 14.)

My Lord, *Temple, August* 13, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 29th ultimo, stating that, with reference to the Pacific Islands Protection Act, which had recently passed through Parliament, and of which a copy was inclosed, and referring also to our Reports relative to the status of British subjects in the Fiji Islands who might claim to divest themselves and their vessels of their British character, and to assume the Fijian nationality, he (Viscount Enfield) was directed by your Lordship to request that we would be good enough to draw up and transmit to your Lordship, for publication in the Fiji Islands, the draft of such a notice to British subjects as, in our opinion, the provisions of the Kidnapping Act might seem to require.

In obedience to your Lordship's commands we have the honour to report—

That we have drawn the notice in a short form in preference to setting out at length the provisions of the statute, which would make the notice run to a considerable and needless length.

We would suggest that several copies of the Statute should be sent out for distribution to each of the several public and Consular officers who will have to carry its provisions into effect.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### Inclosure in No. 185.

*Notice.—Pacific Islanders Protection.*

WHEREAS an Act has been passed by the Imperial Parliament of the United Kingdom, intituled, "An Act for the Prevention and Punishment of Criminal Outrages upon Natives of the Islands in the Pacific Ocean;"

And whereas the said Act has been proclaimed in the several Australian Colonies by the respective Governors thereof, and has, according to the provisions of the said Act, now taken effect;

All persons are hereby required to take notice that the provisions of the said Act will be strictly put in force, and to govern themselves accordingly.

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## No. 186.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 29.)

My Lord, *Temple, August* 29, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed to transmit to us despatches, with

their inclosures, from Her Majesty's Consul in Fiji, relative to the kidnapping of South Sea Islanders by persons on board vessels named the "Nukulan" and the "Carl." That a copy of the Act of Parliament recently passed on the subject was also inclosed; and that he was to request that we would take these papers into consideration, and favour your Lordship with our opinion as to the steps which should be taken for the punishment of those engaged in these kidnapping proceedings.

In obedience to your Lordship's commands we have the honour to report—

That the persons on board the "Nukulan" and the "Carl" cannot be proceeded against or punished under the 35 and 36 Vict., cap. 19, which is not retrospective.

We cannot suggest any steps which can now be taken for the punishment of the offences described by Mr. Consul March and in the papers inclosed in his despatch; and we have before now taken the liberty to point out that such occurrences are too clearly certain to recur as long as the present state of things in the Fiji Islands remains unaltered.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 187.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 23.)

My Lord, *Temple, November* 23, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 16th instant, stating he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Consul in the Fiji Islands, relative to a writ of *habeas corpus* having been served on him by the Fiji Government;[*] and that he (Viscount Enfield) was to request that we would favour your Lordship with our opinion regarding the course Her Majesty's Consul should pursue in future, should legal summonses again be served on him during the present abnormal state of things in Fiji, the Government of which was recognized by Her Majesty's Government as a *de facto* one only.

And that the Regulations alluded to by Mr. March would be found in the accompanying Blue Book.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Consul in the Fiji Islands, where a Government *de facto* exists, must comply with any legal summons which is duly served upon him, and which summons issued from a proper authority. The facts of the case in reference to which the summons may go, are quite distinct from the obligation to obey the summons itself.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 188.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December* 9.)

My Lord, *Temple, December* 9, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 5th instant, stating that, with reference to our Report of the 9th August last, and to previous Reports relative to the state of affairs at Fiji and the position of Her Majesty's Consul at that place, he (Viscount Enfield) was directed by your Lordship to transmit to us the accompanying copy of an Act passed by the *de facto* Government of Fiji, relating to Mr. Consul March, and was to request us to take the same into consideration, and favour your Lordship with our opinion whether Her Majesty's Government should recognize that act of the Fiji Legislature, more especially with regard to the 5th

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[*] Nos. 9, 12, and 17, Slave Trade.

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section, which related to prospective claims on Her Majesty's Government on account of Mr. March's proceedings.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government should not recognize the Act of the Fiji Legislature.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Paragay.

### No. 189.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 4.)

My Lord, *Temple, January* 3, 1872.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 30th ultimo, stating that he was directed to acquaint us that the substance of our Report of the 30th November, upon the claims put forward by Messrs. Percy Burrell and Henry Valpy against the Paraguayan Government was communicated to Messrs. Valpy and Chaplin; Lord Tenterden was pleased to transmit to us the accompanying communication which has been received from those gentlemen in reply, and he was to request that we would take the same into our consideration, and furnish your Lordship with our opinion as to the answer which should be returned to Messrs. Valpy and Chaplin. The previous papers in this case were also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That we think your Lordship may properly reply to Messrs. Valpy and Chaplin that you must decline to enter upon a discussion of the principles of international law with those gentlemen, but that as far as the practical questions at issue between the Foreign Office and those gentlemen are concerned, your Lordship is of opinion that the intentions of Her Majesty's Government have been already stated in your Lordship's letter of the 9th ultimo, and without any such ambiguity as could give rise to any fair question as to your Lordship's meaning.

The Attorney-General and Solicitor-General are glad to have the opportunity of stating that they entirely concur in the explanation given by the Queen's Advocate of an expression in their joint Report of the 30th November, 1871.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 190.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 14.)

My Lord, *Temple, March* 13, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, with reference to our Reports of the 30th November and 2nd January last, upon the subject of the claims of Messrs. Valpy and Burrell upon the Government of Paraguay, he was directed by your Lordship to transmit to us the accompanying further letter from Messrs. Valpy and Chaplin, requesting to be informed on what grounds the decision of Her Majesty's Government in regard to these claims had been come to.

And he (Mr. Hammond) was to request that we would take this letter into our consideration, together with the former papers (which were inclosed), and favour your Lordship with our opinion as to the answer which should be returned to Messrs. Valpy and Chaplin.

In obedience to your Lordship's commands we have taken this letter, together with the former papers, into our consideration and have the honour to report—

That Messrs. Valpy and Chaplin should be informed that there is nothing to show that their clients suffered otherwise than in common with all the subjects of President Lopez, and that, in your Lordship's opinion, there would not be any justification for your Lordship interfering diplomatically in their favour, unless they can show that they have been treated in respect of compensation differently from other subjects of Paraguay who have suffered wrongs of the same sort at the hands of the late President of that Republic.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 191.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 28.)

My Lord, *Temple, October* 28, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 16th instant, stating he was directed by your Lordship to transmit to us the papers relative to a claim brought against the Government of Paraguay by Mr. Robert Sales for the sum of 20,000 dollars, as compensation for the murder of his son during a riot at Asuncion in September 1870; and he (Lord Enfield) was to request us to take the same into consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in supporting Mr. Sales' claim.

In obedience to your Lordship's commands we have honour to report—

That it appears from the memorial that the British subject who was murdered, and for the assassination and robbery of whom compensation is claimed against the Paraguay Government, was employed in the office of a public paper called "The Regeneration of Paraguay." We have no information as to the cause or other particulars of the riot, or to show that the Paraguayan Government can be made responsible for its consequences. From the name of the paper, we presume it to have been a political one, and it is not impossible that the person assassinated may have taken in a foreign country a strong or violent part in the politics of that country, and provoked the riot in which he lost his life and property.

We are therefore unable to advise your Lordship, upon the information furnished us, that Her Majesty's Government would be justified in supporting the claim of Mr. Sales.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Persia.

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### No. 192.

*The Queen's Advocate to Earl Granville.—(Received March* 12.)

My Lord, *Temple, March* 11, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed to transmit to me the inclosed despatch from Her Majesty's Minister at Tehran respecting the levy by Mahomed Khan, late Governor of Yeryd, of 559 krans on some sugar belonging to Messrs. Malcolm, Persian subjects under British protection, resident at Bushire.

A letter from the India Office, to whom this matter has been referred, was also inclosed; and Mr. Hammond was pleased to request that I would take this case into my consideration, and furnish your Lordship with my opinion as to whether Messrs. Malcolm would be entitled to receive the support of Her Majesty's Government in resisting the imposition of the tax in question.

In obedience to your Lordship's commands I have the honour to report—

That Messrs. Malcolm are entitled, in my opinion, to receive the support of Her Majesty's Government in resisting the imposition of the tax in question, and that the Persian authorities cannot now, in my opinion, with any reason, maintain that Messrs. Malcolm are not entitled to the protection of Her Majesty's Government, seeing that they have been treated as British subjects by those authorities, when the import duty of 5 per cent. was levied upon the goods of Messrs. Malcolm, of which they hold the usual custom-house certificates. I understand from the despatch of Her Majesty's Minister at Tehran of the 3rd November 1871, that British subjects pay once for all an import duty of 5 per cent., while natives pay comparatively a very small import duty, but are liable to pay transit duties from which British subjects are exempt. Upon the general question as to the proper interpretation to be given to the Treaty of Paris, I am of opinion that Her Majesty's Government may properly maintain that the Treaty was not intended to prohibit British protection being continued to persons who had prior to the Treaty enjoyed it.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 193.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 14.)

My Lord, *Temple, August* 13, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a letter which had been received from the India Office, with a telegram from the Governor-General of India suggesting that a specific provision should be made in a new Telegraph Convention now under negotiation with the Persian Government for the protection of British officers travelling on duty through Persia.

That that suggestion had been made in consequence of the murder of Inspector-General Collins of the Persian Telegraph Staff, but that your Lordship entertained some doubt whether it would be in accordance with international usage that an attack by robbers on a British officer should be dealt with as an international question, for which redress was to be obtained as for a violation of Treaty, and your Lordship would be glad to be favoured with our opinion upon that point.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that there is no objection to suggesting and pressing upon the Persian Government the insertion in the Telegraph Convention of a clause providing for the protection of British officers on duty in Persia.

We have, &c.
(Signed) J D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 194.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received September* 20.)

My Lord, *Temple, September* 20, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating he was directed by your Lordship to transmit to us the accompanying letter, and its inclosures, from the India Office respecting the claim of Hafee Moosa Meymenee, a British subject, on the Persian Government for grain which he was compelled to supply to the people of Bushire during the riots at that place in 1870.

Mr. Hammond was pleased to inclose copies of the Treaties between this country and Persia and between Russia and Persia, and stated that he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the proper course for Her Majesty's Government to take in the matter.

In obedience to your Lordship's commands we have the honour to report—

That since the Persian Government has given assurances and orders for the settlement of Hafee Moosa Meymenee's claim (telegram, 21st November, 1871; 14th December, 1871; 11th March, 1872; inclosed in Mr. Merivale's letter to Mr. Hammond, dated the 10th instant), your Lordship may properly instruct Her Majesty's Minister at Tehran to press the immediate settlement of the claim upon the Persian Government, and to use, in so pressing the matter, the strongest arguments which the circumstances of the time of his communicating with the Persian Government will render just. Her Majesty's Minister may be instructed to point out to the Persian Government the inconveniences which may follow if the settlement is delayed and Her Majesty's Government be compelled to take forcible means for obtaining the compensation due to a British subject from the Persian Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 195.

*Dr. Deane to Earl Granville.—(Received October* 26.)

My Lord, *Temple, October* 26, 1972.

I AM honoured with your Lordship's commands signified in Viscount Enfield's letter of the 18th instant, stating that he was directed to transmit to the Law Officers the inclosed papers respecting the disposal of certain moneys intrusted by the Persian Minister of Finance to Mr. Vice-Consul Ongley for investment in English Consols, and that, as it appears that Mr. Ongley intends to leave Persia without rendering any explanation of the matter, his Lordship was to request that they would favour your Lordship with their opinion whether Mr. Thomson would be justified in detaining him, and if not, whether the Persian Government would be empowered to do so.

In obedience to your Lordship's commands I have taken this matter into consideration and have the honour to report—

That I have seen the Reports of the Attorney-General and Solicitor-General.

I agree with the Solicitor-General.

Mr. Ongley has not defrauded, and, so far as I gather from the evidence, did not intend to defraud, the Persian subject.

That this Persian subject was also the Minister of Finance seems to me immaterial.

Had there not been a formal error in the power of attorney, and for which error I do not see that Mr. Ongley ought to be made responsible, the whole transaction would have been put right by an act of Mr. Ongley freely done.

I am therefore of opinion that Mr. Ongley ought not to be detained in Persia either by Mr. Thomson or by the Persian Government.

I have, &c.
(Signed) J. PARKER DEANE.

1872

## No. 196.

*The Solicitor-General to Earl Granville.*—(*Received October* 28.)

My Lord, *Lincoln's Inn, October* , 1872.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 18th October instant, stating that he was directed by your Lordship to transmit to me and the Attorney-General the inclosed papers, as marked in the margin,[*] respecting the disposal of certain moneys intrusted by the Persian Minister of Finance to Mr. Vice-Consul Ongley for investment in English Consols, and as it appeared that Mr. Ongley intended to leave Persia without rendering any explanation of the matter, he was to request that we would favour your Lordship with our opinion whether Mr. Thomson would be justified in detaining him, and if not, whether the Persian Government would be empowered to do so.

In obedience to your Lordship's commands I have the honour to report—

That I am of opinion that neither Mr. Thomson nor the Persian Government would be justified in detaining Mr. Ongley; not only has he not committed any offence, but, in my opinion, the evidence does not show any intention on his part to act dishonestly. He was requested to invest for the Persian Finance Minister, as a private individual, two separate sums in Consols; he duly invested both in his own name, but it does not appear that he was asked to invest them in the name of the Finance Minister. He never touched either sum, and when about to leave Persia, signed a power of attorney to transfer them to the Minister. This power failed, through no fault of Mr. Ongley's, but because the names of the bankers were not correctly stated. It is not alleged that Mr. Ongley has refused to execute a new power, indeed he does not seem to have been asked to do so. The stock may be secured by *distringas* without arresting or imprisoning Mr. Ongley, and under these circumstances I am of opinion that to detain him in Persia would be both unnecessary and oppressive, and that not only should Her Majesty's Government refuse to sanction such a course, but if the Persian Government should adopt it, I consider it would be the duty of Her Majesty's Government to demand his immediate release and proper compensation for his illegal detention.

I have, &c.
(Signed) G. JESSEL.

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## No. 197.

*The Lord Chancellor to Earl Granville.*—(*Received November* 1.)

My Lord, 30, *Portland Place, W., November* 1, 1872.

I AM honoured with your Lordship's letter of yesterday's date, accompanied by the documents which I return.

My opinion upon the matter to which these documents relate is the same as that of the Solicitor-General and Dr. Deane. It is, no doubt, unfortunate that the power of attorney granted by Mr. Ongley for the transfer of the sums of stock in question should have proved informal, but the informalities were of a nature from which, in my judgment, no inference unfavourable to the honour and integrity of Mr. Ongley ought to be drawn, considering that the power had to be executed in Persia. The investments themselves appear to have been duly made, according to the directions of the principal for whom Mr. Ongley acted; unless it was inconsistent with those directions that the stocks should be placed in Mr. Ongley's own name. I do not, however, find in the papers before me any statement that the investments were desired or intended to have been made in the name of the Persian owner, and I can well conceive that there might be *boná fide* reasons of practical convenience against that course; on which supposition, as Mr. Ongley was certainly the trustee of the money while in his hands, before investment, it does not seem to have been more than a legitimate consequence of the trust so reposed in him that he should still act as trustee of the stocks when purchased. The variance between the names "Henry" and "Harry" in the two investments (however it may have arisen), does not appear to me to be in itself important, the description of Mr. Ongley being in other respects proper. I do not find it suggested that Mr. Ongley has at any time, or in any way whatever, attempted to do any act inconsistent, or refused to do any act consistent, with an honest intention throughout to be faithful to the trust and confidence reposed in him.

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[*] Mr. Taylour Thomson, September 3; Mr. R. Thomson, October 17.

While this is my opinion as to Mr. Ongley's case, I cannot but suggest, for your Lordship's consideration, whether it might not be expedient to guard, by general instructions to Her Majesty's Diplomatic Agents in foreign countries, and especially in remote countries like Persia, where European habits and ideas do not prevail, against the engagement of such Diplomatic Agents in private trusts or pecuniary transactions not resulting from their public duties, and from which misunderstandings or embarrassments may, in possible circumstances, arise.

I remain, &c.
(Signed) SELBORNE.

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## No. 198.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 12.)

My Lord, *Temple, November* 11, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 9th instant, stating he was directed by your Lordship to transmit to us, together with the former papers, a further telegram from Her Majesty's Chargé d'Affaires at Tehran, reporting the departure of Mr. Ongley from that city, and suggesting that a communication be made to the Bank of England, with a request that the money belonging to the Persian Minister of Finance might be retained until certain documents signed by Mr. Ongley, transferring the money to the real owner, were received; and he (Viscount Enfield) was to request that we would favour your Lordship with our opinion whether it would be proper for your Lordship to make any recommendation to the Bank of England on the subject.

And that, as bearing upon the confidence which should be placed in Mr. Ongley's proceedings, he was to transmit to us, for information, a copy of a letter from Mr. Hill, one of the executors of the late Mr. Alisen.

In obedience to your Lordship's commands we have the honour to report—

That although we see no objection to your Lordship directing a communication to be made to the Bank of England, recommending the Bank not to allow the stock to be dealt with except for the purpose of transferring it to the right owner, the Persian Minister of Finance, yet we think the Bank would probably decline to act upon any such communication, and that the proper course would be for a *distringas* to be placed on the stock at once, and afterwards, if necessary, a restraining order, and that the Persian Minister should authorize Mr. Thomson or your Lordship to take the proper steps for this purpose.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 199.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 13.)

My Lord, *Temple, November* 12, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of this day's date, stating that, with reference to our Report of yesterday on the case of Mr. Ongley, he (Viscount Enfield) was directed by your Lordship to state that Messrs. Drummond had brought to the Foreign Office the accompanying draft of a letter prepared by Mr. Freshfield, the Solicitor to the Bank of England, and they (Messrs. Drummond) stated that, if the Foreign Office would address such a letter to the Governor and Company of the Bank of England, Mr. Freshfield would advise the Bank to transfer without farther delay into the name of Dost Ali Khan Nizam el Dowlah, of Tehran, the moneys belonging to that gentleman now standing in the names of Henry H. Ongley and Harry H. Ongley.

That Messrs. Drummond had also produced an original letter from Mr. Ongley (copy inclosed) requesting them to make the transfer in question.

And that he (Viscount Enfield) was to request us to take the matter into consideration, and report to your Lordship whether we could advise that your Lordship, under the circumstances, should address such a communication to the Governor and Company of the Bank of England.

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In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that your Lordship should not address the communication suggested by Messrs. Freshfield to the Bank of England.

That communication would amount to the giving of an indemnity on the part of your Lordship, and the object in view may be obtained by the simple process of putting a *distringas* on the stock.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 200.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 18.)

My Lord, *Temple, November* 18, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 16th instant, stating that, with reference to our Report of the 12th instant on the case of Mr. Ongley, he was directed by your Lordship to transmit to us, for any observation we might have to make thereon, the inclosed letter from Messrs. Drummond, together with the draft of instructions which your Lordship had sent by telegraph to Her Majesty's Chargé d'Affaires at Tehran upon that subject.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship's message to Mr. Thomson appears to be perfectly correct, except that we did not advise that the course proposed to your Lordship would be ineffectual, but that it would involve the Foreign Office in a guarantee which we did not think it was the duty of your Lordship to give. It is natural that Messrs. Drummond should desire the matter to be settled by your Lordship's guarantee, but we cannot on that account alter or modify the opinion we have already given your Lordship on that point.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 201.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 20.)

My Lord, *Temple, November* 20, 1872.

WE were honoured with your Lordship's commands signified in Lord Enfield's letter of the 19th November instant, stating that, with reference to our Report of the 18th instant on Mr. Ongley's case, he was directed by your Lordship to transmit to us, for any observations we might have to offer thereupon, a further telegram from Her Majesty's Chargé d'Affaires at Tehran respecting the steps which had been taken by the Persian Minister of Finance for placing a *distringas* on the stock at the Bank of England.

In obedience to your Lordship's commands we have the honour to report—

That the course now proposed to be taken in the matter of the stock belonging to the Persian Minister of Finance appears to us to be unobjectionable. It is in substance what we have had the honour to recommend.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Peru.

### No. 202.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 7.)

My Lord, *Temple, December* 6, 1872.

WE were honoured with your Lordship's commands signified in Lord Enfield's letter of the 30th November ultimo, stating that he was directed by your Lordship to transmit to us papers, as marked in the margin,* relative to allegations brought by a Mr. Swann against Mr. Vines, Her Majesty's Consul at Islay, together with a despatch from Her Majesty's Chargé d'Affaires in Lima, inclosing a Report on the subject, drawn up by Mr. Nugent, British Consul at Arica, who was deputed to inquire into the affair.

Lord Enfield was also pleased to say that your Lordship considered that if implicit confidence was to be placed in the depositions inclosed by Mr. Nugent, Mr. Vines could no longer be permitted to remain in the Consular service; and that your Lordship would be glad to be favoured with our opinion whether, in view of the course pursued by Mr. Vines in declining to answer the depositions, your Lordship would be justified in at once cancelling Mr. Vines' Commission, or whether it would be only advisable to follow the milder course of accepting his resignation.

Lord Enfield added that, previously to the receipt of Mr. Nugent's Report, Mrs. Vines had been told that her husband would be allowed to resign.

In obedience to your Lordship's commands we have the honour to report—

That, considering the whole conduct of Mr. Vines, your Lordship may properly cancel his Commission.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Portugal.

### No. 203.

*The Queen's Advocate to Earl Granville.*—(*Received February* 6.)

My Lord, *Temple, February* 5, 1872.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 1st instant, stating that he was directed to transmit to me the correspondence with the Indian Office, marked in the margin,† respecting the desire of the Government of India to withdraw certain privileges, the nature of which is therein described, enjoyed by the Portuguese factory at Surat. A memorandum on the subject was also inclosed; and Lord Enfield was pleased to request that I would take these papers into consideration, and report to your Lordship my opinion as to the course which it would be proper to take in the matter.

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* List inclosed.

† India Office, March 2; Memorandum, March 10; India Office, June 9; to India Office, June 20, 1871; India Office, January 25, 1872.

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In obedience to your Lordship's commands I have the honour to report—

That it would be advisable for your Lordship, if it should be decided by Her Majesty's Government to put an end to the exemption from ordinary customs duties on imports and exports which is allowed to Portuguese traders at Surat under various Indian Acts in consideration of a certain ancient Firman privilege, to be able to justify such a decision on grounds which the Portuguese Government not only cannot impugn as unfriendly, but must admit to be reasonable, namely, by showing that the existing system of trade carried on by Portuguese at Surat under cover of the Firman privilege is an abuse of the original privilege. It does not, however, appear so clearly as I should wish from the papers before me, what was the precise character of the Firman privilege, whether it was granted to the Portuguese Government, or to the Portuguese factory at Surat, or in favour of Portuguese ships trading with the factory.

In the letter of the Governor-General of India in Council of the 27th December, 1871, it is spoken of as "the Firman privilege of the Portuguese Government," and in Inclosure No. 2 reference is made to the amount of profit which the Portuguese Government may be assumed to have derived from the trading privilege hitherto accorded to them at Surat. On the other hand, in Inclosure No. 3, 13th November, 1871, it is stated "that the trade seems at present to be in the hands of a few Parsees, who claim to be Portuguese subjects born at Damaun and domiciled there. The consignments being borne in Portuguese vessels trading between Damaun and Surat, and being *bonâ fide* the property of the Portuguese subjects, the claim to Firman privilege seems made out." It is further observed that "it may be a question whether the Firman privilege was originally intended to apply to such general trade, or was restricted simply to the actual requirements of the factory." Mr. Green also mentions in his précis that the Firman privilege was granted in 1714 by the Emperor of Delhi to the Portuguese factory. It will be important for your Lordship to have clearer information on this subject. Be this matter, however, as it may, the moderate value of the imports twenty years ago (1851-52) as shown by the Tables of the "Statement A," when compared with the enormously increased value of the imports in 1870-71, will justify, in my opinion, Her Majesty's Government in maintaining that the Indian Government, when it acknowledged the ancient Firman privilege, and confirmed it from time to time by legislative acts, had in view a different character of trade from that which is carried on at present, and which has grown up under the altered circumstances of railway communication with Bombay, and which may be properly regarded as an abuse of the original privilege. I think that the ground on which Her Majesty's Government should take its stand, if it decides to disregard henceforward the Firman privilege, is that the trade which Portuguese subjects are now carrying on at Surat under cover of the Firman privilege is an abuse of the original privilege, whether that privilege as above-mentioned was a privilege of the Portuguese Government, or of the Portuguese factory at Surat, or of Portuguese traders for the benefit of that factory. I am not disposed to regard it as a trading privilege, in which other nations can claim to participate under "the most-favoured-nation clause" of Commercial Treaties. I do not think that the circumstance of the privilege entailing a serious loss of revenue to the Indian Government would alone justify that Government in ceasing to recognize it. The abuse of the privilege is the proper justification, in my opinion, for disregarding it henceforward, whilst the serious loss of revenue resulting to the Indian Government from that abuse is a consideration which may justly have weight with Her Majesty's Government in determining it to assert its right henceforward to disregard the privilege or to curtail it.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 204.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 22.)

My Lord,
*Temple, July* 19, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 13th instant, stating that he was directed by your Lordship to state to us that the Portuguese Regulations in regard to quarantine had lately been under the consideration of Her Majesty's Government, and that your Lordship proposed to address to the Portuguese Minister at this Court a note in the sense of the inclosed letter from the Council Office. Connected with that representation was the case of the British vessel "Jessie," which formed the subject of the accompanying despatch from Sir Charles Murray; and that he (Lord Enfield) was to request us to take the correspondence and favour your Lordship with our opinion thereupon, with more particular reference to the terms in which the representation with regard to the case of that vessel should be made to the Duc de Saldanha.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the correspondence will fully justify your Lordship in making a a very strong representation to the Duc de Saldanha.

The case of the "Jessie" and of the two steam-ships which left Bahia after the "Jessie" had left, but reached Lisbon before the "Jessie," we think furnishes a remarkable instance of the unsoundness of the principle adopted by the Portuguese Government, and we submit that your Lordship might from such an instance, and whilst admitting the mistake of the master of the "Jessie" in saying he left Bahia on the 16th instead of the 14th March, and thus strictly came to Belem without any bill of health, point out to his Excellency the inconvenience and the error of the Portuguese Goverment in issuing quarantine notices to come into effect at a particular date of arrival in a Portuguese port without regard to the date at which a vessel may have left the port infected. And your Lordship may urge upon his Excellency that it is expedient to change this system and adopt the practice of other nations in respect to this head of quarantine regulations.

But your Lordship may further urge that even under the existing quarantine regulations, an act of great injustice has been done in the case of the "Jessie." That vessel, under the VIth Article of the Regulations of the 8th March, 1860, might have been detained eight days. In fact, she was detained, seemingly without reason, from the 14th May to the 20th June, that is, thirty-five days.

Your Lordship, passing from the general subject to the particular case of the "Jessie," can thus press upon his Excellency the right of the owners of the "Jessie" and of the cargo on board her, to adequate compensation from the Portuguese Government for the acts of the sanitary authorities at Belem in detaining the "Jessie" beyond the eight days.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 205.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 24.)

My Lord,
*Temple, August* 24, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the papers relative to the circumstances under which the British steamer "Spindrift," having been wrecked in the month of December 1870 on the Island of St. George, Azores, was plundered by the inhabitants of that island and the full rate of customs duty levied on the damaged goods which had been saved from the wreck in contravention, as it would appear, of the XIVth Article of the Treaty of Commerce between Great Britain and Portugal of the 3rd July, 1842.

That we would perceive from the inclosure to Sir C. Murray's despatch No. 62, Commercial, of the 17th ultimo, that the Portuguese Government denied that there was cause for complaint as regarded the proceedings of the Custom-house authorities at the Azores in that matter; and he (Mr. Hammond) was to request that we would take the papers into consideration, and favour your Lordship with our opinion as to the further instructions which should be addressed to Her Majesty's Minister at Lisbon thereupon.

In obedience to your Lordship's commands we have the honour to report—

That Sir C. Murray should be instructed to point out to Senhor de Corvo that the questions arising on the duties levied upon the sale of the goods salved out of the "Spindrift" do not depend upon the rules of the Portuguese General Board of Customs, but upon the terms of the Treaty between the Portuguese and British Governments, which are applicable to the case of the "Spindrift," and that if the duties levied were in excess of the duties which ought to have been levied (a fact on which we have no information), the Portuguese Government should be pressed to return the difference which they have received.

In reference to the plunder of the wreck and the steps taken by the authorities at the Azores, Sir C. Murray should represent to Senhor de Corvo that the explanation which is now offered is not satisfactory to Her Majesty's Government, that had immediate measures been adopted, as by domiciliary visits and other modes of inquiry, the greater

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part, if not all, of the goods stolen would have been recovered, and that Her Majesty's Government relies upon the honour and good-will of the Portuguese Government to at once take the right means for compensating the owners of the goods for the losses which they have incurred through the misconduct of the subjects of Portugal in the Island of St. George.

We are of opinion that your Lordship may further instruct Sir C. Murray to accept as satisfactory the explanation of Senhor de Corvo of the place and manner of sale.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 206.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received September* 30.)

My Lord, *Temple, September* 28, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that, with reference to our Report of the 24th ultimo, he was directed by your Lordship to transmit to us a further despatch, with its inclosure, from Her Majesty's Chargé d'Affaires at Lisbon relative to the case of the "Spindrift;" and that he was to request we would take the same into our consideration, and report to your Lordship whether there is anything therein to alter the opinion already expressed by us with respect to this case.

Mr. Hammond was pleased to inclose the previous papers for convenience of reference.

In obedience to your Lordship's commands we have taken this further despatch into consideration and have the honour to report—

That we gather from Mr. Acting Consul Read's despatch to Mr. Doria that the duties levied were on a valuation improperly fixed even by Portuguese law.

Assuming such to have been the case, we are of opinion that Sir C. Murray may be instructed to point out this error to the Portuguese Government, in addition to the reasons for making compensation to the owners of the "Spindrift's" cargo, which we suggested in our former Report.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 207.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 29.)

My Lord, *Temple, November* 29, 1872.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosnres, from Her Majesty's Chargé d'Affaires at Lisbon relative to a claim preferred against the Portuguese Government by Messrs. Hickie, Son, and Dugge, and Graham and Co., on account of the condemnation by the Portuguese Customs authorities of a quantity of butter which had been consigned to those firms; and he (Lord Tenterden) was to request that we would take those papers into consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Her Majesty's Chargé d'Affaires on that subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Customs authorities are to blame for having placed arsenic and butter so close the one to the other, and that Mr. Doria should be instructed to insist upon this negligence of those authorities in the matter and for the same redress as already adopted and urged by him in his note to Senhor Corvo of the 9th October last.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Prussia.

### No. 208*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 29.)

My Lord,
*Temple, October* 29, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 21st October instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence,* relating to a complaint preferred by Mr. Evans to Her Majesty's Embassy at Berlin, of unjust arrest and detention, with ill-treatment, by the police of that capital, and to state to us that your Lordship would be glad to learn whether, upon consideration, we are of opinion that the circumstances were such as to warrant Her Majesty's Government in instructing the Ambassador at Berlin to apply for redress in Mr. Evans' behalf.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government would, in our opinion, not be warranted in instructing the Ambassador at Berlin to apply for redress in behalf of Mr. Evans.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* Lord Odo Russell, Nos. 241, 248, and 262.

## Prussia.

### No. 208.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 13.)

My Lord,
*Temple, April* 13, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th March last, stating that Her Majesty's Government lately received a communication from the Government of the Emperor of Germany, in which, referring to the changes in the legislation of Germany which had taken place since the signature of the Conventions of International Copyright of the 13th May, 1846, and the 14th June, 1855, it was suggested that it might be desirable to conclude a new Treaty, embracing the provisions of those Conventions, and extending to the whole German Empire, and that it had been deemed advisable to agree to that suggestion. Mr. Hammond was pleased also to say that he was directed by your Lordship to transmit to us the draft of such new Treaty, which had been prepared at the Foreign Office with a view to being offered to the German Government.

That the draft is in the main founded upon the two Conventions of 1846 and 1855, but it contained no Article about duties on imported books, because the paper duties, which the duties on imported books were intended to countervail, no longer existed, and the Article on that subject in the Convention of 1846 seemed therefore unnecessary; and it was proposed to add works of photography to the list of works of the fine arts enumerated in Article I.

Mr. Hammond added that he was to request that we would take the draft into our consideration, and report to your Lordship our opinion whether it may be offered to the German Government.

In obedience to your Lordship's commands we have taken the draft into our consideration and have the honour to report—

That the Convention which your Lordship has submitted to us appears, with one exception, which we advert to at the end of our Report, to be within the powers of the Crown as defined in 7 and 8 Vict., cap. 12, and 15 and 16 Vict., cap. 12; and we have, therefore, no further remarks of a strictly legal kind to offer upon it.

On the subject of photographs, to which Mr. Hammond's letter invites our attention, we should have been disposed ourselves to exclude rather than include them, not merely on the ground that they are hardly in themselves works of art in any true sense, but from the great difficulty which we believe will be found in practically working a law which should attempt to punish infringement of copyright (if created in this country) in foreign photographs.

We venture respectfully to question the policy of Articles VI and VII so far as they impose any duty upon our own custom-house officers of searching for and seizing such books and other articles. A civil remedy to the persons injured by such importation seems to us a sufficient, and will probably be found in all really important cases an effective, remedy for breaches of the law of copyright. As to Article VIII, we would suggest, for your Lordship's consideration, whether copies might not well be deposited also at the two Universities of Oxford and Cambridge. We question whether the provision in this Article that a certified copy of the entry in the Register Book of the Company of Stationers in London shall confer within the British dominions, the exclusive right of republication, &c., is not expressed with too great breadth so far as it purports to affect the Colonies. The provision would be practically inoperative beyond the limits of Great Britain and Ireland, for any book or translation of a book worth reprinting could be obtained, as it now is, through the United States. But it might, nevertheless, give rise to questions at once troublesome and barren of any real result.

We should suggest the substitution of "the United Kingdom" for "British dominions." Subject to these observations, we think the Convention is one quite proper to submit to the German Empire.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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# Russia.

## No. 209.

*The Queen's Advocate to Earl Granville.*—(*Received March* 9.)

My Lord, *Temple, March* 8, 1872.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 2nd instant, stating that he was directed to transmit to me a despatch from Her Majesty's Consul-General at Odessa, stating that he has been applied to by the widow of an Englishman named John Oliver, who has lately died intestate on his journey to Kherson, for authority to administer to the estate of the deceased for their children's benefit.

That the lady is of German origin, and as Mr. Abbott believes that she would no longer be recognized in England as a British subject, he has applied for instructions as to what he should do in the matter; and Lord Enfield was pleased to request that I would take Mr. Abbott's despatch into my consideration, and inform your Lordship what answer should be returned to him.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Consul-General at Odessa may properly be instructed to comply with the request of the widow in this case.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 210.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received May* 7.)

My Lord, *Temple, May* 4, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Stevens, Her Majesty's Consul at Nicolaiev, together with its inclosures, addressed by him (Mr. Stevens) to Her Majesty's Ambassador at St. Petersburgh, from which it appeared that Mr. Stevens and his two daughters had been attacked by a loathsome disease in consequence of having been vaccinated by the public vaccinator at Nicolaiev with impure lymph.

That Mr. Stevens demanded that an inquiry should be instituted by the Russian authorities into the circumstances attending the case, with a view to redress being afforded him for the suffering he has experienced; and that he (Viscount Enfield) was to request that we would take the matter into our consideration, and favour your Lordship with our opinion as to the course which Her Majesty's Government should pursue in regard to it.

In obedience to your Lordship's commands we have the honour to report—

That, however much the case of Mr. Stevens claims our sympathy, we are unable to see that there is any ground whatever for diplomatic interference on the part of Her Majesty's Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 211.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 29.)

My Lord, *Temple, July* 26, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 20th July instant, stating that he was directed by your Lordship to transmit to us the accompanying letters from Messrs. Elkan and Co., requesting the intervention of Her Majesty's Government to obtain reimbursement of certain sums paid by them on the freight of machinery shipped to Kertch, and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the course which Her Majesty's Government should take in the case.

Lord Enfield was also pleased to say that a copy of the Treaty of Commerce with Russia of the 12th January, 1859, was sent with the papers for convenience of reference.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That Messrs. Elkan and Co., as the carriers of certain machinery to Kertch, appear to have a claim against a Russian subject for the freight of that machinery. The amount due is in dispute, and the Russian Tribunals have ordered the amount of freight demanded to be paid into Court by, and the goods—that is the machinery—to be delivered to, the Russian subject.

We are of opinion that in this state of things Her Majesty's Government is not at present called upon to interfere, and so settle the amount of freight due and payable, and that Messrs. Elkan and Co. must seek their remedy in a Russian Court.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 212.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 22.)

My Lord, *Temple, August* 21, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that, with reference to our Report on the 26th ultimo, he (Mr. Hammond) was directed by your Lordship to transmit to us a further letter from Messrs. Elkan and Co., relative to their claim with respect to certain goods shipped by them to Kertch.

The previous papers in this case were likewise inclosed; and he (Mr. Hammond) was to request me that we would take the same into consideration, and favour your Lordship with such further observations as we might have to offer on this subject.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That we see no reason for altering the opinion which we submitted to your Lordship on the 26th July last.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 213.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 21.)

My Lord, *Temple, November* 20, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 9th instant, stating that, with reference to the Law Officers' Report of the 31st October, 1861, relative to the legal validity of marriages performed in the British Chapel at Riga, he was directed by your Lordship to transmit to us further papers, by

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which we would see that the question had been reopened by British residents and by Her Majesty's Consul at Riga.

That the previous correspondence was also sent, from which we would see that it had hitherto been laid down that that class of marriage was of doubtful validity; and that he (Viscount Enfield) was to request us to again take the matter into consideration, and favour your Lordship with our opinion whether, on a review of the whole former series of papers, as well as those now before us for the first time, among which are opinions of Sir T. Twiss and Dr. Tristram, we saw any reason to modify the views formerly expressed on the subject in question.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Consular Marriage Act, 12 and 13 Vict., cap. 68, applies only to marriages in Consulates, and section 21 provides expressly that nothing in the Act shall confirm, impair, or in any wise affect the validity of any marriages solemnized beyond seas, otherwise than as therein provided.

The Consular marriages at Riga are quite distinct from the marriages solemnized by a person in Holy Orders in the British Chapels at Riga between British subjects; and we are of opinion that these latter marriages being valid by the *lex loci*, are valid everywhere.

The former Reports seem to have been made upon cases in which the question was not raised so distinctly as in the present case, nor with the same amount of information as to the law of Russia.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Siam.

### No. 214.

*The Queen's Advocate to Earl Granville.*—(*Received January* 30.)

My Lord, *Temple, January* 29, 1872.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 25th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Consul-General in Siam, together with a letter from the Board of Trade, to which Department Mr. Knox's despatch was submitted, respecting the course he had adopted in a case which occurred on board the British vessel "Burlington," where the master of that vessel, a native of Germany, shot two of his crew and seriously maltreated four others; Lord Enfield was pleased to request that I would take these papers into my consideration, and furnish your Lordship with any observations I might have to offer thereupon.

In obedience to your Lordship's commands I have the honour to report—

That it is not clear, in this case whether the affray on board the British vessel "Burlington" took place on the high seas or within Siamese waters, but in either case I am of opinion that the German Consul is not entitled to claim exclusive jurisdiction, as he appears to have done, over the master of the vessel, on the grounds of his being a native of Germany.

The German Consul rests his claim upon a Treaty with Siam, but the comity and practice of nations have established the rule of international law that a vessel within the waters of a foreign country is, for the general purpose of governing and regulating the rights, duties, and obligations of those on board *inter se*, to be regarded as exclusively subject to the jurisdiction of the nation to which she belongs, and that with respect to acts committed on board which do not concern the peace of the port or persons foreign to the crew, the master and crew are justiciable only by the Courts of the country to which she belongs.

I have, &c.
(Signed) TRAVERS TWISS.

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## Spain.

### No. 215.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 4.)

My Lord, *Temple, January* 3, 1872.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us a correspondence which had passed between the Acting British Consul at Fernando Po and the Foreign Office and the Board of Trade relative to the trial by a Court of Equity at Brass of Captain Richards for the alleged murder of a Krooman, and to the validity of the proceedings in virtue of which Richards was acquitted.*

That we would perceive that the Board of Trade had stated their opinion that the case should be tried again, and that the Secretary of State for the Colonies had stated that, as far as he could judge of the facts from the statements before him, the case was not one which could be brought before a Colonial Court, unless the alleged crime was committed on the high seas and the accused brought to trial in a British Settlement; and that he (Lord Tenterden) was to request that we would take the papers into our consideration, and favour your Lordship with a Report on the points thus raised in the letter from the Board of Trade and the Colonial Office.

In obedience to your Lordship's commands we have taken the papers into consideration and have the honour to report—

That, assuming that the Bonny River is within the jurisdiction of the Queen under the Foreign Jurisdiction Acts, and that the proper Order in Council has been issued appointing a Court within Her Majesty's possessions for the trial of criminal offences, we think Captain Richards should be sent for trial before such Court. We are of opinion that he should be charged with manslaughter, which crime includes assault in this country, but it may be better that Captain Richards should be separately charged with the offence of an assault with various intents.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 216.

*The Queen's Advocate to Earl Granville.*—(*Received January* 8.)

My Lord, *Temple, January* 6, 1872.

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 30th ultimo, stating that he was directed to transmit to me a despatch, and its inclosures, from Her Majesty's Minister at Madrid, relative to the levy by the Spanish authorities of a fine on the British ship "Grange." That it appears that this fine was demanded in consequence of the captain of the ship not having exhibited his manifest at Marin, although the Civil Governor at Pontevidia had stated that it was not necessary that he should visit that port, and further that it will be seen that it is sought to recover the fine from the Vice-Consul at Marin; and to request that I would take these papers into consideration, and report to your Lordship my opinion as to what steps should be taken in this case.

In obedience to your Lordship's commands I have the honour to report—

That the documents forwarded to the Spanish Minister of State by Her Majesty's Minister at Madrid, in his letter of the 9th December, 1871, ought, in my opinion, to satisfy the former that the Spanish Minister of Finance has been misinformed as to the facts of this case, and that the Executive Government ought to remit the fines inflicted, more particularly that which has been imposed upon Her Majesty's Vice-Consul, if it is competent for the Executive Government to do so.

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* Mr. Hopkins, No. 17; Board of Trade, November 15; Colonial Office, December 12.

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The Marquis de St. Rafael seems to intimate that the proper course is for Her Majesty's Vice-Consul to appeal "in the way and form which the laws prescribe." But this remark of his Excellency was founded on a view of the case at variance with the true facts, and his Excellency, after the representation made to him in Mr. Layard's last letter, may hold different language.

If, however, he should still declare that the Executive Government is incompetent to remit the fines, Her Majesty's Vice-Consul should, in my opinion, adopt "the way and form of appeal which the Spanish laws prescribe," and if proper equity is not done to him there will be grounds for serious remonstrance.

As regards the question of principle, it should at present, in my opinion, be reserved until fuller information is forthcoming as to the grounds upon which the Spanish authorities maintain, if they should continue to do so, that Her Majesty's Vice-Consul on this occasion was legally to be regarded as agent for the ship.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 217.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 9.)

My Lord,
*Temple, January* 9, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 8th January instant, stating that, with reference to our Reports of the 24th ultimo respecting the two vessels at Liverpool which were under suspicion of being about to be dispatched contrary to the provisions of the Foreign Enlistment Act, he was directed by your Lordship to transmit to us the accompanying letter from the Collector of Customs at Liverpool, reporting the steps he had taken with regard to those vessels, and to request that we would take the same into our consideration, and favour your Lordship, at our earliest convenience, with our opinion thereupon.

Lord Enfield was pleased also to say that the previous papers relating to this matter were also sent therewith, for convenience of reference if required, and to add that since the signature of that despatch a further letter from the Treasury on the same subject had been received, and was therewith annexed.

In obedience to your Lordship's commands we have the honour to report—

That we do not think there is sufficient ground, at present, for issuing a warrant under the 23rd section of the Foreign Enlistment Act, 1870. The account, however, which has been transmitted by telegram gives occasion to suspicion by reason of the rumour as to their intended employment being in connection with Cuba.

We do not, however, see any legal grounds for prohibiting the registered owners from removing the vessels to the graving decks, for no offence against the Statute will be committed as regards these vessels until some steps are taken to equip them for the purpose of their being dispatched contrary to the Act, but we think the vessels should be carefully watched while in the graving dock, and the character of any repairs or alterations promptly reported from time to time to your Lordship.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 218.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 13.)

My Lord,
*Temple, January* 13, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that, with reference to our previous Reports respecting the case of the suspected vessels "Great Northern" and "Midland" at Liverpool, he was directed to transmit to us, for our immmediate consideration, the accompanying letter from the Treasury, containing further particulars respecting those vessels; and he was to request that we would report to your Lordship, at our earliest convenience, as to any or what steps should be taken under the circumstances set forth in the inclosed papers.

In obedience to your Lordship's commands we have the honour to report—

That there is nothing in the present papers to induce us to alter or modify the Report which we last had the honour to address to your Lordship. The officer should be directed to watch carefully the character of the repairs, and to report from time to time, as upon the character of the repairs the course to be taken as to the vessels hereafter may very materially depend. The length of the proposed trial trip is perhaps suspicious, and we think it might be well to inform the owner that a trial trip will not be interfered with provided that during such trip they are allowed to remain in the control of the Customs, by the presence on board of a certain number of custom-house officers.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 219.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 17.)

My Lord,
*Temple, January* , 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that, with reference to our Report of the 29th ultimo relative to the suspected vessel "Scud," he was directed by your Lordship to transmit to us the accompanying two letters from the Board of Treasury, containing the result of further inquiries which had been made with regard to that ship; and that he was to request we would report to your Lordship, at our earliest convenience, our opinion as to any steps that could be taken under the circumstances as stated in the inclosed papers.

In obedience to your Lordship's commands we have taken the matter into consideration and have the honour to report—

That the information before your Lordship does not, in our opinion, furnish sufficient grounds to warrant Her Majesty's Government in detaining the steam-vessel "Scud" as about to be dispatched contrary to the provisions of the Foreign Enlistment Act 1871.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 220.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 20.)

My Lord,
*Temple, January* 20, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that, with reference to our Report of the 13th instant, and to our previous Reports upon the subject of the vessels "Great Northern" and "Midland," now in the Mersey, which were suspected of being intended for purposes hostile to Spain, he was directed by your Lordship to transmit to us the accompanying letter from the Treasury, inclosing further correspondence relating to the vessels in question; and that he was to request us to take the papers into our immediate consideration, and favour your Lordship with our opinion, at our earliest convenience, as to the steps which should be taken in regard to the said vessels.

In obedience to your Lordship's commands we have taken the papers into consideration and have the honour to report—

That the offer made by Mr. Ross in his letter of the 18th January appears to us to be a reasonable one, and that it will be proper to accept it, and to allow the vessels to be moved from the dock on the production by him of reasonable evidence as to their proposed employment.

With regard to the proposed trial trip, assuming that all reasonable grounds for suspicion have not ceased to exist, when the trip is to be made we think the vessels ought only to be allowed to make it in the custody of Her Majesty's Government.

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This custody may properly be a body of marines or of the coastguard, as suggested in the letter of Mr. Hale of the 17th January. The consequences of a mistake being made in detaining these vessels for a time without sufficient grounds are not to be compared with those which might follow from the vessels being allowed to escape if a breach of the Foreign Enlistment Act is really contemplated by their owners.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 221.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 22.)

*Temple, January* 22, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us a further letter from the Treasury respecting the suspected vessels "Great Northern" and "Midland" at Liverpool; and that he was to request our opinion, at our earliest convenience, as to the course now to be pursued.

Mr. Hammond added that a communication had been sent to the Board of Admiralty respecting the placing of a guard on board these vessels on their trial trip, as recommended in our Report.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Hale may, in our opinion, properly inform Messrs. Duncan, Hill, and Parkinson, in reply to their letter of the 17th instant, that there are no objections, on the part of Her Majesty's Government, to Mr. Ross' dealing freely with the two vessels arising out of their antecedents affecting in any way the title to be received by him from Mr. Jones, and that he may also inform them, as soon as Mr. Ross has become the registered owner of the two vessels, Mr. Hale will be happy to receive from him any information which he may be disposed to afford him respecting their intended use and destination.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 222.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 24.)

*Temple, January* 24, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 23rd instant, stating that, with reference to our Report of the 22nd instant, relative to the detention of the vessels "Great Northern" and "Midland" at Liverpool, he (Viscount Enfield) was directed by your Lordship to transmit to us an accompanying further letter, and its inclosures, from the Treasury respecting this case, and to request that we would take the same into our consideration, and favour your Lordship, at our earliest convenience, with our opinion thereupon.

And that he (Viscount Enfield) was to add that a letter in the sense of our Report of the 22nd instant had been addressed at once to the Board of Treasury, but sufficient time had not elapsed to allow of the result of the communication which we advised should be made by Mr. Hale to Messrs. Duncan, Hill, and Parkinson, being made known to your Lordship.

In obedience to your Lordship's commands we have taken the letter, together with its inclosures, into our consideration and have the honour to report—

That Mr. Hale may be authorized to inform Messrs. Duncan, Hill, and Parkinson that upon satisfactory evidence being produced on the part of the present registered owner of the two vessels that they are not intended to be employed contrary to the provisions of the Foreign Enlistment Act they will be released from further control on the part of the Custom-house authorities. We suggest that, meanwhile, inquiry should be made in the manner which your Lordship may think most fit, whether the Spanish Minister has in fact received from the Spanish Consul at Liverpool a satisfactory report as "to the legitimate nature of the trade in which it is intended to place the vessels," as stated by Messrs. Duncan, Hill, and Parkinson, in their letter of the 20th January, 1872.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No 223.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 25.)

*Temple, January* 25, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 24th instant, stating that, with reference to his letter of the 23rd instant, he was directed by your Lordship to transmit to us a further letter from the Treasury relative to the vessels "Great Northern" and "Midland;" and to request that we would take the same into our consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we think Mr. Ross may properly be informed that upon production of satisfactory evidence of the vessels being intended to be used for lawful traffic only they will be released.

That the names of the informants cannot be supplied, and that if he declines to furnish such evidence they will not be released until further inquiry has been made respecting them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 224.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 26.)

*Temple, January* 26, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 25th January instant, stating that, with reference to previous correspondence on the subject of the detention of the suspected vessels "Great Northern" and "Midland," he was directed by your Lordship to transmit to us a further letter from the Board of Treasury, inclosing a copy of a letter from the Board of Customs respecting the request of Messrs. Gregory, Rowcliffe, and Co. (who are acting on behalf of Mr. Ross) to be informed whether any warrant has been issued by the Secretary of State, in accordance with the provisions of the Foreign Enlistment Act, for the seizure of the vessels in question; and to request that we would cause your Lordship to be informed, at our earliest convenience, what answer should be returned to Messrs. Gregory and Rowcliffe.

We are also favoured with a note from Lord Enfield, dated the 25th January instant, stating that, with reference to his letter of that day's date, relative to the vessels "Great Northern" and "Midland," he had the honour to transmit to us therewith, in order that it might be considered in conjunction with the papers before us, a letter from the Spanish Minister at this Court, giving the substance of the Spanish Consul's action in regard to those vessels.

In obedience to your Lordship's commands we have the honour to report—

That the statement of the Spanish Minister that Mr. Ross' name does not yet appear in the Custom-house Register as the transferee of the two vessels is of importance as regards his title, as registered owner, to claim the free disposal of them. As soon as he has complied fully with the provisions of the Statute as regards the registration of the vessels, and upon his giving a satisfactory explanation of the intended employment of them, no further impediment should, in our opinion, be placed by the Custom-house authorities at Liverpool in the way of his moving them.

As regards the application of Messrs. Gregory, Rowcliffe, and Co., on behalf of

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Mr. Ross, they may be properly informed that the Secretary of State has not issued at present any warrant to seize the vessels under the Foreign Enlistment Act.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 225.

*The Law Officers of the Crown to Earl Granville.—(Received January* 27.)

My Lord, *Temple, January* 27, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 27th instant, stating that, with reference to our previous Reports on the case of the vessels "Great Northern" and "Midland," he was directed by your Lordship to transmit to us the accompanying communication which had been addressed to your Lordship by Messrs. Gregory, Rowcliffe, and Co., informing your Lordship of their intention to apply on behalf of Mr. Ross to the Court of Queen's Bench for a writ of mandamus to compel the release of those vessels, or the issue of a warrant for their detention under the provisions of the Foreign Enlistment Act; and that he (Viscount Enfield) was to request that we would favour your Lordship, at our earliest convenience, with our opinion as to the steps which should now be taken in the matter.

In obedience to your Lordship's commands we have taken the said communication into consideration and have the honour to report—

That Messrs. Gregory, Rowcliffe, and Co. should be informed that your Lordship is not disposed at present to issue any warrant for the detention of the vessels "Great Northern" and "Midland" under the provisions of the Foreign Enlistment Act, 1870.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 226.

*The Law Officers of the Crown to Earl Granville.—(Received January* 27.)

My Lord, *Temple, January* 27, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of this day's date, stating that he was directed by your Lordship to transmit to us a letter just then received from Her Majesty's Customs, inclosing one from Messrs. Rowcliffe and Co., relative to the vessels "Great Northern" and "Midland," with the request that it might receive our earliest attention, in conjunction with the papers already before us.

Viscount Enfield also inclosed a further letter from the Board of Treasury.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the offer of Messrs. Gregory, Rowcliffe, and Co., that Mr. Ross should attend with documents to give the necessary explanations, should be accepted. We suggest that your Lordship should give notice of this meeting to the Spanish Minister, in order that if he thinks fit he may send some one to attend it on his behalf.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 227.

*The Queen's Advocate to Earl Granville.—(Received January* 29.)

My Lord, *Temple, January* 27, 1872.

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th instant, stating that he was directed to transmit to me a despatch, and its inclosures, from Her Majesty's Consul at Manila, relative to the circumstances under which the British vessel "Anne Lucy" was detained at the Philippine Islands, and the carpenter of that vessel imprisoned and fined, and a claim preferred in consequence against the Spanish Government by Messrs. Loney and Co., of Iloilo.

That I should perceive that this case involves also the question of the rights or privileges of British Consular officers in Spanish Colonies. A previous despatch from Mr. Consul Ricketts on this subject, the Consular Convention between Spain and Germany therein referred to, and three memoranda connected with this question, were also inclosed; and Lord Tenterden was pleased to request that I would take these papers into my consideration, and report to your Lordship my opinion on the points raised in Mr. Ricketts' despatch now referred to me, and as to the course which it would be proper for Her Majesty's Government to pursue in the matter.

I am also honoured with Lord Tenterden's letter of the 20th instant, transmitting to me a further despatch from Her Majesty's Consul at Manila, with its inclosures, relative to a complaint made by the master of the "Banda" against the Customs authorities of Manila.

That this case, though not actually connected with that of the treatment of the carpenter of the "Anne Lucy," bears upon the arbitrary proceedings of the Manila authorities; and Lord Tenterden was therefore pleased to request that I would take it into my consideration at the same time as the papers sent in the previous letters, and furnish your Lordship with my opinion on the whole matter.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Government is, in my opinion, precluded by the construction which the Earl of Aberdeen placed on the ancient Treaties with Spain in 1845, from maintaining in the present day that they are directly applicable to the Colonies of the two Contracting Parties. I am also of opinion that no solid distinction can be made, as has been suggested, between persons and produce, so as to limit Lord Aberdeen's construction of the Treaties to what regards produce only. It does not, however, follow that because the Colonies of the two Contracting Parties are not within the immediate scope of the ancient Treaties, that Spain is under no obligation towards Great Britain, as an ally and friend of Spain, to treat British subjects who may trade with the Colonies of Spain in the same manner as they are treated in the European dominions of Spain under those Treaties. The law of Spain, as I gather from "the memoranda relative to the application of the old Treaties with Spain to the Spanish Colonies," is to the effect that "the merchant-vessels of foreign Powers, who are allies and friends of Spain, shall be admitted to traffic in the Spanish Colonies in the same manner as in the Spanish dominions in Europe." Although, then, there may be no direct Treaty engagement between the two Powers to that effect, the comity of nations will entitle Great Britain to claim for her subjects trading in the Spanish Colonies similar treatment in virtue of Spanish law to that to which they are confessedly entitled by Treaty in the Spanish dominions in Europe.

Again, with regard to the functions of Her Majesty's Consular officers resident in the Spanish Colonies, to whom I presume it is customary for the Spanish Government to grant its exequatur, Her Majesty's Government may, in my opinion, in virtue of that exequatur, claim for them the privilege of exercising all the functions which Consuls are accustomed to exercise under the comity of nations.

With regard to the immediate matters of complaint against the authorities of Iloilo, Mr. Layard may, in my opinion, properly bring them to the attention of the Spanish Government, particularly as regards the levying of the fines, the repayment of which he may be instructed to claim, as a matter of justice.

As to what regards the imprisonment of the carpenter and two seamen of the "Anne Lucy," much will depend upon the fact whether or not the charges brought against them were found by the Admiral to be frivolous. Mr. Consul Ricketts expresses his belief to that effect, but it may be doubtful, under the circumstances, whether any evidence can be procured in support of his belief, and without such evidence the Spanish Government would probably decline to institute any inquiry into the merits of the case. The point, however, in the case to which Mr. Layard very properly calls the attention of the Spanish Govern-

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ment is the length of time during which the men were imprisoned before they were tried, and the losses incurred by the owners of the "Anne Lucy" in consequence of their vessel being necessarily detained at Iloilo until the men were liberated.

I may add that the case of the "Banda" is also a proper subject for representation to the Spanish Government.

I have, &c.
(Signed) TRAVERS TWISS.

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### No. 228.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 30.)

*Temple, January* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of this day's date, stating that, with reference to our Reports of the 27th instant with regard to the case of the vessels "Great Northern" and "Midland," he was directed by your Lordship to transmit to us the accompanying further letter from Messrs. Gregory and Rowcliffe, requesting that, in consequence of its not being the intention of the Secretary of State to issue at present a warrant for the detention of these vessels, an order for their release might at once be granted.

That he was further to add that Mr. Rowcliffe, accompanied by Mr. Ross, the owner of the ships, attended personally to deliver that letter, and that Viscount Enfield informed them, in accordance with our opinion, which had been communicated to the Board of Treasury, but had not reached them, that your Lordship was prepared to accept the offer of Messrs. Gregory and Rowcliffe, and that Mr. Ross should attend with documents to give the necessary explanations.

That Mr. Ross and his solicitor at once accepted the proposal, and, pending a written notice from them to that effect, he (Viscount Enfield) was to request that we would favour your Lordship with our opinion as to any answer that should be returned to Messrs. Rowcliffe's letter, and as to the arrangements which should be made for the interview with Mr. Ross and his solicitors, at which, it was presumed, it would be necessary for one or more of Her Majesty's Law Officers to be present.

We are also just in receipt of further letter received from the Board of Treasury in reference to this matter sent us by Lord Enfield.

In obedience to your Lordship's commands we have the honour to report—

That we recommend your Lordship to answer Messrs. Gregory and Rowcliffe's letter.

That your Lordship is inquiring into the circumstances of the case, and cannot, therefore, until after the result of that inquiry, to which Mr. Ross and Messrs. Gregory and Rowcliffe have already agreed, either release the ships or issue the warrant; and that your Lordship will decide at once upon the course you will pursue on the conclusion of that inquiry.

It seems to us that it is only reasonable that the Board of Customs should indemnify the Mersey Dock and Harbour Board as they request.

With regard to the necessary explanations at the proposed interview, it would be advisable, in our opinion, that they should be given in writing, with copies of any original documents which Mr. Ross may desire to submit to your Lordship.

It is for your Lordship to decide whether the Law Officers should be present.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 229.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 1.)

*Temple, January* 31, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 30th instant, stating that, with reference to the previous correspondence respecting

the suspected vessels "Great Northern" and "Midland," he was directed to send therewith the inclosed letter from Messrs. Gregory, Rowcliffe, and Co., forwarding the statement of Mr. Ross, accompanied by extracts from his correspondence bearing upon the character and destination of the vessels in question, and to request that we would take these papers into our consideration, and furnish your Lordship with our opinion at our earliest convenience thereupon.

In obedience to your Lordship's commands we have the honour to report—

That upon Mr. Ross verifying his statements, and upon production of the original letters and press copies, as proposed, the Custom-house authorities at Liverpool may properly be instructed, provided that Mr. Ross has complied with all the requirements of the law as to the registration of the two vessels, to place no further impediment in the way of their being moved from the Birkenhead Dock to any dry dock which Mr. Ross may select for their completion for sea.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 230.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 3.)

*Temple, February* 3, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence with the Board of Treasury relative to a suspected vessel at Liverpool named the "Princess Royal;" and that he was to request that we would take the same into our consideration, and favour your Lordship, at our earliest convenience, with our opinion as to whether any, and if so what, steps should be taken with regard to the vessel in question.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may properly request the Lords Commissioners of Her Majesty's Treasury to take such measures as they may think most fit to ascertain whether there is another vessel called the "Titania" in one of the southern ports of England which is for sale and intended, as alleged, for the Republicans in Cuba. That, meanwhile, the Custom-house authorities at Liverpool should be instructed to observe the "Princess Royal," but not to detain her without previous communication with Her Majesty's Treasury, and to report forthwith if any cause of suspicion of *mala fides* arises.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 231.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 4.)

*Temple, February* 4, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 3rd instant, stating that, with reference to our Report of the 31st ultimo relative to the vessels "Great Northern" and "Midland," he was directed to transmit to us the accompanying two further letters from Messrs. Gregory and Rowcliffe respecting this case; and to request that we would take the same into our consideration, and furnish your Lordship, at our earliest convenience, with our opinion as to the steps which should now be taken.

The correspondence which has taken place since the interview which Her Majesty's Advocate-General had with Mr. Ross and his solicitor at the Foreign Office on the 1st instant, was also inclosed; and Lord Enfield was pleased to add that the statutory

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declaration made by Mr. Ross is with the Board of Customs, and cannot therefore be sent.

In obedience to your Lordship's commands we have the honour to report—

That the Collector of Customs at Liverpool may properly be instructed to allow the vessels to go into any dock at Liverpool which is desired by Mr. Ross. But we think the vessels should be watched, and that any contemplated change of ownership or in the construction of the vessels should be immediately reported.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 232.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 7.)

*Temple, February* 6, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 5th instant, stating that, with reference to our Report of the 4th instant, respecting the course to be pursued with regard to the vessels "Great Northern" and "Midland," he was directed by your Lordship to transmit to us the accompanying correspondence (marked in margin), upon the same subject;* and he was to request that we would favour your Lordship with our opinion thereupon, at our early convenience.

We are also in receipt of two further letters in this matter from Mr. Hammond sent us this day, the one stating that he was directed by your Lordship to transmit two further letters on the same subject, requesting that they might be considered in conjunction with the papers now before us; the other stating that, with reference to his letters of yesterday and to-day, he was directed by your Lordship to transmit to us a further letter from Messrs. Gregory and Rowcliffe, in which those gentlemen demanded, on behalf of Mr. Ross, the absolute and unconditional release of the above-named vessels from further control on the part of the Custom-house authorities; and he (Mr. Hammond) was to request that we would take that letter into immediate consideration, together with the other papers, and favour your Lordship with our opinion, at our earliest convenience, as to the answer which should be returned to Messrs. Gregory and Co.

In obedience to your Lordship's commands we have the honour to report—

That upon the information now communicated to your Lordship through the Spanish Minister, we think the Customs authorities may properly be instructed to interfere no farther with the vessels, and that Messrs. Gregory may be informed that such orders have been sent to them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 233.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 9.)

*Temple, February* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, with reference to our Report of the 7th instant and to previous Reports, relative to the suspected vessels "Great Northern" and "Midland," he was directed to transmit to us the accompanying letter from Messrs. Gregory and Rowcliffe, inclosing a notice of Mr. Ross' intention to apply to the High Court of

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* Law Officers, February 4, 1870; to Treasury, February 4; Messrs. Rowcliffe, February 5; to Messrs. Rowcliffe, February 5; Treasury, February 5, 1872.

Admiralty, on the 13th instant, for damages and costs on account of the proceedings of the Customs authorities at Liverpool in regard to those vessels. Mr. Hammond was pleased to request that we would furnish your Lordship, at our earliest convenience, with our opinion as to the steps which should be taken in this matter.

In obedience to your Lordship's commands we have the honour to report—

That the Queen's Proctor should be instructed to oppose the application. It is advisable, in our opinion, that the opinion of the highest Tribunal should be obtained as the circumstances, if any, under which Her Majesty's Government would be liable to damages for detaining a vessel under 21st section of the Foreign Enlistment Act, 1870.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 234.

*The Queen's Advocate to Earl Granville.*—(*Received February* 16.)

*Temple, February* 16, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 15th instant, stating that he was directed to transmit to me the accompanying translation of a letter from the Spanish Minister at this Court upon the subject of an action which has been brought against the Spanish Consul at Liverpool, for a libel alleged to be contained in a letter published by him in a newspaper of that town; and to request that I would take this letter into my consideration, and furnish your Lordship, at my earliest convenience, with my opinion as to the answer which should be returned to Señor Rances.

In obedience to your Lordship's commands I have the honour to report—

That the Spanish Minister should be informed that the official character of the Spanish Consul will not protect him against an action for libel under the circumstances mentioned in the Spanish Minister's letter to your Lordship of the 9th February last, but the circumstances mentioned may prove to be a good defence to the action.

It is not competent for the Spanish Minister to reclaim by way of diplomacy against the proceedings instituted against the Spanish Consul, which are in the nature of a civil action, and not of a criminal prosecution.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 235.

*The Queen's Advocate to Earl Granville.*—(*Received February* 17.)

*Temple, February* 16, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that, with reference to my Report of the 21st December, he was directed to transmit to me a despatch from Her Majesty's Minister at Madrid, inclosing a translation of the evidence of the pilot who had charge of the "Tyne Queen" at the time when she was ordered away from Huelva by the Spanish Health Authorities notwithstanding that she had not arrived from an infected port; and Lord Tenterden was pleased to request that I would take these papers into my consideration, together with the previous correspondence in the case, which was also inclosed, and furnish your Lordship with my opinion as to whether your Lordship would now be justified in instructing Mr. Layard to make a representation to the Spanish Government in favour of the owners of the "Tyne Queen," in the terms recommended in my Report of the 8th September.

In obedience to your Lordship's commands I have the honour to report—

That your Lordship will, in my opinion, now be justified in instructing Mr. Layard to make a representation to the Spanish Government in favour of the owners of the "Tyne Queen," in the terms recommended in my Report of the 8th September, 1871.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 236.

*The Queen's Proctor to Lord Tenterden.—(Received February* 29.)

My Lord, *Doctors' Commons, February* 29, 1872.

I HAVE the honour to transmit a draft of an affidavit which the Law Officers propose should be made by one of the Under-Secretaries for Foreign Affairs in answer to the application recently made to the High Court of Admiralty for indemnity in respect of the detention of the "Great Northern" and the "Midland."

It is proposed to contend that, on the true construction of the Foreign Enlistment Act, a local authority at one of our ports is justified in detaining a ship until the necessary inquiries respecting her can be made, upon the bare representation by the Minister of a Foreign Court, and without further evidence, that there is reasonable and probable ground for believing that she is intended to be commissioned, fitted out, or dispatched contrary to the Act, and that a reasonable time must be allowed for inquiry, without any necessity for a warrant by the Secretary of State.

It is also considered that, as it may prove inexpedient in most cases, on grounds of public policy, to disclose the information on which the detention takes place, it is desirable to raise the question already referred to, without setting out the correspondence which has passed between the Spanish Minister and the Government, the privilege of withholding such information in the course of such proceedings (which would be acknowledged by the Court) being claimed by the Secretary of State on grounds of public policy.

This case presents a favourable opportunity for raising the question noticed, and if the Court should decide against the construction of the Foreign Enlistment Act for which it is proposed to contend, the Law Officers are of opinion that an amendment of the Act would be requisite.

I have, &c.
(Signed) T. H. DYKE.

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## No. 237.

*The Queen's Advocate to Earl Granville.—(Received March* 2.)

My Lord, *Temple, March* 2, 1872.

I AM honoured with your Lordship's commands signified in Lord Enfield's letter of the 20th ultimo, stating that he was directed to transmit to me the accompanying correspondence relative to the murder on the 2nd July last at San Juan del Puerto, near Huelva, in Spain, of Mr. James Frederick Robert, a British subject, in the employ of the Buiton and Huelva Railway Company.

That I should learn from these papers the efforts that have been made by Her Majesty's Government to obtain the apprehension and punishment of the murderers of Mr. Robert, and the ill-success which has hitherto attended those efforts; and Lord Enfield was pleased to request that I would furnish your Lordship with my opinion as to what further steps Her Majesty's Government can take in the matter.

In obedience to your Lordship's commands I have the honour to report—

That I am not aware of any further steps which Her Majesty's Government can take in this matter except to urge the Spanish Government not to allow so atrocious a crime to remain unpunished.

I have, &c.
(Signed) TRAVERS TWISS.

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# Spain.

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### No. 238*.

*The Law Officers of the Crown to Earl Granville.*—(*Received April* 13.)

*Temple, April* 12, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us the papers noted in the margin,* relative to the circumstances under which a fine was levied in the month of December last by the Spanish Customs Authorities at Corunna, upon the British steamer "Erl King," on account of an alleged omission in her manifest; and he (Viscount Enfield) was to request that we would take these papers into consideration, and favour your Lordship with our opinion as to the legality of the course pursued by the Spanish authorities in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That the law which has been enforced in this case appears to us to be contrary to the comity of nations. No ship coming into a port from stress of weather or the accidental falling short of supplies necessary to continue her voyage, and not for the purpose of trade, ought to be subject to the fiscal regulations of such port. In this case it appears, moreover, that the master was ignorant of these regulations, and was not allowed to communicate with the British Consul, who might have informed him of them. It seems to us to be a case of great injustice, which your Lordship may properly make the subject of diplomatic representations, and urge the return of the fine.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.

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* Mr. Layard, No. 177; to Mr. Layard, No. 1; Mr. Steele, January 16; Mr. Layard, No 53.

### No. 238.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received March* 26.)

*Temple, March* 26, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd day of March instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office (March 16, 1872), and its inclosures, reporting the circumstances attending the arrest and imprisonment, by the Spanish authorities at Crab Island and Porto Rico, of a number of British subjects natives of the Virgin Islands, on a charge of murder of which they were innocent; and to request that we would take the case into our consideration, and favour your Lordship with our opinion as to the steps which Her Majesty's Government should take in the matter.

In obedience to your Lordship's commands we have the honour to report—

That this case appears to us to be one calling for decided action on the part of Her Majesty's Government. The despatch of the Spanish Governor Font shows that Her Majesty's subjects were pursuing the trade of charcoal burning, not merely with the knowledge and by the permission of the Spanish Governor, but at his direct and special invitation. It is an admitted fact that of the crime or any complicity with the crime laid to their charge Her Majesty's subjects were absolutely innocent. It is stated, on evidence which seems to us, as far as we can judge, to be reasonable and credible, that the real murderer was allowed to escape from the scene of the murder by the grossest neglect, and that these innocent persons were treated with great harshness, with unnecessary cruelty, and that their property was plundered and destroyed by the Spanish soldiers, with at least the passive acquiescence of the Spanish authorities, the Governor, who had invited them to Culebra, and then arrested them and ill-treated them with no reasonable ground for his conduct, refusing, as we understand, even to hear their complaints when released or to assist them in any way to recover their plundered property. Under these circumstances, we cannot hesitate to advise your Lordship that you will be well warranted in asking for redress and compensation to be made to these men by the Spanish Government for injuries sustained by them unprovoked and unjustifiable.

We venture to suggest further that the 17th paragraph of the despatch of the 25th January, 1872, from President Mori to Sir B. Pine, may well lead your Lordship, if you think fit, to inquire whether the letters there spoken of as addressed by these men to the Consul at St. John's ever reached him, and if they did why no attention was paid to them; and further, why Acting Consul Cowper, who was, we presume, at Porto Rico when forty-one English subjects were imprisoned there on the 9th November, took no steps whatever till the 20th of that month, and then only in consequence of being put in motion by a despatch of President Mori.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.

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### No. 239.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 30.)

*Temple, April* 30, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us a letter, with its inclosures, from Mr. A. Holt, respecting the circumstances under which he had incurred a loss of 167*l.* 10*s.* 1*d.*, owing to the imposition of differential duties at Manila on certain goods shipped by Messrs. Ker, Bolton, and Co. to Hong Kong, and there transhipped by Mr. Holt's agent in British and Prussian steamers to the first-named port.

And he (Viscount Enfield) also inclosed a despatch, with its inclosures, on this subject from Her Majesty's Consul at Manila; and was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government could properly take any steps in the matter as regards addressing a representation to the Spanish Government.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That this is a case of hardship, and one to which we think the attention of the

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Spanish Government may properly be drawn, with representation that in fairness the claim should be allowed, though perhaps not matter of strict right. We think, however, that the claim, if refused to be entertained by the Spanish Government, ought not to be insisted upon. In fact, no higher duty was charged on the applicant's goods than had been previously announced, Mr. Holt's real complaint being that a remission of 25 per cent. was made in favour of importers in Spanish bottoms on too short a notice, so that in effect a differential duty was imposed on his goods, as the others could sell 25 per cent. cheaper. Now with regard to remission of duty in favour either of a whole class or a portion of a class, Governments give such notice only as they think reasonable, and no other Government has in strictness a right to interfere.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 240.

*The Attorney- and Solicitor-General to Earl Granville.—(Received May* 15.)

*Temple, May* 15, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us a despatch which your Lordship had received from Her Majesty's Minister at Madrid respecting the property of Miss Elizabeth Perry, an English lady who recently died at Madrid, after residing there for some years. Mr. Layard had taken possession of her property, but was doubtful whether he had any right to do so, as a Diplomatic Agent, or whether an English Consul would have the right to interfere in such a case, under the most-favoured-nation Article in the Treaty with Spain of 1667 (Articles XXXIII and XXXIV, Hertslet, vol. ii, p. 154), which Treaty had been reviewed from time to time, and is still considered in force.

And that your Lordship requested us to take the matter into consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

As it is stated that the will of Miss Perry is valid according to the law of Spain, we are of opinion that Mr. Layard had no right to take possession of her property as a Diplomatic Agent, nor would an English Consul have had any such right. If she had died intestate by Spanish law, then either the Minister at the Spanish Court or a Consul should have proceeded under the XXXIVth Article of the Treaty with Spain (Hertslet, ii, p. 154), and have caused the property to be inventoried, and deposited with two or three merchants. The express provisions in Clauses XXXIII and XXXIV would prevent any claim by the Consul or Diplomatic Agent under the provisions of Clause XXXVIII, even if that clause could be fairly construed to extend to the goods of a deceased person, which we think very doubtful. The intention of the framers of the Treaty evidently was that the executors named in the will should take possession, it being apparently and not unreasonably assumed that a testator would appoint at least one executor resident in the country, but that if there was no will, then that the British Minister or Consul should take care of the intestate's goods.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 241.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May* 25.)

*Temple, May* 24, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, in which he states that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office, inclosing a copy of a despatch from the Governor of Hong Kong, and other documents, relative to a dispute which has arisen between the Supreme Court of that Colony and the Spanish Consul, as to the right of administering the estate of a Chinaman who died on board the

Spanish vessel "Attagracia," on the high seas, while on a voyage from Havana to Hong Kong; and to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to the answer that should be returned to the Colonial Office on the subject to which they relate.

In obedience to your Lordship's commands we have taken Mr. Hammond's letter into our consideration and have the honour to report—

That the law upon the subject of foreign Consuls and their privileges, and especially the claim to administer to the effects of intestates dying under the supposed jurisdiction of the Power of which they are Consuls, is very correctly stated by the Attorney-General of the Colony; and that upon the general subject of Consular rights and privileges, the opinion of Sir J. D. Harding and the despatch of the Duke of Newcastle, which have been sent to us, appear entirely satisfactory. Your Lordship may, therefore, if you think fit, properly express yourself to this effect in any answer you may return to Lord Kimberley.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 242.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May* 30.)

*Temple, May* 27, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating, with reference to our Report of the 13th February, he was directed by your Lordship to transmit to us the accompanying letter from the Treasury, inclosing a further Report from the Customs respecting the "Titania," a vessel which it was stated certain persons had endeavoured to purchase for the use of the Cuban insurgents.

That the former papers relating to that vessel were likewise inclosed; and that he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to whether there was any ground for interfering with her.

In obedience to your Lordship's commands we have the honour to report—

That the fitting of the "Titania" with a number (thirteen) of water-tanks, upon which planks are being laid to form a deck, and the intended shipment of a large quantity of compressed hay, would not, in our opinion, justify the arrest of that vessel.

It will, however, be proper to continue the watch on that vessel, that it may be known whether she takes on board arms or military stores, or a number of men beyond her ordinary crew.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 243.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May* 30.)

*Temple, May* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, upon the subject of the detention by the Spanish authorities at Manzanillo, in Cuba, of the British sloop "Lark," of Jamaica, and th imprisonment for fifteen days of the persons on board her.

That we would see from the despatch of Her Majesty's Minister at Madrid No. 74 of the 14th March, that, in compliance with your Lordship's instructions, he had called the attention of the Spanish Government to the case, and had remonstrated against the harsh treatment of the crew, and the want of attention shown to the representations of Her Majesty's Consul-General at Havana on the subject.

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That your Lordship had not yet, however, instructed Mr. Layard to make any claim upon the Spanish Government for compensation to the sufferers, and he (Mr. Hammond) was to state to us that, before coming to a decision upon that point, your Lordship would be glad to be furnished with our opinion as to the claims put forward, which we would observe already amounted to 16,000*l.*, although four of the persons on board had not yet sent in claims.

In obedience to your Lordship's commands we have the honour to report—

That the seizure of the sloop "Lark" in Spanish waters, where she was without national flag or regular papers, and the taking her into Manzanillo by the Spanish gunboat "Astato," were legitimate acts.

But the imprisonment of the men on board, and the detention of the "Lark" for fifteen days, are, in our opinion, strong grounds for asking compensatiun.

The claim, however, of 16,000*l.*, or more than 1,000*l.* a-day, seems to us excessive, and before instructing Mr. Layard to make any claim on the Spanish Government for a sum as compensation, your Lordship might require full and detailed information to show how so large an amount is made up, and whether any, and what, farther claim will be made on behalf of the other four men on board the "Lark."

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 244.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June 7.)*

*Temple, June* 6, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Admiralty, inclosing a correspondence relating to an affair which took place at Vigo during the visit of the flying squadron to that port, in which three British naval officers were wounded by the Spanish police; and he (Mr. Hammond) was to request that we would favour your Lordship with our opinion as to whether there is any objection to the communication to the Spanish Government of the depositions of the three officers.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That we are of opinion that there is no objection to the communication of the depositions of the three officers to the Spanish Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 245.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June 14.)*

*Temple, June* 14, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relative to the detention at Jamaica and subsequent release of the American steamer "Edgar Stewart," which vessel was suspected of being concerned in landing arms and ammunition in Cuba for the use of the insurgents.

That he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the steps taken in regard to the said vessel by the authorities at Jamaica.

In obedience to your Lordship's commands we have the honour to report—

That, as we have not before us the information which the Earl of Kimberley has requested the Governor of Jamaica to furnish in respect to the seizure and release of the "Edgar Stewart," we are unable at present to give your Lordship any opinion as to the steps taken in regard to that vessel by the authorities at Jamaica.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 246.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June 21.)*

*Temple, June* 20, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us a letter which had been addressed to Mr. Newdigate, M.P. by Mr. William Underhill, setting forth the circumstances under which he had been hitherto unable to obtain from a Spanish Railway Company payment of a sum of money alleged to be due to him under a contract entered into with the Company by his father, now deceased, and himself, in partnership.

And he (Viscount Enfield) was pleased to transmit to us a despatch, with its inclosures, from Her Majesty's Minister at Madrid, dated the 14th February, 1870, wherein he reported the steps which he had at that time taken on Mr. Underhill's behalf, but without success; and that he (Viscount Enfield) was to request that we would take these papers into consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government could properly interfere further in support of Mr. Underhill's claim.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That Mr. Underhill having entered into a contract with a private Company in Spain has, according to his own account, not taken the means open to him by the law of that country to enforce his claim under the contract against the Company.

The answer of Signor Sagasta, inclosed in Mr. Layard's despatch, seems to us to meet the case, and, in our opinion, Her Majesty's Government ought not to interfere diplomatically in support of Mr. Underhill's claim until he has been denied justice by the proper Tribunals in Spain.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 247.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June 29.)*

*Temple, June* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence upon the subject of the alleged misconduct of certain seamen belonging to Her Majesty's ship "Royal Alfred" in the Caves of Bellarmar, near Matanzas, in Cuba; and he was to request us to favour your Lordship with our opinion on the case.

In obedience to your Lordship's commands we have the honour to report—

That we think the state of the caves when examined by Admiral Inglefield is quite consistent with the account which several officers give of the condition of the caves before the seamen were admitted, and inconsistent with the damage described in the Spanish Report.

And the two inquiries which have been made into the conduct of the seamen show, in our opinion, that the seamen who went into the caves were sober and in no way misconducted themselves there.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 248.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 29.)

*Temple, June* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed by your Lordship to state to us that, on the 18th ultimo, your Lordship addressed to Her Majesty's Minister at Madrid an instruction (draft of which was inclosed) in accordance with the opinion expressed in our Report of the 15th ultimo, upon the subject of his proceedings in regard to the property left by the late Miss Elizabeth Perry.

And that he (Mr. Hammond) was now to transmit to us a despatch from Mr. Layard commenting upon that instruction; and he (Mr. Hammond) was to request that we would take the same into consideration, and favour your Lordship with our opinion thereon.

In obedience to your Lordship's commands we have taken the matter into consideration and have the honour to report—

That we adhere to the opinion already given, that where a British subject dies in Spain leaving a will valid according to the law of Spain, no British Diplomatic or Consular Agent in Spain has any right, under the present Treaties, to take possession of the property of the deceased.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 249.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 1.)

*Temple, July* 1, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul-General at Havana, in which he requested instructions for his guidance in the event of an application being made to him to sanction the arrest of any Cuban insurgent who might arrive at that port on board an English mail steamer.

Mr. Hammond inclosed a Report by Sir R. Phillimore upon a similar question which arose at Islay, in Peru, in 1865; and stated that he (Mr. Hammond) was to request us to take these papers into consideration, and favour your Lordship with our opinion as to the instructions that should be addressed to Mr. Dunlop.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Consul-General at Havana be instructed that he has no right to interfere in order to prevent the arrest of any Cuban insurgent who may arrive at that port on board an English mail steamer, provided the arrest be effected whilst the steamer is in Spanish territorial waters, and that if any application should be made to him to sanction such arrest, he should decline to sanction the same.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 250.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 10.)

*Temple, July* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, with reference to our Report of the 14th ultimo upon the subject of the detention and subsequent release by the authorities at Jamaica of the American steamer "Edgar Stewart," suspected of landing arms and ammunition in Cuba for the use of the insurgents, he was directed by your Lordship to transmit to us the

accompanying letter from the Colonial Office, inclosing despatch from the Governor of Jamaica, giving full details as to the action of the authorities in the matter.

That he (Mr. Hammond) was to inclose previous correspondence on the subject, as likewise the correspondence in the "La Have" referred to by Sir Peter Grant; and to request us to take the papers into consideration, and favour your Lordship with our opinion as to whether the proceedings of the Governor in this matter should be approved.

In a memorandum dated the 6th instant, Mr. Hammond was pleased to transmit to us a letter from the Colonial Office, with a farther despatch from the Governor of Jamaica relative to the proceedings of the "Edgar Stewart" after she left that island.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there was no reason which would have justified the detention of the "Edgar Stewart," and that the proceedings of the Governor of Jamaica with regard to that vessel should be approved.

The presumed destruction of the "Edgar Stewart" by a Spanish man-of-war off the coast of Cuba, and the escape to Jamaica of three of the "Edgar Stewart's" crew, and of a fourth man who had been on board that vessel, does not in any way lead us to alter our opinion that she was properly released by the British authorities at Jamaica.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 251.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 10.)

*Temple, July* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that, with reference to his letter of that date (we have not seen a second letter of the 3rd instant) relative to the case of the "Edgar Stewart," he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office, inclosing a farther despatch from the Governor of Jamaica, from which we would see that, in the course of the proceedings with regard to that vessel, doubts had arisen as to the interpretation of certain provisions of the Foreign Enlistment Act 1870, 33 and 34 Vict., cap. 90; and he (Mr. Hammond) was to request us to favour your Lordship with our opinion upon the points referred to in Sir Peter Grant's despatch.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that the word "despatch" in section 4, sub-section 8, of the Foreign Enlistment Act, 33 and 34 Vict., cap. 90, does not apply to the case of a foreign ship which comes voluntarily within Her Majesty's dominions, and leaves without having come under the direction or control of any person not on board, and without having received any equipment of any sort.

A contrary construction of the word "dispatch" would lead to an interference with the commerce of foreign countries contrary to the law of nations and not required by the necessity of the case. The procuring equipment of a peaceful character will not make such foreign vessel liable.

The word "dispatch" must, in respect to foreign vessels, receive a like construction in the other parts of the Act in which it occurs.

With respect, however, to British vessels, we are of opinion that if such vessel leave any part of Her Majesty's dominions with the intent necessary to bring her within the Statute, and although there has been no communication with any one not on board, an offence has been committed against the Act, and the penal consequences will, on conviction, attach.

We are of opinion that "stress of weather," in the last paragraph of section 23, does not include the case of a steam-vessel whose machinery has not been damaged by bad weather coming into port in fine weather for the purpose of repair, when she might have chosen some other port.

The last paragraph of section 23 refers to a foreign non-commissioned ship, which shall have received no equipping of a warlike character in this country, and which has come within Her Majesty's dominions without the intention of receiving or adding to her warlike equipment. If so, the words "peaceful voyage" mean that her reaching and staying in Her Majesty's dominions are unconnected with the intent of adding to her powers of employment in naval service.

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"Equipping of a warlike character" in the last paragraph of section 23 should, in our opinion, be confined to munitions of war strictly so called, and not extended to articles of ambiguous use, as coals, provisions, or tackle.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 252.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 24.)

*Temple, July* 23, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 18th instant, stating that he was directed to transmit to us the accompanying despatch, and its inclosure, from Mr. Consul Ricketts, relative to a complaint preferred by Messrs. Loney against the Spanish Customs authorities at Iloilo, together with a précis of these papers and a memorandum upon them by Mr. Layard.

That the ancient Treaties with Spain referred to by Mr. Layard were to be found in the second volume of Hertslet's Treaties sent therewith; and that he also inclosed three memoranda on the general subject of British rights under those Treaties and their application to Spanish Colonies. And that he was to request that we would take Mr. Consul Ricketts' despatch into consideration, and report to your Lordship our opinion as to the course which it would be proper for Her Majesty's Government to pursue with regard to the matters to which it relates.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the conduct of the Spanish Customs authorities justifies a strong remonstrance on the subject from Her Majesty's Government to the Spanish Government, and a claim for compensation to Mr. Loney.

The remonstrance and claim may be made on the principle that a Government is responsible for the wrongful acts of its officers, and need not be based upon any Treaty rights.

The alleged conduct of Mr. Higgin seems to call for an explanation from him, and for his punishment if the explanation offered be not satisfactory to your Lordship.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 253.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received August* 26.)

*Temple, August* 26, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed by your Lordship to transmit the accompanying translation of a letter from the Spanish Minister at this Court respecting a vessel named the "Steady," which he (the Spanish Minister) had been informed had been purchased by Cuban agents for hostile operations against Spain. That he (Mr. Hammond) was to inclose letter from the Treasury containing Reports from the Customs authorities at Liverpool and Hull respecting the vessel in question; and he (Mr. Hammond) was to request that we would take the papers into consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government should take any, and if so what, steps in regard to the "Steady."

In obedience to your Lordship's commands we have the honour to report—

That there does not appear to us, upon the present state of the information, to be sufficient to warrant your Lordship in seizing or even in detaining the "Steady" for the purpose of inquiry. We advise in this case, subject to the determination of your Lordship, not to allow the question to be broadly raised before the Court whether the *bonâ fide* complaint of the Minister of a friendly Power is or is not, under the present state of the law, "reasonable cause" for the action of the Secretary of State.

Apart from the despatch of the Spanish Minister, there does not appear to be reasonable cause for your Lordship's action, and from what passed upon a former occasion we assume your Lordship to be desirous, under such circumstances, to take the responsibility of inaction.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 254.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 30.)

*Temple, September* 28, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from the Acting British Consul at Fernando Po relative to an outrage committed by a party of natives on a British subject, Mr. Townsend.*

That the outrage appeared to have arisen out of a debt due to Mr. Townsend, as security for which he had taken two of the slaves of the debtors; and that your Lordship would be glad to be favoured with our opinion as to the legality of that transaction, before deciding whether any steps should be taken to obtain reparation for the outrage.

And that he (Mr. Hammond) was to inclose a despatch on the same subject from Consul Livingstone, for whom Mr. Hopkins was acting, which gave a different version of the affair.†

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That the conduct of Mr. Townsend was, in our opinion illegal in any view which may be taken of the circumstances, and grossly so if the account given by Mr. Thormählen be correct.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 255.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 5.)

*Temple, October* 4, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that he was directed to transmit to us the accompanying correspondence respecting recent violations of British maritime jurisdiction by Spanish guardacostas, and also a volume containing the instruction addressed to the Government of Gibraltar by the Duke of Buckingham in 1868, and a volume containing a memorandum drawn up in the Foreign Office upon the subject of the Gibraltar boundaries. And that he was to request that we would take these papers into our consideration, and inform your Lordship how far Her Majesty's Government had a right to prevent Spanish revenue vessels from coming within the territorial waters of Gibraltar, and what steps they would be justified in taking to prevent their capturing vessels within the limits, to enforce the liberation of vessels so captured, or to punish the Spanish guardacostas for the insult offered by the violation of territory.

In obedience to your Lordship's commands we have taken these papers into our consideration and have the honour to report—

That Her Majesty's Government has the right to prevent Spanish revenue vessels from coming within the territorial waters of Gibraltar, and would be justified in taking any measures in preventing the capture of vessels by Spanish revenue vessels within the territorial limits, or enforcing the liberation of vessels so captured.

We are also of opinion that Her Majesty's Government would be exercising only a right in directing the seizure and detention of any Spanish guardacostas and the

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* Captain Hopkins, No. 6, March 31.

† No. 17, July 30.

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imprisonment of their crews in the event of a violation of British territory till the Spanish Government gave some security against the repetition of similar insults.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 256.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 31.)

*Temple, October* 31, 1872.

My Lord,

We are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us an accompanying letter from the Colonial Office, inclosing despatches from the Governor of Hong Kong, relative to a duel fought in the neighbourhood of that Colony, between Don Leon Checa, the Spanish Consul at Hong Kong, and Señor F. Torre Bueno, late Peruvian Consul at Macao, at which duel M. Charles de la Forest, Acting French Consul at Hong Kong, was alleged to have been present as a witness.

And that he (Viscount Enfield) was to request us to take these papers into our consideration, and favour your Lordship with our opinion as to the instructions that should be given to Governor Kennedy in regard to the future official positions of the two Consular officers concerned in the duel.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That we are of opinion that Don Leon Checa, the Spanish Consul at Hong Kong, and M. de la Forest, the Acting French Consul at Hong Kong, ought not to be allowed to continue in their official positions. And that Governor Kennedy may be instructed that the proper steps will be taken to suspend the exequatur and authority in such cases.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 257.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 2.)

*Temple, November* 2, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 22nd ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Madrid, requesting instructions as to whether he should support a claim made on the Spanish Government by M. Manuel Francisco Carrero for compensation for the illegal seizure and detention by a Spanish revenue cruizer of the French falucha "Algérie," the cargo of which vessel he declared to have been his property; and he (Lord Enfield) was to request us to favour your Lordship with our opinion as to the answer that should be returned to Mr. Layard.

In obedience to your Lordship's commands we have the honour to report—

That this is a matter rather for the exercise of your Lordship's discretion than a matter of strict law, that we cannot advise your Lordship to support the claim of M. Carrero, he not being a British subject; and we think he should apply to his own Government to obtain for him such redress as he may be entitled to.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 258.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 9.)

*Temple, November* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 17th ultimo, stating that, with reference to that part of the Queen's Advocate's Report of the 27th January which relates to the imprisonment in the Philippine Islands of seamen belonging to the ship "Anne Lucy," he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at Manila, with its inclosures, from which it appeared that the men in question had been released by the local authorities on a Judgment of the Marine Court.

That the previous papers relating to that case were also transmitted; and he (Viscount Enfield) was to request that we would take that case into our consideration, and favour your Lordship with our opinion as to whether any indemnity could properly be claimed from the Spanish Government on behalf of the imprisoned seamen.

In obedience to your Lordship's commands we have the honour to report—

That it is evident from the opinion of the Marine Court, inclosed in the despatch of the 24th July, 1872, of Mr. Consul Ricketts, the seamen have been unjustly dealt with, that the charges were not proved, and a nominal fine was all the punishment that could have been properly inflicted on the seamen even if guilty of an attempt at smuggling.

That the principal witness against them was intoxicated at the time when he said the offences of smuggling and assault upon himself were committed, and was not considered worthy of credit.

Notwithstanding which the seamen underwent a long imprisonment, and have been ordered to pay costs.

We are therefore of opinion that some indemnity may properly be claimed from the Spanish Government on behalf of the imprisoned seamen.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 259.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 20.)

*Temple, November* 19, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Miss Jane Beecroft, requesting the intercession of Her Majesty's Government to obtain from the Spanish Government the restoration or regrant to herself and her sisters of a property at Fernando Po, which she stated was purchased by her father, with the sanction of the Spanish Government, and after her father's death was reconfirmed to her mother, but had subsequently been declared forfeited on account of the non-fulfilment of certain conditions, of the nature of which she was ignorant.

And that he was to request that we would take the application into consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government could properly take any steps on Miss Beecroft's behalf.

In obedience to your Lordship's commands we have the honour to report—

That the information given by Miss Beecroft is extremely meagre, and we are of opinion that before interceding with the Spanish Government, as Miss Beecroft requests your Lordship to do, she should be asked to state what application, if any, she, or any person in her behalf, has made to the Spanish Government, and with what result.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 260.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 29.)

*Temple, November* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 25th instant, stating he was directed by your Lordship to transmit to us the inclosed letter from Mr. A. F. Forrest complaining of a robbery committed upon him and his two sons on the 3rd instant, between Gerona and Perpignan, by a supposed Carlist band, and requesting the interference of Her Majesty's Government to obtain compensation for the loss and injury he sustained.

And that he was to request that we would take that letter into consideration, and favour your Lordship with our opinion as to the answer which should be returned to Mr. Forrest.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Forrest, whom we presume to be a British subject, may properly be informed that his case will be submitted to the favourable consideration of the Spanish Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 261.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 14.)

*Temple, December* 13, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that, with reference to our letter of the 2nd ultimo, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Madrid, from which it appeared that Mr. Carrera was a British subject.

That under those circumstances, he was to return to us the former papers upon the case of the detention of the "Algérie," and to request us to take them into consideration, and inform your Lordship whether Mr. Carrera's claim was one which Her Majesty's Government could properly support.

In obedience to your Lordship's commands we have the honour to report—

That as Mr. Carrera, the owner of the cargo carried in the French vessel, is a British subject, your Lordship may properly support his claim upon the Spanish Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 262.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 14.)

*Temple, December* 13, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that, with reference to our letter of the 19th ultimo, he was directed by your Lordship to transmit to us a letter which your Lordship had received from Miss Beecroft, giving further particulars respecting her claim on the Spanish Government, together with the papers already referred to us; and he was to request us to take the papers into our consideration, and favour your Lordship with our opinion as to the course which Her Majesty's Government would be justified in taking upon the case.

In obedience to your Lordship's commands we have the honour to report—

That the claims of Miss Beecroft appear, from the correspondence between the Foreign Office and herself in 1861, and Mr. Layard and herself in 1871, to have been so

disposed of by the Spanish Government that your Lordship should not, in our opinion, again urge the claim upon that Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 263.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 18.)

*Temple, December* 17, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that, with reference to our Report of the 12th April last, respecting the fine inflicted by the Spanish customs officers at Corunna upon the British steamer "Erl King," he was directed by your Lordship to transmit to us (with previous papers) the draft of a farther instruction which your Lordship proposed to address to Her Majesty's Minister at Madrid, expressing the views of Her Majesty's Government with regard to the continued refusal of the Spanish Government to remit the fine in question; and he (Lord Tenterden) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to whether any, and what, arguments in addition to those contained in the draft could be advantageously employed on the part of Her Majesty's Government against the decision arrived at by the Spanish Government in that matter.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that no argument in addition to those contained in the draft can, after the previous correspondence, be advantageously employed on the part of Her Majesty's Government against the decision arrived at by the Spanish Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 264.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 19.)

*Temple, December* 19, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that, with reference to our Report of the 29th ultimo on the claim made by Mr. Forrest against the Spanish Government for compensation for losses he had sustained at the hands of Carlist robbers, he (Mr. Hammond) was directed by your Lordship to inform us that, assuming that we only intended to recommend an appeal to the generosity of the Spanish Government, your Lordship had issued instructions in that sense to Her Majesty's Minister at Madrid.

That your Lordship presumed that the Spanish Government could not be held internationally responsible for an act of robbery committed by partizans of insurgents in rebellion against it.

In obedience to your Lordship's commands we have the honour to report—

That the Spanish Government cannot, in our opinion, be made internationally responsible for the robbery committed upon Mr. Forrest whilst travelling in Spain.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Switzerland.

### No. 265.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received May* 18.)

*Temple, May* 17, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 15th May instant, stating that he was directed by your Lordship to transmit to us the inclosed papers, as noted in the margin, respecting the position of the English church in Geneva.*

That the church was built, as we would learn from the papers and from a memorandum which accompanied them, by British subjects, upon a site given by the Council of State of Geneva for that purpose to the residents there professing "le culte Anglican."

That there were at the time of this gift no such residents at Geneva except British subjects.

That Her Majesty's Government returned thanks for the gift as one made to British subjects, and the church was built with British funds.

Lord Enfield further stated that some time last year certain non-British subjects claimed a right to interfere in the affairs of the church as professing "le culte Anglican," and Her Majesty's Minister at Berne was instructed to use his good offices unofficially in the matter, but was, at the same time, told that, as the church was not connected either with his Legation or with Her Majesty's Consulate at Geneva, Her Majesty's Government had no positive right to interfere.

That the Council of State of Geneva had now decided in favour of the non-British residents' claims; and that he, Lord Enfield was therefore to request that we would take the papers into our consideration, and favour your Lordship with our opinion upon the case, and more particularly whether it would be possible, by making the English church at Geneva a Consular church, either with or without the consent of the Council of State of Geneva, as having been built with British subscriptions, and also upon condition that no contribution towards its expenses is to be claimed under the Act 6 Geo. IV, cap. 87, to secure to British subjects alone the right of voting at the general meetings, and of serving in the Committee of Management.

Lord Enfield was pleased to add that, should that course be impracticable, your Lordship would be glad to receive any suggestion we might be able to make for securing the same object.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That we do not think it would be proper, or at all according to precedent, that the British Government should interfere, the status of the church and the rights of British and non-British residents being matters to be settled by Cantonal law.

The Council of State of Geneva having decided in favour of certain rights claimed by non-British residents, the British Government cannot, by any proceeding such as is suggested in the letter of Lord Enfield, hope to divert such rights; and we think that any attempt of the kind would lead in all probability to misconception and dispute. No course, therefore, appears to be open which will be free from objection except absolute non-interference.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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* Mr. Bonar, No. 44; to Mr. Bonar, No. 3; Mr. Bonar, Nos. 13, 14, 15, 16, 17, 18, 20, and 21; Memorandum, February 21; to Mr. Bonar, No. 1; Mr. Bonar, No. 29; to Mr. Bonar, No. 2; Mr. Bonar, No. 2.

### No. 266.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 26.)

My Lord, *Temple, November* 25, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 18th instant, stating that he was to transmit to us therewith a despatch, and its inclosures, which your Lordship had received from Her Majesty's Minister at Berne, inquiring, on behalf of Mr. J. L. Ellenberger, as to the validity of the marriage of his son, Beatus Rodolphus Ellenberger, which was recently celebrated at Her Majesty's Mission at Berne on the strength of the prescribed written declarations, some of which appeared to have been not in accordance with the facts.

That Mr. Bonar pointed out that the formality of an affidavit was abolished, and the applicants for marriage were now only required to subscribe simple declarations, and that no positive rules were laid down by which Her Majesty's Legations were bound to verify the statements so made.

That he (Viscount Enfield) issued at different times to Her Majesty's Diplomatic Representatives abroad, for their guidance, as well as the form of declaration adopted in lieu of the affidavit formerly required; and he (Viscount Enfield) was to request that we would favour your Lordship with our opinion as to the answer which should be returned to Mr. Bonar's despatch, and also as to whether any general instructions in addition to those sent therewith should be addressed on that subject to Her Majesty's Representatives abroad.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Bonar may be informed that the marriage of Mr. Ellenberger is valid within Her Majesty's dominions, notwithstanding the untrue statement as to the age of Mr. Ellenberger.

No general instructions in addition to those in the Circular need be addressed on this subject to Her Majesty's Representatives abroad.

We would, however, submit for your Lordship's consideration whether the law should not be altered by confining its operations to those cases where both parties are British subjects, leaving the case of mixed marriages to the law of the place where the marriage is had, at least in Christian countries.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

## Tunis.

### No. 267.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 24.)

My Lord, *Temple, May* 24, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us the draft of a new Treaty which it was intended to propose to the Bey of Tunis, to be substituted for the provisions of all Treaties now existing, with the exception of one of recent date, the subject of which it would not be desirable to bring afresh into discussion.

That your Lordship requested us to take the draft into consideration, and report to you our opinion whether there was any objection thereto.

And that the draft had been prepared from Articles submitted to your Lordship by Mr. Wood, Her Majesty's Agent and Consul-General at Tunis. That he is well

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acquainted with the requirements of British interests in the Regency of Tunis, and very much must of course be taken on his authority in regard to the details of the Treaty.

In obedience to your Lordship's commands we have the honour to report—

That we think Articles XXIV and XXV should be made more clear and definite. XXIV should provide that, in criminal trials where the accused is a British subject, he should be tried by the British Consular Court. The words "plaintiff" and "defendant" (XXV) properly apply to civil trials only. We have altered Articles XXIV and XXV accordingly. We are not able to ascertain what Article XXVI is intended to mean. Articles XXIV and XXV appear to provide for all cases, but if it is intended that even in mixed cases where defendant or prisoner is a Tunisian, there is to be a right of appeal to the British authorities, this should be clearly stated, and the Article XXVI should be made by way of proviso or exception to the preceding Article. If, however, it is merely intended that British subjects in the provinces may have their suits decided in the first instance by the native Courts, and then, when they are plaintiffs or accusers, appeal, the Article should be made to express this. We have not altered it, but await further instructions. With these exceptions, we see no objections to the draft Treaty.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 268.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 28.)

*Temple, February* 27, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Agent and Consul-General at Tunis, inclosing a copy of his Report to the Judge of the Supreme Consular Court at Constantinople, relative to the acquittal of Vincenzo Chircof, who was tried at Malta for the murder of a Tunisian soldier; and that he (Viscount Enfield) was to request that we would favour your Lordship with our opinion as to whether it would be advisable to take any steps with a view to the alteration of the existing law in the sense suggested by Mr. Wood.

In obedience to your Lordship's commands we have the honour to report—

That there would be, in our opinion, great practical difficulties in the way of altering the existing law in the sense suggested by Mr. Wood, having regard more especially to his proposal that some arrangement might be made with the principal Christian Governments for their subjects to serve as jurymen in places where the number of qualified British subjects should be insufficient. We foresee also considerable difficulty in carrying out the sentence of the Consular Courts in criminal matters elsewhere than within Her Majesty's dominions. We submit to your Lordship whether the jurisdiction at present exercised by the Maltese Courts arising within the Regency of Tunis in criminal matters might not with advantage be transferred by an amended Order of Her Majesty in Council to the Supreme Court of Gibraltar.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 269.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 6.)

*Temple, March* 6, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us a correspondence (marked in margin) which had passed between the Foreign Office, the French Ambassador at Her Majesty's Court, Her Majesty's Ambassador at Paris, and Mr. Wood, Her Majesty's Agent and Consul-General at Tunis, respecting a question raised by the Bey of establishing Mixed Tribunals at Tunis for the purpose of deciding civil and commercial suits between natives and foreigners in that Regency.[*]

And that we would perceive the French Government, whose opinion had been asked on this question, agreed to the principle of the proposed measure; but that he (Mr. Hammond) was to say before your Lordship took any further step in the matter your Lordship would be glad to be favoured, at our earliest convenience, with our opinion upon the question generally, and with any further observations which we might have to offer.

In obedience to your Lordship's commands we have take the correspondence into consideration and the honour to report—

That the principle of the proposed scheme of the Mixed Tribunals may, in our opinion, be properly approved by your Lordship. We would observe that the important question, what is the Code of law to be administered by those Tribunals until a special Code has been agreed upon, remains undetermined, and that, if a special Code is to be framed, it would be expedient that provision should be made for a body of Commissioners to prepare it.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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## No. 270.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received May* 8.)

*Temple, May* 7, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 30th April last, stating that your Lordship having referred to Sir P. Francis and to Her Majesty's Agent and Consul-General at Tunis, the suggestion made in our letter of the 27th February last, respecting the transfer to Gibraltar of the jurisdiction of the Maltese Courts over criminal cases arising within the Regency of Tunis, he was directed by your Lordship to transmit to us the answers received from those gentlemen, together with the former correspondence, as noted in the margin;[†] and to request that we would take them into our consideration, and favour your Lordship with our opinion as to whether the serious practical difficulties pointed out by Mr. Wood are of such a nature as to prevent the proposed transfer of jurisdiction to Gibraltar, and whether in such case we could suggest any plan by which the failure of justice complained of could be avoided in the future.

In obedience to your Lordship's commands we taken the papers into our consideration and have the honour to report—

That the difficulties raised by Consul Wood appear to us to be matters purely for your Lordship to consider. Assuming that all the persons concerned in a trial as witnesses must go through Malta to Gibraltar, it is a mere matter of expense which we should have supposed Her Majesty's Government must have the means, by arrangement amongst the Departments, of considerably reducing.

The other difficulty, as to the reluctance of witnesses (who it seems do now go to Malta) to proceed to Gibraltar, strikes us as one by no means insuperable, and one which at least resolves itself into a question of expense. Sir Philip Francis is decidedly of opinion that, as far as the interests of justice are concerned, it would be very desirable to have Tunisian cases tried at Gibraltar. There seems no objection of law or policy in the way of the suggestion taking effect, and it must be for your Lordship to decide whether, even assuming no better arrangements can be made than exist at present, the increased expense is one which ought or ought not to be incurred for such an object.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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[*] French Minister for Foreign Affairs to M. Botmilian, June 23; Bey of Tunis to French Chargé d'Affaires July 11, 1871; to Lord Lyons, No. 559; Lord Lyons, No. 1026; Mr. Wood, No. 61; Duc de Broglie, February 14.

[†] Mr. Wood, No. 5, April 8; Sir P. Francis, No. 7, Judicial, April 5, 1872.

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### No. 271.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 29.)

*Temple, July* 27, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 24th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Agent and Consul-General at Tunis, together with the draft of the answer which, after communication with Her Majesty's Ambassador at Constantinople, your Lordship proposed to return thereto, on the question of the jurisdiction to be exercised over foreigners in Tunis in reference to concessions granted to them by the Bey; and he (Lord Enfield) was to request us to take the draft into consideration, and favour your Lordship with our opinion as to whether it was fit and proper to be sent.

In obedience to your Lordship's commands we have the honour to report—

That we should suggest that the last clause in your Lordship's letter might be altered as follows:—

"Without there being any renunciation by British subjects, as individuals, of the privileges secured to them as such by Treaty which it would not be expedient to permit them to waive for their own peculiar convenience."

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 272.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 18.)

*Temple, November* 16, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 12th instant, stating that the case of the murder of a Tunisian by a Maltese named Chircop had already been before us, as bearing on the advisability of obtaining legal powers to cause such cases to be tried at Gibraltar instead of Malta.

That subsequently to the receipt of our Report of the 7th May on a review of the papers connected with that case, it appeared to your Lordship that, according to the Capitulations with the Porte, as well as under the Treaty with Tunis of 1751, the accused should have been tried by the Bey's Court, as was done in a similar case in the year 1844, with the consent of Her Majesty's Government given after consultation with the Law Officers of the Crown.

That he (Viscount Enfield) was now directed by your Lordship to transmit to us the draft of a despatch which was addressed to Mr. Wood, Her Majesty's Agent and Consul-General in Tunis, inquiring as to that point, and two despatches received from him in reply, together with two memoranda drawn up at the Foreign Office on that case, as well as a third one on the relations between Tunis and the Porte.

That Mr. Wood seemed to have had an erroneous idea of the scope of the Foreign Jurisdiction Act and Orders in Council founded upon it, and he stated that Chircop was sent to Malta to be tried on account of a request from the Bey that the matter might be dealt with by the English Consul-General, coupled with the Treaty between Tunis and Austria of 1856 (copy inclosed).

And that he (Viscount Enfield) was to request us to take the case into consideration, and favour your Lordship with our opinion whether, in view of the policy Her Majesty's Government had always pursued of considering Tunis as not independent of the Porte, a Maltese or other British Court could be properly held to have jurisdiction in such cases, and whether, if a similar case should again arise, Her Majesty's Government could properly claim jurisdiction over the accused person, if the Bey should claim a power to deal with the case, as was done in reference to Paolo Huereb in 1844.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that, although Tunis may politically be considered by Her Majesty's Government as part of the dominions of the Porte, yet it may be within the powers of the Bey to renounce a jurisdiction in certain criminal cases over British subjects, and that in such cases a Maltese or other British Court may properly be held to have a jurisdiction.

If, however, the Bey should, on any occasion subsequent to his having renounced his jurisdiction, claim to exercise it, we are of opinion that Her Majesty's Government could not resist that claim, or exercise a jurisdiction over the accused person against the Bey.

The reasons for determining the right course of proceeding given by Mr. Wood seem to us most material for the sake of obtaining justice in these cases, and with a view to any transfer of jurisdiction from Malta to Gibraltar.

We should observe that Mr. Wood, in his despatch of the 30th September, states that the Bey "wrote a note to Her Majesty's Consulate-General, asking it to proceed to the trial and punishment of the culprit," but the inclosed note seems rather to mean that the culprit had been tried, and requests that he be subjected to capital punishment for the crime.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Turkey.

### No. 273.

*The Queen's Advocate to Earl Granville.*—(*Received January* 27.)

*Temple, January* 25, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that, with reference to my Report of the 30th December last respecting the claim of Mr. J. Rivolta on the Roumanian Government, Mr. Hammond was directed to transmit to me a further letter from that gentlemen, and he was to request that I would take this letter, together with the former papers, which were also inclosed, into my consideration, and that I would furnish your Lordship with my opinion upon the observation made by Mr. Rivolta.

I am also honoured with Lord Enfield's letter of the 24th instant, transmitting to me a further letter from Mr. J. Rivolta on the subject of the Ward and Rivolta claim on the Roumanian Government.

In obedience to your Lordship's commands I have the honour to report—

That it appears from Mr. Green's despatch of the 2nd February, 1867, that Mr. Rivolta is justified in asserting that Prince Couza made a promise to Mr. Green that the caution money should be returned, but the promise appears to have been verbal, and I do not gather from the correspondence that Mr. Green had at that time made any official representation to Prince Couza's Government, so that the promise of the Prince could properly be held to be binding on the Government of his successor, Prince Ghika.

It was otherwise with the Government of Prince Ghika, but the undertaking of his Government was limited to bringing the question before the Roumanian Chamber. It may be that there was bad faith on the part of that Government in not supporting effectively the motion when before the Chamber. This is a circumstance which may have weight with your Lordship. Further, if Mr. Rivolta's additional statement is borne out, that Mr. Green obtained from the Ministers of Prince Couza a formal reavowal of the promise of the Prince, of which I am not aware that there is any record in Mr. Green's despatches, the case against the Roumanian Government would be stronger than I have considered it to be.

Looking, as I have already observed, to the equity of Mr. Rivolta's claim, and the recognition of its equity by the Administration of Prince Charles Ghika, I see no objection to your Lordship authorizing Mr. Green to give such support as he well can to the agent of Mr. Rivolta in his proposed endeavour to induce the Roumanian Government to fulfil the promise of Prince Couza.

I have, &c.
(Signed) TRAVERS TWISS.

## No. 274.

*The Queen's Advocate to Earl Granville.—(Received February* 26.)

*Temple, February* 24, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd instant, stating that he was directed to transmit to me a despatch and its inclosures from Her Majesty's Chargé d'Affaires at Constantinople (No. 9, Commercial), relative to complaints against certain regulations in regard to the exportation of silk cocoons recently adopted by the Porte; and Lord Tenterden was pleased to request that I would take the matter into consideration, together with the stipulations of the Treaty between this country and Turkey of the 29th April, 1861 (Hertslet's Treaties, vol. xi, p. 561), and that I would furnish your Lordship with my opinion whether the regulations are beyond the "meaning" of the Treaty.

In obedience to your Lordship's commands I have the honour to report—

That the regulation in question is not upon the face of it within the meaning of the Treaty of the 29th April, 1861 (Hertslet, vol. xi, p. 561), but the working of it may bring it within the mischief intended to be guarded against by abolishing "permits" (teskérés) under Article II of that Treaty.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 275.

*The Queen's Advocate to Earl Granville.—(Received March* 12.)

*Temple, March* 11, 1872.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed to transmit to me the accompanying letter from the Council of Foreign Bondholders, with reference to the Régie lately established by the Ottoman Government on the tobacco tax in that country, the proceeds of which tax were previously assigned as a security to the bondholders of the Ottoman Loan of 1862.

A memorandum upon the subject from Her Majesty's Ambassador at Constantinople, who is now in this country, was also inclosed; and Mr. Hammond was pleased to request that I would furnish your Lordship with my opinion as to the answer which should be returned to the Council of Bondholders. The former papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That the bondholders may be properly informed that Her Majesty's Ambassador at Constantinople will be instructed to use his good offices in support of a request on their part that the Ottoman Government shall allow the Syndicate to exercise its functions in the manner contemplated by the original contract, but that your Lordship must decline to comply with the request of the Committee, "that your Lordship should instruct Her Majesty's Ambassador to request the Ottoman Government at once to pay in the sums now due for the current half-year, in accordance with the terms of the contract."

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 276.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 8.)

*Temple, April* 8, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us, for any observations we might have to make thereupon, a despatch from Her Majesty's Chargé d'Affaires at Constantinople, inclosing a copy of the new law on the organization and attributes of the new Civil Correctional and Criminal Tribunals to be established at Constantinople.

In obedience to your Lordship's commands we have the honour to report—

That, as far as we can judge, there are no provisions in the new Turkish law which your Lordship has been pleased to submit to us calling for any observation. It does not appear to be intended to place foreigners in any different position from that which they now enjoy by Treaty, and indeed Article 5, by inference, preserves their rights. To the provisions of the law itself there does not seem to us to be any objection.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 277.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April* 18.)

*Temple, April* 17, 1872.

My Lord,

WE are are honoured with your Lordship's commands, signified in Lord Enfield's letter of the 13th April, stating that he was directed by your Lordship to transmit to us the papers marked in the margin, relative to certain alterations intended to be made in regard to certain fees levied at Her Majesty's Consulate-General at Constantinople.*

That in the draft of the proposed new Order in Council sent therewith a fee of 10*s.* instead of 5*s.* was inserted, as directed in the last instructions to Sir Philip Francis, for the service of applying for ships' Firmans. Your Lordship considered, however, that in order to prevent doubt or dispute the clause had better be to the following effect, namely, a charge of 5*s.* for each application for a Firman or Firmans for each vessel. Your Lordship also thought that as the Harbour-master's present fee or gratuity, referred to in the first instruction to Sir Philip Francis, which is henceforth to cease, was not received on account of Her Majesty's Government, it might not be necessary to advert to it in the new Order in Council.

Lord Enfield was pleased further to say that he was accordingly to request that we would take the matter into our consideration, and amend the draft Order to the above effect, unless, in regard to the latter point, the Harbour-master's present fee, we are of opinion that reference should be made to it, and in that case he was to state, for our information, that it is a customary payment, not received in virtue of any authorization from the Foreign Department, but in accordance with a general usage on the part of Harbour-masters of foreign Powers at Constantinople, and that it varied in amount usually in some proportion to the tonnage of vessels.

Lord Enfield also added that the draft Order, when approved by us, would be submitted to Her Majesty in Council.

In obedience to your Lordship's commands we have the honour to report—

That we have made the alteration in the sum to be charged for obtaining Firmans in accordance with your Lordship's direction. We have made no further alteration. Understanding that the fees proposed to be abolished in the draft Order as it stands, are in fact to be abolished, it seems to us best to state their abolition on the face of the Order, so as to remove all possible ground for suggesting Government authority for them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 278.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June* 8.)

*Temple, June* 7, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir Philip Francis, raising a question as to the construction of the

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* Order in Council, July 27; to Sir P. Francis, No. 35, September 21, 1863; No. 2, February 28; Sir P. Francis, No. 2, March 18, with amended Order in Council.

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Order in Council of the 22nd April last (of which a copy was inclosed), in regard to the proper fee to be charged for application for ships' Firmans;* and he (Viscount Enfield) was to request that we would take the matter into consideration, and favour your Lordship with our opinion on the subject.

In obedience to your Lordship's commands we have taken the matter into consideration and have the honour to report—

That we are of opinion that the proper fee to be charged for each application for ships' Firmans is 5*s.* only, although such application may be made for both Black Sea and Mediterranean Firmans.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 279.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 5.)

*Temple, July* 4, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to us a memorial received from barristers and attorneys practising at Constantinople, complaining of the permission given by the Judge of the Supreme Court there to unprofessional advocates to conduct cases in that Court, and requesting that if it should be decided that the course adopted by Sir P. Francis was borne out by the rules of the Court (copy inclosed), those rules might be altered as regards that matter.

And that he (Lord Enfield) was to request us to take the memorial into consideration, and favour your Lordship with our opinion on the matter to which it relates.

In obedience to your Lordship's commands we have the honour to report—

That we are unable, without farther information as to the reasons which may have influenced Sir P. Francis, to give your Lordship any opinion upon the matters to which the memorial relates.

The memorial should, we think, be communicated to Sir P. Francis, and he should be requested to inform your Lordship why he has changed the usual custom of audience in his Court, and permitted unprofessional advocates to conduct suits therein.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 280.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 26.)

*Temple, July* 25, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us a letter addressed to your Lordship by Mr. McCoan, the editor of the "Levant Herald," complaining of the suppression by the Porte of that journal, which he states is illegal, and asking for the good offices of Her Majesty's Government in order to obtain some compensation for him from the Turkish Government on that account.

Mr. Hammond also inclosed, together with a communication on this subject from Musurus Pasha, several despatches on the same subject from Her Majesty's Ambassador at Constantinople; and requested us to take these papers into consideration, and report to your Lordship our opinion as to what answer should be returned to Mr. McCoan's application.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the answer to be sent by your Lordship to Mr. McCoan must depend upon the state of the law in Turkey, and if Sir H. Elliot is right in his letter to

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* Sir P. Francis, No. 6; Order in Council, April 22.

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## Turkey.

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### No. 282*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received September* 11.)

My Lord, *Temple, September* 10, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd ultimo, stating that he was directed by your Lordship to transmit to us a despatch* and its inclosure from the British Vice-Consul at Damascus relative to the proceedings of certain money-lenders, who claimed British protection from the fact of their ancestors having been British subjects; and that he (Mr. Hammond) was to request us to take the matter into consideration, and favour your Lordship with our opinion as to the period over which such nationality could be legally held to extend.

In obedience to your Lordship's commands we have the honour to report—

That rights under British nationality extend to, and not beyond, the children and grandchildren born in Damascus of British subjects.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* No. 22, July 21, 1872.

Mr. McCoan of the 27th May last, that Her Majesty's Government has recognized the right of the Porte to fix the regulations under which the publication of newspapers is permitted in Turkey, we think Mr. McCoan may be informed that Her Majesty's Government decline to interfere in his behalf with the Turkish Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 281.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 3.)

My Lord, *Temple, August* 2, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that, with reference to our Report of the 8th April last, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Ambassador at Constantinople, inclosing a copy of a note he had received from Server Pasha, transmitting an Appendix to the law relative to the establishment of new Turkish Tribunals; and that he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with any observations we might have to offer on the matter.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that there is no provision in the Appendix "à la loi relative aux Tribunaux de Constantinople" which require any observations from your Lordship.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 282.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 9.)

My Lord, *Temple, August* 9, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating, with reference to our Report of the 25th ultimo, he was directed by your Lordship to transmit to us a second letter addressed to your Lordship by Mr. McCoan, the editor of the "Levant Herald," asking for a reconsideration of his case, which he was informed, according to our advice, could not be entertained by Her Majesty's Government; and he (Mr. Hammond) was to request us to take Mr. McCoan's further application into consideration, and inform your Lordship what answer should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason for changing the opinion which we had the honour of submitting to your Lordship on the 25th July last.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 283.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received September* 20.)

My Lord, *Temple, September* 20, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating he was directed by your Lordship to transmit to us the correspondence marked in his said letter, relative to the circumstances under which the intervention of Her Majesty's Government had been solicited on behalf of certain

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British subjects engaged in the construction of branches of the Lemberg-Jassy Railway, against whom verdicts were alleged to have been unjustly obtained in the Roumanian Tribunals for exorbitant sums claimed as compensation by the proprietors of premises occupied by the Railway Company; and he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to whether any, and if so what, steps should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government cannot take any steps on behalf of the British subjects who, having contracted with the Austrian Company for the construction of a railway in Roumania, may have, by the finding of a jury, to pay large sums for the purchases of lands required from the proprietors.

Your Lordship, however, may, in our opinion, properly direct Mr. St. John to continue the line of conduct suggested by himself as fitting for him to adopt in his despatch No. 22, dated the 31st July, 1872.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 284.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 16.)

*Temple, October* 15, 1872.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Enfield's letter of the 9th day of October instant, stating that he was directed by your Lordship to transmit to us despatches from Her Majesty's Ambassador at Constantinople and Her Majesty's Consul-General at Beyrout, relative to a claim of Mr. Zalzal, who seemed at one time to have been agent for a firm trading in England, against a Turkish subject named Wehbé Turk, and recommending that, when the case is settled, British protection should be withdrawn from Mr. Zalzal.[*]

Lord Enfield was pleased also to say that other papers, as marked in the margin, were inclosed,[†] in which, with reference to the case, the general question was raised as to the protection which could properly be afforded to persons in Turkey who, not being themselves British subjects, might be acting as agents for firms in this country; and added that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion on the matter, and also with any remarks which we might have to offer on Sir P. Francis' despatch of the 31st August, which formed the second inclosure in Sir H. Elliot's despatch No. 22, Consular, of the 5th September.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, persons in Turkey who are not British subjects, and who may be acting in Turkey as agents for firms in this country are, in matters relating to the business of the firms, entitled to British protection, if the members of the firms are British subjects, but not otherwise.

We entirely agree with the despatch of Sir Philip Francis of the 31st August, upon which, therefore, we have no remarks to make.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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[*] Sir H. Elliot, No. 16, Consular, August 6; Consul-General Eldridge, No. 3, Commercial, July 27; Sir H. Elliot, No. 64, Commercial, September 15, 1872.

[†] Messrs. Zalzal and Co., June 20, 1871; ditto, May 20; Consul-General Eldridge, No. 53, Consular, July 30; Memorandum, August 24; Sir H. Elliot, No. 22, Consular, September 5, 1872.

## No. 285.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 30.)

*Temple, October* 29, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 22nd October instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Constantinople, stating that Feroz Shah, the son of the King of Delhi, who played a prominent part in the Indian mutiny, is now residing at Constantinople;[*] and to request that we would favour your Lordship with our opinion whether Her Majesty's Government should take steps for his arrest, and if so, what would be the proper course to pursue.

In obedience to your Lordship's commands we have the honour to report—

That, whether Her Majesty's Government should take steps for the arrest of Feroz Shah must, in our opinion, depend upon the effect which his arrest would produce in India, and upon the present state of things in India respecting the mutiny. We are not sufficiently informed upon those two points to be able to advise your Lordship upon the real expediency of arresting Feroz Shah, but we would suggest that, unless some just and certain good or evil consequences would follow from his being arrested on one hand, or his not being interfered with on the other, Her Majesty's Government should take no notice of Feroz Shah's residence at Constantinople.

The India Office, however, may be able to give your Lordship the information upon which you will form the right judgment as to the course to pursue.

We are not informed with sufficient accuracy what were the exact relations between British Government and the King of Delhi to be able to say with certainty how far the the son of the King of Delhi can be treated as a British subject, and if the arrest of Feroz Shah be determined on we are of opinion that application should be made to the Porte in the manner pointed out by Sir H. Elliot.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 286.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 6.)

*Temple, November* 4, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 24th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying papers relative to the marriages in Ottoman dominions of Maltese subjects of Her Majesty, and to the difference of opinion entertained by the Registrar-General and Sir P. Francis as to their exemption from the provisions of the Consular Marriage Act; and he (Viscount Enfield) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the application of the Consular Marriage Act to Maltese and Colonial British subjects generally.

In obedience to your Lordship's commands we have the honour to report—

We think the Consular Marriages Act provides a way of marrying of which British subjects, colonial or not, may, if they please, avail themselves. But that the Act (see section 21) does not oblige British subjects to marry in all cases under its provisions if valid marriages can be had independently of the Act, either by a *lex loci*, or under the general law, or by other law peculiar to the parties marrying.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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[*] Sir H. Elliot, No. 213.

## No. 287.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—*(Received November* 30.)

*Temple, November* 30, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 29th instant, stating he was directed by your Lordship to transmit to us the accompanying memorandum, with its inclosures, which had been communicated to your Lordship by the Chartered Mercantile Bank of India, who had also applied to your Lordship to instruct Her Majesty's Consul at Damascus by telegraph to prevent the person referred to, Joseph Joshua, leaving that place, or selling his property, pending the commencement of legal proceedings in the Consular Court; and he (Lord Tenterden) was to request us to take the matter into immediate consideration, and favour your Lordship with our opinion as to the course which should be taken therein.

In obedience to your Lordship's commands we have the honour to report—

That the bank is of course at liberty to take what measures they think fit to secure the immediate action of the Consular Court against Mr. Joshua.

But your Lordship cannot, in our opinion, give the Chartered Mercantile Bank of India the assistance applied for.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 288.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—*(Received December* 6.)

*Temple, December* 6, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us a letter from the North of England Steam-ship Owners Association relative to a dispute which had arisen between that Company and the Turkish Government, in regard to the payment of a share of the expenses incurred in connection with the grounding of the steamer "Otterburn;" and he (Lord Tenterden) was to request that we would take the same into consideration, and favour your Lordship with our opinion as to the course which should be adopted by your Lordship in that matter.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Welford should be informed that the case is not one in which Her Majesty's Government can interfere while no proceedings appear to have been taken to enforce the liability of the charterer.

W have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 289.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—*(Received December* 16.)

*Temple, December* 14, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us two despatches from Her Majesty's Ambassador at Constantinople, relative to a question which had arisen as to the right of British subjects to participate in the coasting trade of the Ottoman Empire.

That he (Lord Tenterden) inclosed a memorandum, with its inclosures, which had been prepared at the Foreign Office, bearing on that subject; and he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Her Majesty's Ambassador in the matter.

That we would preceive that the three principal points to be considered were the right to the coasting trade as regarded goods; secondly, as regarded passengers; and the question of the limits to be assigned to the port of Constantinople.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Ambassador at Constantinople may be instructed to insist upon the right of British ships to the coasting trade within the Ottoman dominions as regards both goods and passengers.

This right being derived from Article I of the Treaty of 1861,* and the Treaties between Belgium and Turkey, 1838, Article XI,† and between Greece and Turkey, 1855, Article X, and indirectly from Article XIX of the Treaty of 1861.‡

There is not, in our opinion, anything unreasonable in the contention of the Ottoman Gouernment that the Bosphorus contutstitutes the Port of of Constantinople.

That the navigation within the limits of that port should be subject to the restrictions imposed by the Ottoman Government is not inconsistent with any Treaty stipulations, and Her Majesty's Ambassador may be instructed to concede that point if insisted upon.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 290.

*The Law Officers of the Crown and Dr. Deane to Earl Granvile.*—*(Received December* 18.)

*Temple, December* 16, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us the papers relative to an alleged traffic in slaves between the north coast of Africa and Constantinople through Malta.

That he was more especially to draw our attention to Sir P. Francis' letters of the 19th and 26th September, inclosed in Sir H. Elliot's despatch of the 28th of that month, and to the remarks made on those letters by Sir C. Straubenzee in his despatch which formed the inclosure in the Colonial Office letter of the 30th ultimo; and he was to request that we would take the papers into consideration, together with the others, and favour your Lordship with our opinion as to the correctness of the views of Sir P. Francis.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the views of Sir P. Francis, expressed in his letters of the 19th and 26th September last, are practically correct, and are not practically different from those entertained by Sir C. Straubenzee.

Sir C. Straubenzee and Sir P. Francis both agree that the buying and selling, receiving and carrying on board ships, persons known to be, or to be intended to be, slaves, is an offence. The observation of Sir P. Francis that the matter rests with the police and ships' agents at Malta and Stamboul show this to be his meaning, and Sir C. Straubenzee states his understanding of the law to be precisely the same.

Both agree that where the blacks supposed to be slaves assert that their condition, whatever it may in reality be, is voluntary, the law cannot take effect. And we presume this state of things suggested to Sir P. Francis the expression "voluntary subjection," as something not identical with slavery.

Your Lordship will best appreciate the illustration of "voluntary subjection" given by Sir P. Francis in the case of a Turk travelling with his family, of whom some at least are in a sense slaves. But we would observe upon that the great difficulty of carrying into execution in the Levant the most rigid interpretation of Acts against a Slave Trade.

We regret to have troubled your Lordship at unusual length, but, whilst we agree with the ideas entertained by Sir C. Straubenzee, we could not, without going into some detail, report that we at the same time considered the views of Sir P. Francis to be also correct.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* Hertslet, vol. xi, p. 561.

† State Papers, vol. xxvi, p. 1225.

‡ State Papers, vol. lvi, p. 1384.

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### No. 291.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 24.)

*Temple, December* 23, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that, with reference to our Report of the 6th instant, he was directed by your Lordship to transmit to us a further letter from the North of England Steam-ship Owners Association, requesting a reconsideration of the circumstances which have led Her Majesty's Government to decline to interfere in the dispute between the Association and the Turkish Government with regard to the steamer "Otterburn;" and he (Lord Tenterden) was to request us to take the letter into consideration, together with the previous correspondence in the case, and favour your Lordship with any further observations that we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we are still of opinion that Her Majesty's Government should not interfere on behalf of the owners of the "Otterburn."

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## United States.

### No. 292.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 4.)

(Confidential.)

*Temple, January* 3, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 15th December ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Russell Gurney, marked "Private," and inclosing the memorial presented to the Claims Commission in the case of Mr. Barclay, together with the demurrer to the claim which had been filed on the part of the United States' Government; and Viscount Enfield was to request that we would take those papers into our consideration, and favour your Lordship, at our earliest convenience, with our opinion on the points raised by Mr. Gurney.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That we are of opinion that a natural-born subject of Great Britain is not personally debarred from a *locus standi* before the Commissioners under Article XII of the Treaty of Washington by the circumstance that he has acquired an American domicile under the law of nations, although it may well be that his claim for compensation may be materially affected by that circumstance.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 293.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 10.)

*Temple, January* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 2nd instant, stating that, with reference to our Report of the 27th November last, he was directed to transmit to us a further letter from Messrs. Leech, Harrison, and Forwoode in regard to their claims against the United States; and to request that we would take this letter into our consideration, and furnish your Lordship with our opinion as to the reply which should be returned to those gentlemen. The previous correspondence was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That it is plain, from the whole correspondence, that the claim of Messrs. Leech, Harrison, and Forwoode is not one which can be presented to the Commissioners at Washington with any hope of their dealing with it, inasmuch as it does not come within the scope of the Treaty, as indeed has been already explained to them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 294.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 20.)

*Temple, January* 20, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed to transmit to us the accompanying letters from Messrs. Smyth and Barry, and from Messrs. Irvine and Co., respecting their claims against the United States' Government, and requesting to be furnished with information as to the presentation of such claims to the Commission now sitting at Washington, and as to the decision come to by the Commissioners in the case referred to in the inclosed letters. Mr. Hammond was also to transmit to us the Award of the Commissioners in the cases referred to, together with a draft of a letter which your Lordship proposes to return to the claimants in question; and Mr. Hammond was pleased to request that we would take these papers into our consideration, and furnish your Lordship with our opinion as to whether the inclosed draft is right and proper.

In obedience to your Lordship's commands we have the honour to report—

That, with the slight verbal modifications we have ventured to suggest, we think that your Lordship's answer is one which may properly be returned to Messrs. Irvine and Co., and Messrs. Smyth and Barry.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 295.

*The Law Officers of the Crown to Earl Granville.*—(*Received January* 26.)

*Temple, January* 25, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that, with reference to our Report of the 9th instant on the claim of Messrs. Leech, Harrison, and Forwoode against the United States' Government, he was directed by your Lordship to return to us the several letters which your Lordship had received from those gentlemen in regard to their claim, together with a memorandum which had been drawn up in the Foreign Office upon the subject;[*]

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[*] Messrs. Leech, Harrison, and Forwoode, October 20; to Messrs. Leech, Harrison, and Forwoode, November 10; Messrs. Leech, Harrison, and Forwoode, November 14; to Messrs. Leech, Harrison, and Forwoode, November 30; Messrs. Leech, Harrison, and Forwoode, December 28; Sir E. Thornton, No. 277, December 25, 1871; Memorandum, January 16, 1872.

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and that he was to request that we would take the case into our consideration, and favour your Lordship, at our early convenience, with any observation we might have to offer thereupon.

That since the said memorandum had been drawn up, a further letter had been received from Messrs. Leech, Harrison, and Forwoode, which was transmitted therewith.

In obedience to your Lordship's commands we have the honour to report—

With reference to the memorandum of the 16th January, 1872, we may explain that we thought it desirable, before considering the validity of the claims of Messrs. Leech and Co., to ascertain that they had not by their own neglect precluded themselves from now bringing forward such claims. This being now ascertained, we think that, before any further step is taken, it is necessary to inquire into the particulars of such claims, as the statements already furnished are not sufficiently detailed to enable us to advise as to so much of the claims as relates to the goods destroyed by the Federal troops.

With regard to the cotton destroyed by the Confederates, no claims would have been admitted by the Commission at Washington if the acts complained of had been committed within the period mentioned in the XIIth Clause of the Treaty, and therefore no representation to the United States' Government should be made as to that portion of Messrs. Leech and Co.'s claims. We recommend that Messrs. Leech, Harrison, and Forwoode should be requested to furnish your Lordship with full particulars of all the circumstances under which the destruction of their cotton by the Federal forces on the 17th and 18th April, 1865, took place. That when such particulars are furnished your Lordship will consider whether your Lordship can properly direct Her Majesty's Minister at Washington to recommend this part of their claim to the favourable attention of the United States' Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 296.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 17.)

My Lord, *Temple, February* 17, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 13th instant, stating that, with reference to our Reports of the 9th February and the 17th July, 1871, upon the subject of the measures to be taken to give effect by legislation to the Treaties recently concluded with the United States and with Portugal for the abolition of the Slave Trade Mixed Commission Courts, he was directed to refer to us the drafts of two Bills prepared with this object by the Government draughtsman.

That in calling our particular attention to Mr. Jenkyns' observations upon the incorrect use of the term "maritime prize," as applied to slave ships, as necessary in order to bring the Bill into harmony with the Convention with the United States, Lord Enfield was pleased to inquire whether we can advise Her Majesty's Government to submit both Bills to Parliament for sanction.

In obedience to your Lordship's commands we have the honour to report—

That as regards the Bill to carry into effect the Convention with Portugal, subject to certain amendments noted in the margin, we think the Bill correct, and that it may be submitted to Parliament.

With reference to the Bill to carry into effect the Convention with the United States and Mr. Jenkyns' observations to which our attention is directed, we think it is not the duty of the Government draughtsman to prepare a Bill which he himself is of opinion is "incorrect," and "a mere evasion of the terms of a Convention" with a foreign Power, which this Government is bound to carry into effect in its integrity. It is needless to say that we cannot advise Her Majesty's Government to submit such a Bill to Parliament, and we are the more surprised that such a Bill should have been sent to us for approval, after the clear opinion given by the Law Officers in February 1871, which appears to have been treated with total disregard by Mr. Jenkyns and Mr. Rothery.

We have made the necessary alterations in the draft Bill, which, as we have altered it, we think may be submitted to Parliament.

We think it desirable that in future the procedure in cases of slave trading should be assimilated to that which obtains in all ordinary cases of maritime prize.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 297.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 19.)

My Lord, *Temple, February* 17, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Sir E. Thornton (No. 42), respecting Mr. Hansard's claims against the United States' Government on account of cotton belonging to him which had been destroyed by the United States' forces in 1865.

That we would perceive the first of these claims related to some cotton which he had purchased in partnership with a Mr. Hughes, of Georgia, and that it was destroyed between the 16th and 19th April, 1865.

And that the second claim related to some cotton bought by Mr. Hansard on his own account, forty-six bales of which were seized by order of a special Agent of the United States' Treasury during the month of December 1865.

And that he (Mr. Hammond) was also to transmit to us a previous despatch of Sir E. Thornton's (No. 277), forwarding a copy of a Bill that had been submitted to the United States' Senate in December last, proposing to authorize the Government to compensate those persons whose cotton may have been seized after June 1865; and further, to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Sir E. Thornton in regard to Mr. Hansard's claims.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That Sir E. Thornton should be instructed to decline to present Mr. Hansard's earlier claim to the United States' Government, and to inform Mr. Hansard that your Lordship is of opinion that his earlier claim was not presentable to that Government at any time, by reason of Mr. Hughes, of Georgia, having a joint interest in the claim; and his later claim ought to have been submitted by Mr. Hansard in due time to the Court of Claims, and that his alienage was in fact no bar to his bringing his later claim before that Court. But it is stated by Mr. Hansard in effect that this claim was brought before a Government Department at Washington, which had allowed it, when an Act was passed by Congress which prevented payment. Before advising as to what should be done in respect of this second claim, we think that details should be furnished to your Lordship to show when and how this claim was brought before the United States' Government, and when and by whom it was allowed, and what documentary evidence there is to prove that the claim was entertained or allowed by any Department of that Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 298.

*The Law Officers of the Crown to Earl Granville.*—(*Received February* 24.)

My Lord, *Temple, February* 23, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us the inclosed correspondence with Messrs. Ellman, Raper, and Ellman, relative to the claim of Mrs. Cassin against the United States' Government.*

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* Mr. Pakenham, No. 126, December 4; to Messrs. Ellman, Raper, and Ellman, January 2; Messrs. Ellman, Raper, and Ellman, January 3; to Messrs. Ellman, Raper, and Ellman, January 11; Messrs. Ellman, Raper, and Ellman, January 13.

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And that he (Viscount Enfield) was also to transmit to us a despatch from Sir E. Thornton (No. 53), forwarding copies of Mr. Seward's note, and inclosures, respecting that claim, copies of which Messrs. Ellman, Raper, and Ellman were desirous should be furnished to them; and he (Viscount Enfield) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to whether the wishes of Messrs. Ellman and Co. should be complied with.

In obedience to your Lordship's commands we have the honour to report—

That there is no objection, in our opinion, to your Lordship communicating to Messrs. Ellman, Raper, and Ellman copies of Mr. Seward's note, and inclosures, respecting the claim of Mrs. Cassin against the United States' Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 299.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 4.)

*Temple, March* 4, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 29th ultimo, stating that he was directed to transmit to us a despatch from Her Majesty's Minister at Washington calling attention to the Report of the Commissioners of Claims under the Act of Congress of the 3rd March, 1871, which accompanies Sir E. Thornton's other despatches, therewith inclosed, as regards the presentation of claims of foreigners domiciled in the United States during the late civil war on account of stores or supplies taken from them for the use of the army of the United States; and to request that we would take these papers into our consideration, and furnish your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the decision of the Commissioners of Claims as to the proper interpretation to be given to the Act of Congress of the 3rd March, 1871, is, in our opinion, correct as regards the claims of domiciled foreigners.

We are of opinion, however, that domiciled foreigners, although they are not within thes cope of the Act of Congress of the 3rd March, 1871, and although, according to strict international law, they are not entitled to claim compensation for losses sustained from the military operations of the belligerents, are not debarred from appealing to the equity of the United States' Government on the ground that a domiciled foreigner who conforms himself to the laws of the country is usually considered as entitled to the same protection or compensation for injury from acts of violence which is accorded by its Government to the loyal citizens of the country.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 300.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 12.)

*Temple, March* 11, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that, with reference to our letter of the 25th January, he was directed by your Lordship to transmit to us a letter from Messrs. Leech, Harrison, and Forwoode (March 4), forwarding a detailed statement accompanied by affidavits of their claim against the United States' Government for the destruction of their cotton by the Agents of that Government in April 1865; and he (Mr. Hammond) was to request that we would report to your Lordship our opinion as to the course that should be pursued with regard to this claim.

Mr. Hammond was pleased to inclose the former correspondence for convenience of reference.

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report—

That we cannot recommend your Lordship to present this claim to the United States' Government. The claim is stated to be for cotton burnt during the civil war. It appears from the affidavits that the warehouses in which the cotton was stored were, together with their contents, burned by United States' troops under the command of one Colonel Garrard.

There is nothing to show why the warehouse was burnt except that it is stated to have been done by the order of General Wilson, the superior officer; under these circumstances, it must be presumed to have been a regular operation of war, and, therefore, not entitling a neutral to claim compensation for goods so destroyed.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 301.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 19.)

*Temple, March* 18, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed to transmit to us the accompanying letter from Mr. Trenchard respecting his claim against the United States' Government on account of the seizure of his vessel, the "Nutfield," at Charleston by the Federal authorities, which he states took place three months after the declaration of peace by the United States' Government.

That it would appear that Mr. Trenchard referred his claim to Mr. Henry Howard at Washington, who returned it to him as not coming within the provisions of the Treaty of the 8th May, 1871; and Mr. Hammond was pleased to request that we would take the same into our consideration, and furnish your Lordship with our opinion as to the answer which should be returned to Mr. Trenchard.

In obedience to your Lordship's commands we have the honour to report—

That the case of Mr. Trenchard is clearly not within the scope of the Treaty of Washington. On the other hand, if the seizure took place two months after the declaration of peace, it would clearly be a wrongful seizure if it was made on the pretext that the cargo was contraband of war.

We should advise that some inquiry should be made of Her Majesty's Consul at Charleston as to the circumstances of the seizure, and that Mr. Trenchard should be informed that Her Majesty's Government will give due consideration to his statement, and, after the necessary inquiry, will communicate further with him.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 302.

*The Law Officers of the Crown to Earl Granville.*—(*Received March* 20.)

*Temple, March* 19, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Howard, asking for instructions in regard to a claim against the United States' Government which Messrs. Hayman, of Liverpool, had requested him to present; and that he (Mr. Hammond) was to request that we would report to your Lordship our opinion as to the instructions which should be sent to Mr. Howard on the subject.

In obedience to your Lordship's commands we have taken this despatch into our consideration and have the honour to report—

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That Mr. Howard should be instructed not to present the claim. We concur with him in thinking that the claim is absurd.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
TRAVERS TWISS.

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### No. 303.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received March* 20.)

My Lord,
*Temple, March* 20, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of this day's date, stating that he was directed by your Lordship to request that we would favour your Lordship with our opinion, at our earliest convenience, on a question which had been raised as to the proper interpretation to be placed upon the XIVth Article of the Treaty of Washington.

That that Article, which was practically identical with the IIIrd Article of the Claims Convention of the 8th February, 1859, stated that "Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, and then, and in any such case, the period for presenting the claim may be extended by them to any time not exceeding three months longer.

It appeared that the Washington Commissioners considered that under that Article no application from any claimant for extension of time for the presentation of a claim could be received after the expiration of the first period of six months, unless notice of his claim, or at least of his intention to make a claim, had been given within that period.

On the other hand, it would be seen on referring to the accompanying volume p. 112 *et seq.*) that under the Convention of 1853 claims were presented "on leave" after the expiration of the six months period.

That it was not stated when that leave was obtained, but there was no trace of any application for leave before the expiration of the six months; and Sir Edmund Hornby, who was the British Commissioner at the time, believed that no such application was made, but that the practice was to receive any claim made within the further period of three months, if proper reasons for delay were given.

That the period of six months under the present Treaty expired on the 26th instant, and that your Lordship would therefore be glad to be informed whether in our judgment the interpretation placed on the words of the Treaty Article by the London Commission of 1853, or that now given to them by the Washington Commission, was the right one; and in the former case, your Lordship requested our opinion as to the precise instructions, if any, which should be furnished by telegraph to Her Majesty's Agent to prevent any injury arising to British claimants.

In obedience to your Lordship's commands we have the honour to report—

That, in our judgment, the interpretation placed on the words of the Treaty Article by the London Commission of 1853 is the right one. The persons who establish reasons for delay are expressly excepted from the obligation of claiming within the period of six months, and there is nothing in the Article except the word "extended" which could be alleged to show that any application for further time or any notice of a claim was to be made within the six months, but we think it an unwarrantable construction of the words of the Article to infer this from the mere use of the word "extended." The word "extended" we think is used in regard to the further period to be granted as defining its limit, and does not refer merely to the original time, so that the Article means a further time may be granted, and that there is no difference between "a further time" and an "extension of time," or an "enlargement of time."

A judicial interpretation of similar expressions has frequently taken place in the Courts of Chancery; thus the general order of the 7th August, 1852, as to the appeals, is, "No appeal from any decree, &c., shall be allowed unless the same is set down and the requisite notice served within five years from the date of such decree, &c., but the Lord Chancellor or Lords Justices shall be at liberty, when it shall appear to him or them, under the peculiar circumstances of the case, to be just and expedient, to enlarge that period." The practice under this order has been settled to allow of an application for leave to appeal to be made after the expiration of the period of five years. So as to the word

"extended" used in the 25 & 26 Vict., cap. 89, sec. 124, which, after allowing appeals, proceeds as follows:—

"Subject to this restriction, that no such rehearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of as being made in manner in which notices of appeal are ordinarily given according to the practice of the Court appealed from, unless such time is extended by the Court of Appeal."

Under this section the practice is in a proper case to extend the time for appeal, *i.e.*, to give leave to appeal, although the application to extend is not made till after the twenty-one days. We are of opinion that Her Majesty's Agent should be instructed to insist before the Commissioners that they had the power to grant, and ought to grant, further time to all claimants where reasons for delay shall be established to their satisfaction, although no notice of the claim has been given befor the expiration of the six months, and to support his contention by reference to the practice of the Commission of 1853 and of the English Court of Chancery in the instances above referred to.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 304.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 5.)

My Lord,
*Temple, April* 4, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that, with reference to our letter of the 27th November last, he was directed by your Lordship to transmit to us the accompanying letter from Mr. Stewart (March 25), inclosing copy of an amended memorial respecting his claim against the United States' Government which he had forwarded to Washington to be submitted to the Commissioners.

And that he (Mr. Hammond) transmitted to us, for our convenience, the previous correspondence with Mr. Stewart;* and he was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to Mr. Stewart.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That your Lordship may properly inform Mr. Stewart that you see no reason to alter the opinion conveyed in your Lordship's letter of the 30th January last.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 305.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 19.)

My Lord,
*Temple, April* 19, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th April instant, stating that, with reference to our letter of the 4th instant, he was directed by your Lordship to transmit to us a further letter from Mr. Stewart (April 12), requesting to be informed, whether Her Majesty's Government will "in urging his claims upon the United States' Government, insist amongst other points upon the belligerent rights of the Confederate Government;" and to request that we would take that letter into our consideration, and report to your Lordship our opinion as to the answer that should be returned to it.

Mr. Hammond also stated that the former papers relating to Mr. Stewart's claim were annexed for convenience of reference.

In obedience to your Lordship's commands we have taken the letter into our consideration and have the honour to report—

That your Lordship may properly inform Mr. Stewart that you must altogether

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* Mr. Stewart, January 20; to Mr. Stewart, January 30; Mr. Stewart, February 9; ditto, February 12; to Mr. Stewart, February 17, 1872.

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decline to pledge yourself as to the line of argument which Mr. Howard may think fit to adopt in support of Mr. Stewart's claim, but that your Lordship has neither the will nor the power to interfere with Mr. Stewart in any recourse which he may think fit to have to the Courts of Law.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 306.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 19.)

*Temple, April* 19, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th April instant, stating that he was directed by your Lordship to transmit to a letter from Mr. J. M. Vernon (March 21), respecting his claim against the United States, together with the answer which your Lordship caused to be returned to it (April 9), and also to send to us a despatch from Sir E. Thornton (No. 190), forwarding correspondence on the same subject; and to request that we would take the papers into our consideration, and report to your Lordship our opinion whether any further steps should be taken in the matter.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That it seems, from the correspondence between Sir Edward Thornton and Mr. Fish, that Mr. Vernon is regarded by the Government of the United States as a person formerly engaged in active and persevering efforts to assist the cause of the Confederate States, in one of which he lived for some time, if he was never naturalized as an American citizen. Mr. Vernon's own letter to your Lordship of the 21st March, 1872, is apparently perfectly consistent with Mr. Fish's statements. Nor is there anything in these papers to contradict them. We gather that no practical obstruction is likely to be given by the American Government to any movements of Mr. Vernon having for their object the furtherance of his claim, whether that claim be well or ill founded. And under these circumstances we cannot advise your Lordship further to press that Government to release Mr. Vernon formally from the pledges which he has given. He appears to aim at no other definite or practical object in his communications to your Lordship.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 307.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 27.)

*Temple, April* 27, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 23rd instant, stating that, with reference to our Report of the 17th February, he was directed by your Lordship to transmit to us a despatch from Sir E. Thornton, forwarding a letter from Mr. Hansard giving further details, which, in accordance with our advice, he (Mr. Hansard) had been requested to furnish in regard to his second claim against the United States' Government; and that he (Viscount Enfield) was to request us to take the paper into consideration, and report to your Lordship our opinion as to the course that should be pursued in respect to this claim.

In obedience to your Lordship's commands we have the honour to report—

That we think Sir E. Thornton may be properly instructed to support Mr. Hansard's second claim diplomatically, by making such representations respecting it to the United States' Government as will, in your Lordship's judgment, be most likely to induce that Government to provide for the payment of the claim.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 308.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 27.)

*Temple, April* 27, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Washington, asking for instructions in the case of Mr. McLeod's claim against the United States' Government on account of the detention of his schooner "Mary Agnes;" and that he (Lord Tenterden) was to request us to take the despatch into consideration, and favour your Lordship with our opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That we think the claim of Mr. McLeod is not one which ought to be supported diplomatically by Her Majesty's Government. It appears the schooner "Mary Agnes," in respect of the seizure of which the claim for costs and damages is made, was seized for a wilful breach of the then revenue laws of the United States, but that, fortunately for Mr. McLeod, the owner, the Statute under which the vessel was seized was repealed after the seizure and before the institution of the suit for condemnation. Under these circumstances, the Court dismissed the suit without costs, and we think this decision in accordance with the justice of the case.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 309.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 29.)

*Temple, April* 27, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 25th April instant, stating that, with reference to our letter of the 19th instant, he was directed by your Lordship to transmit to us a despatch from Sir E. Thornton (No. 216), inclosing a further letter from Mr. J. M. Vernon, on the subject of his wish to be released from his pledge not to return to the United States; and to request that we would take the paper into our consideration, and report to your Lordship our opinion as to the instructions which should be sent to Sir E. Thornton in regard to it.

Lord Tenterden was pleased to add that the former papers were returned therewith for convenience of reference.*

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That the further papers sent to us by your Lordship do not lead us to change or modify the opinion we expressed in our Report of the 19th of this month. Mr. Vernon is apparently subject to no practical hindrance to the presentation of his claim, nor is he likely to be so. But it does not appear to be a case in which it is reasonable to expect the Government of the United States formally to release him from pledges which he has given them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 310.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 29.)

*Temple, April* 27, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 25th April instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Washington (No. 213), inquiring what course he should pursue respecting the claim of the owner of the British brig "Sarah

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* Mr. Vernon, March 25; to Mr. Vernon, April 9; Sir E. Thornton, No. 190; Report, April 19.

M. Newhall" against the United States' Government; that the despatch inclosed correspondence relating to the case, and that he was to request that we would take the papers into our consideration, and report to your Lordship our opinion as to the instructions that should be given to Sir E. Thornton on the subject.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That the owners of the "Sarah M. Newhall," having omitted to pursue the ordinary and obvious course of appealing if they were not satisfied with the measure of justice afforded them by the Admiralty Court of the United States, have no ground for calling upon Her Majesty's Government to endeavour to obtain for them diplomatically that which, but for their own conduct, they might probably at least have obtained by ordinary course of law.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 311.

*The Attorney- and Solicitor-General to Earl Granville.—(Received April 30.)*

My Lord,
*Temple, April* 30, 1872.

WE are honoured with your Lordship's commands signified in Lord Tenterden's memorandum of the 27th instant, stating that, with reference to his letter of the 25th instant, he was directed by your Lordship to forward to us a further letter from Mr. Vernon respecting his claim against the United States' Government.

In obedience to your Lordship's commands we have the honour to report—

That there is nothing in the farther papers sent to us to-day by Lord Tenterden which induces us to add to, or to change or modify in any respect, the opinion which we have already submitted to your Lordship.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 312.

*The Attorney- and Solicitor-General to Earl Granville.—(Received May 10.)*

My Lord,
*Temple, May* 10, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th May instant, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Bateson, Robinson, and Co. (May 3), requesting the interference of Her Majesty's Government on behalf the claim of Messrs. Shand, Higson, and Co. against the United States' Government, which the British Agent to the Claims Commission had declined to present, on the ground that it arose out of acts committed after the 9th April, 1865; and Mr. Hammond was pleased to request that we would take the papers into our consideration, and report to your Lordship our opinion as to the course that should be pursued with regard to the claim.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That the claim made in this case appears to be beyond the scope of the Treaty of Washington, but, on the assumption that the statements in the memorial admit of no contradiction or explanation, to be one which in itself it might be quite proper for Her Majesty's Minister at Washington to present for the favourable consideration of the United States' Government. It is, however, a curious and suspicious circumstance that certain assignees of the claim, and not the persons themselves injured, are now prosecuting it, and invoking the aid of Her Majesty's Government. And it seems to us that Her Majesty's Government are not called upon to interfere in favour of assignees, when the persons who have sustained the alleged injury have so long been, and remain, quiescent.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 313.

*The Attorney- and Solicitor-General to Earl Granville.—(Received May 23.)*

My Lord,
*Temple, May* 23, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that with reference to previous correspondence in regard to Mr. Stewart's claim against the United States' Government, he (Mr. Hammond) was directed by your Lordship to transmit to us copies of three further letters from that gentleman; and he was to request us to take them into consideration, together with former papers, which, for our convenience, were inclosed, and favour your Lordship with our opinion as to the answer which should be returned to Mr. Stewart.

In obedience to your Lordship's commands we have the honour to report—

That it is quite evident that Mr. Stewart is contemplating the bringing an action against your Lordship, and we think the best course is for your Lordship to inform him that he is at liberty himself to obtain an opinion from Sir Roundell Palmer upon the question if he thinks proper to do so, but that your Lordship cannot accede to terms of compromise of his claim, and sees no reason to alter the opinion expressed in the letters of the 30th January and the 9th and 23rd April last. That if Mr. Stewart, on consideration, desires the whole of his claims to be withdrawn, and will make a request to your Lordship to that effect, such request will be complied with.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 314.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 29.)*

My Lord,
*Temple, May* 27, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating, with reference to our letter of the 18th March, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Washington, forwarding a Report from the Consul at Charleston as to the circumstances of the seizure of the barque "Nutfield," on which Mr. Trenchard's claim against the United States' Government was founded; and he (Mr. Hammond) was to request us to take the papers into consideration, and report to your Lordship our opinion as to the course which should be pursued with regard to the claim.

In obedience to your Lordship's commands we have the honour to report—

That it appears, from the information supplied by Mr. Consul Walker, that Mr. Trenchard's original claim on the ground of a seizure of his ship the "Nutfield" is entirely without foundation.

We think the claim, the only one which has any existence in fact, for damage to some bales of cloth seized and afterwards restored by the Customs is, considering the mis-statements of Mr. Trenchard, one which your Lordship may properly decline to press.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 315.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 29.)*

My Lord,
*Temple, May* 28, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Howard, stating that the Claims Commissioners had agreed that their next meeting should be held at Newport, Rhode Island, on the 11th September next.

That the XIIth Article of the Treaty of Washington (copy inclosed) provides that

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the Commissioners "shall meet at Washington at the earliest convenient period after they have been respectively named," and says nothing with regard to adjournment to any other place, whereas, in the case of the Alabama Claims Assessors, it is specified in Article X of the Treaty that "The Board of Assessors shall be organized in Washington, with power to hold their sittings there, or in New York, or in Boston."

That your Lordship thought it possible that objection might be taken to the decisions of the Commission if given at a place other than that mentioned in the Treaty; and that he (Mr. Hammond) was to request that we would take the matter into consideration, and report to your Lordship our opinion on the point in question.

In obedience to your Lordship's commands we have the honour to report—

That, as no provision is made for the meeting of the Commissioners at any place other than Washington, we are of opinion that they cannot, for the purposes of the Treaty, meet at any place except Washington, and that any decision which they may give, save at Washington, will be open to discussion.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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### No. 316.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 4.)

My Lord,  
*Temple, June* 3, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that, with reference to our letter of the 28th ultimo, he was directed by your Lordship to transmit to us a despatch from Mr. Howard, inclosing a Report by Mr. Carlisle as to the adjournment of the Claims Commission to Newport, and inquiring whether he (Mr. Carlisle) should protest against any award being made by the Commissioners in that place; and he was to request that we would take the papers into consideration, and report to your Lordship our opinion as to the instructions which should be sent to Mr. Howard on the subject.

Mr. Hammond kindly inclosed former despatch and copy of the Treaty, for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Howard should be instructed to protest against any award being made by the Commissioners in any place other than Washington.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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### No. 317.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 6.)

My Lord,  
*Temple, June* 5, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that, with reference to our Report of the 18th ultimo, he was directed by your Lordship to forward to us a further letter from Messrs. Bateson and Co., denying that the claimants whom they represented had remained quiescent; and he (Mr. Hammond) was to request us to take the letter into consideration, and report to your Lordship our opinion as to the answer that should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That Messrs. Bateson may, in our opinion, be informed that their explanation of the delay in forwarding their claim is sufficient, but that Her Majesty's Government must be furnished with evidence in support of the statements in the memorial before deciding whether it is proper to be presented to the United States' Government.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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### No. 318.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 10.)

My Lord,  
*Temple, June* 10, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Howard, inclosing papers relating to the claim of the owners of the "Napier" against the United States' Government, and calling attention to the question raised by that claim as to whether the owners of a ship which had been condemned by an American Prize Court, and had not appealed, had a standing before the Claims Commission; and he (Mr. Hammond) was to request us to take the papers into consideration, and report to your Lordship our opinion as to the instructions which should be sent to Mr. Howard on the subject.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that since the question stated in Mr. Howard's letter of the 20th May, 1872, is pending before the Commissioners, under the XIIth Article of the Treaty of Washington, your Lordship may rightly instruct Mr. Howard to allow the matter to take its course, and to wait for the decision of the Commissioners upon the answer to the memorial of Mr. Ryerson.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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### No. 319.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 10.)

My Lord,  
*Temple, June* 10, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Kelly, Keene, and Roper, inclosing a copy of a memorial which they forwarded to Mr. Howard in support of the claim of Mr. Southall against the United States' Government, and which Mr. Howard refused to present to the Commission; and he (Mr. Hammond) was to request that we would take the papers into our consideration, and report to your Lordship our opinion as to the course that should be pursued with regard to this claim.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That your Lordship may properly inform Messrs. Kelly, Keene, and Roper that Mr. Howard, in refusing to present the memorial of Mr. Edward Thompson, acted in accordance with the principle of a decision previously given by the Commissioners at Washington in a similar claim.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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### No. 320.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 11.)

My Lord,  
*Temple, June* 11, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that he was directed by your Lordship to inclose, for our information, and for any observations we might have to offer, a despatch from Mr. Howard, forwarding the memorials of eighteen claims filed by United States' citizens against Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

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That we have considered the memorials of the eighteen claims forwarded in Mr. Howard's despatch, and that we have no observation to make in reference to them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 321.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 20.)

My Lord,

*Temple, June* 20, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us, for any observations we might have to offer thereupon, a despatch from Mr. Howard, transmitting papers relating to the claim of William W. Hubbell against Great Britain.

In obedience to your Lordship's commands we have the honour to report—

That the objections to the claim of Mr. Hubbell seem to us to be rightly taken in Mr. Carlisle's demurrer, and we have no further observations to make upon the papers inclosed in Mr. Howard's despatch.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 322.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 2.)

My Lord,

*Temple, July* 1, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that he was directed to transmit to us a letter from Mr. Isaac Parr, complaining of the refusal of Mr. Howard to present the memorials of Isaac Parr, William Parr, and Elizabeth Luck to the Claims Commission; and that he was to request us to take this letter into consideration, and report to your Lordship our opinion as to the answer that should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That the facts related in the memorials are such that Mr. Howard was right in not presenting them to the Commission, and that your Lordship may return an answer to that effect upon the first part of the letter to your Lordship from Mr. Isaac Parr.

As to the second part of the letter, in which Mr. Parr begs your Lordship to intercede with the Government of the United States on behalf of the memorialists, irrespective of the Treaty of Washington, we think your Lordship may inform Mr. Parr that further particulars and evidence should be furnished of the losses and injuries which are alleged to have arisen from the conduct of the United States' authorities after the close of the war, these being the only losses and injuries as to which any action can be taken.

As to Isaac Parr, he does not state whether the armed persons who hung him were or were not soldiers of the United States, or under whose authority they acted.

As to the losses of property after the war, it would seem that the property in question was in the possession of the Confederate authorities at the close of the war, having been seized by the Confederate troops during the war and taken from them, and not from Messrs. Parr; and if this were so, no claim could be maintained against the United States' Government; but the statements in the memorials are not very clear.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 323.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 4.)

My Lord,

*Temple, July* 4, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating, with reference to our letter of the 23rd May, he was directed by your Lordship to transmit to us a letter from Mr. Stewart, inquiring the reason of the omission from the memorial presented on his (Mr. Stewart's) behalf by Mr. Howard to the Claims Commissioners of certain portions of his claim; and he (Mr. Hammond) was to request us to take that paper into our consideration, and report to your Lordship our opinion as to the answer that should be returned to Mr. Stewart's letter.

In obedience to your Lordship's commands we have the honour to report—

That the claim for 52,071 dol. 52 c. which forms the subject of Mr. Stewart's letter to your Lordship appears to be for money current in the southern part of the United States in 1864, amounting to the original claim of Mr. Stewart.

We presume this means Confederate currency.

Your Lordship may, therefore, properly refer Mr. Stewart to your letter to him of the 30th January, 1872, for the reason why this part of his claim has been withdrawn by Mr. Howard.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 324.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 6.)

My Lord,

*Temple, July* 6, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating, with reference to our letter of the 3rd ultimo, he was directed by your Lordship to transmit to us a letter of from Mr. Russell Gurney relative to the proposed adjournement of the Claims Commission to Newport; and he (Mr. Hammond) was to request us to take the matter into consideration, and report to your Lordship our opinion whether there was any objection to the Commission holding meetings at Newport, provided its awards were delivered at Washington.

In obedience to your Lordship's commands we have the honour to report—

That no place being named in the Treaty except Washington for the meetings of the Claims Commissioners for the purposes of the Treaty, we are of opinion that formal meetings of the Commission at Newport should not be held. It may be worth while, however, to suggest that there is no objection to meetings of the Commissioners, as individuals, at Newport or elsewhere, and that at such meetings informal discussions as to the principles of decision, and even on the matter of the claims themselves, may take place without objection.

These informal meetings may possibly facilitate and expedite the business to be transacted at formal meetings of the Commission.

These informal meetings, however, must not be attended by the Agents or Counsel of either party, nor be made matter of record, inasmuch as all formal meetings and acts of the Commission must, we think, to be within the Treaty, take place only at Washington.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 325.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 11.)

My Lord, *Temple, July* 10, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that, with reference to our Report of the 5th ultimo, on the claim of Messrs. Shand and Higson against the United States' Government, he was directed by your Lordship to transmit to us a letter from Messrs. Bateson, Robinson, and Morris, forwarding evidence in support of the claim; and that he was to request us to take that paper into consideration, in connection with the former correspondence, and report to your Lordship our opinion as to the course which should be pursued in regard to the claim.

In obedience to your Lordship's commands we have the honour to report—

That in the absence of excuse for the burning of the warehouses where the cotton was stored at Columbus, the claim of Messrs. Shand, Higson, and Co. seems from the evidence now supplied by Messrs. Bateson, Robinson, and Co. to be one which it may be quite proper for your Lordship to have presented to the favourable consideration of the United States' Government; the claim is not within the Treaty of Washington, and the United States' Government may probably be able to explain satisfactorily why the warehouses were burned after the war was over, an act which appears to have been one of wanton destruction.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 326.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 22.)

My Lord, *Temple, July* 22, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that, with reference to our letter of the 4th instant, he (Mr. Hammond) was directed by your Lordship to transmit to us a further letter from Mr. Stewart, stating that he was unwilling to withdraw his claim against the United States' Government without some compensation; and he (Mr. Hammond) was to request that we would take this letter into our consideration, and report to your Lordship our opinion as to the answer that should be returned to it.

Mr. Hammond was pleased to inclose the previous papers for convenience of reference.

In obedience to your Lordship's commands we have taken this letter into consideration and have the honour to report—

That Mr. Stewart may be told, in answer to his letter of the 15th instant, that he is aware, from Lord Enfield's letter of the 30th January last, of the reasons why part of his claim has been withdrawn; and that your Lordship cannot make Mr. Stewart any compensation for his withdrawing his claim, either in the whole or in part, against the United States' Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 327.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 30.)

My Lord, *Temple, July* 30, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us a letter, and inclosures, from Mr. John Chapple, applying for the assistance of Her Majesty's Government in obtaining the distribution of the property left by the late George Thomas Chapple, in the State of Virginia, to his next of kin; and that he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to whether that was a case in which Her Majesty's Government could properly interfere.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion this is a case in which Mr. John Chapple should seek redress in the proper Courts in America, and in which Her Majesty's Government should not interfere.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 328.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 9.)

My Lord, *Temple, August* , 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th day of August instant, stating that, with reference to our letter of the 5th ultimo, as to the question of the meeting of the Claims Commission at Newport, he was directed by your Lordship to transmit to us a telegram from Mr. Howard, stating that the Commissioners, at their last meeting, formally adjourned to Newport, and inquiring whether there would be any objection to their meeting there, in order to re-adjourn to Washington, or whether he should take any steps to protest against such meeting.

Mr. Hammond further stated that he was to request that we would report to your Lordship our opinion as to the instructions that should be sent to Mr. Howard on that point.

In obedience to your Lordship's commands we have the honour to report—

That we think that there is no objection to the Claims Commissioners meeting at Newport, in the manner and for the purposes which were pointed out by your Lordship's letter to Mr. Howard of the 6th July, 1872, and also for the purpose of adjourning or fixing their next formal and official meeting to and at Washington.

Mr. Howard should, in our opinion, be instructed not to file any protest or take any action before the meeting of the Claims Commissioners at Newport.

And the meeting should, as we had the honour of reporting to your Lordship on the 21st June last, be considered in all respects to be outside the Treaty, and arranged by the Commissioners for their own convenience.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 329.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 27.)

My Lord, *Temple, August* 26, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Ellman, Raper, and Co., relative to the claim of Mrs. Mary Cassin, which they requested might be brought before the United States' Government with a view to its being reopened, and an adjudication given upon the merits of the case; and he was to request that we would take the letter, together with other correspondence on the subject sent therewith, into our consideration, and report to your Lordship our opinion as to the answer that should be returned to the applicants.

In obedience to your Lordship's commands we have the honour to report—

That Messrs. Ellman, Raper and Co. may be told that your Lordship cannot bring

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the claim of Mrs. Mary Cassin before the United States' Government unless you have an opportunity of seeing the evidence upon which their application is made.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 330.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 2.)

My Lord,
*Temple, September* 2, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that he was directed by your Lordship to state to us that placards, similar to the one he then inclosed, had been numerously posted up in the neighbourhood of the London and St. Katherine Docks, and he was to request that we would consider the same, and acquaint your Lordship whether the matter afforded any sufficient grounds for remonstrating with the American Government or with the American Minister in this country.

In obedience to your Lordship's commands we have the honour to report—

That we can see no legal objection to the placard.

But your Lordship might properly, in our opinion, call the attention of the American Minister in this country to the placard, and press upon him that any British subject who may engage to serve on board the "Wabash," or any other United States' ship, should be so engaged subject to being discharged in the event of a war between the United States and Great Britain, or between the United States and any country with which Great Britain may be at peace.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 331.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 20.)

My Lord,
*Temple, September* 19, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating he was directed by your Lordship to transmit to us a letter from the Colonial Office (29th August) in regard to the abduction of Dr. R. Bratton from Canadian territory, together with the draft of an instruction which your Lordship proposed to address to Her Majesty's Minister at Washington upon the subject; and that he (Mr. Hammond) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion in regard to the proposed instruction to Sir E. Thornton.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the instructions contained in the draft may properly be sent to Her Majesty's Minister at Washington.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 332.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 23.)

My Lord,
*Temple, September* 23, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating he was directed by your Lordship to transmit to us the accompanying papers, as marked in margin, relative to the treatment of the British vessel "Grace" by the local authorities of Darien, United States; and he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the steps which should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship may instruct Sir E. Thornton to bring the case of the barque "Grace" again to the attention of the United States' Government, and to urge that since the result of the trial of the United States' Judge Campbell, at Savannah, shows that the subjects and the property of the subjects of a friendly Power have suffered, in the former case, treatment no less than persecution, and in the latter case great, though indirect damage, from the irregular and informal proceedings of a Court of the United States, compensation should be made by the Government of the United United States to the persons who have been injured by those proceedings.

That the course suggested by the United States' Commission, of attempting to make the Judges of the Court liable in damages by actions, is not the remedy suitable where, as in the present case, a gross outrage has confessedly been committed by a Court of Justice against the persons and interests of the subjects of a foreign Power.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 333.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 1.)

My Lord,
*Temple, September* 30, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th September instant, stating that, with reference to our Reports of the 28th May, 3rd June, 5th July, and 9th August, respecting the question of holding at Newport the sittings of the Mixed Commission under the Treaty of Washington, he was directed by your Lordship to state to us that, in anticipation of the Commission not having completed its labours before the ensuing summer, when the setting in of the unhealthy season would necessitate a suspension of its sittings at Washington, Sir Edward Thornton had suggested that the meetings of the Commission might be held somewhere out of Washington, but the formal documents, such as awards, to be signed at Washington.

Mr. Hammond further stated that Sir Edward Thornton said that Mr. Fish sees no objection to informal meetings, attended by the Agents and Counsel, being held at Newport and elsewhere; and that he was to request that we would consider the matter, and report to your Lordship our opinion whether, if Mr. Fish would agree to an exchange of notes to that effect between the two Governments, such an arrangement would be satisfactory, and the validity of awards under the Treaty of Washington would, under such circumstances, be not liable to be called in question.

In obedience to your Lordship's commands we have considered the matter referred to us and have the honour to report—

That if the two Governments exchange notes agreeing to the arrangement proposed by Sir E. Thornton, and the meetings of the Commission be held according to that arrangement, the awards made under the terms so agreed upon will not, in our opinion, be liable to question.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 334.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 14.)

My Lord,
*Temple, October* 14, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 8th instant, stating he was directed by your Lordship to transmit to us a letter from Mr. L. Goddard relative to his claim for some flour belonging to him on board the "Brilliant," which was burnt by the "Alabama;" and he (Viscount Enfield) was to request us to take Mr. Goddard's claim into consideration, and favour your Lordship with our opinion as to the answer which should be returned to him.

In obedience to your Lordship's commands we have the honour to report—

That the claim of Mr. Goddard cannot be admitted.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 335.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October* 14.)

My Lord, *Temple, October* 14, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that, with reference to our Report of the 9th August last year, respecting the claim of the Hawaiian Government on account of the seizure and destruction of the Hawaiian barque "Harvest" by the "Shenandoah" or "Sea King" in 1865, he was directed by your Lordship to transmit to us a farther letter from the Hawaiian Consul-General in this country on the subject; and Mr. Hammond requested that we would take the matter into consideration, and report to your Lordship our opinion as to the answer that should be returned to Mr. Manley Hopkins.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Manley Hopkins should be informed that the claim of the Hawaiian Government is inadmissible in law.

No neutral has a right to complain of another neutral for furnishing means or munitions of war (whether men or materials) to a belligerent. It makes no difference that the belligerent who receives the supplies afterwards uses them to attack the subjects of a Power (either with or without a declaration of war) with which such belligerent was as peace when the supplies were furnished. The Power whose subjects were attacked without a declaration of war would have a claim for compensation on the belligerent, but none on the neutral who furnished the supplies.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 336.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October* 29.)

My Lord, *Temple, October* 28, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. W. Carsons relative to a claim for Indian corn and lard belonging to his clients, Messrs. Shaw and Finlay, on board the "La Fayette," which was destroyed by the "Alabama;" and that he (Viscount Enfield) was to request us to take Mr. Carson's application into consideration, and favour your Lordship with our opinion as to the answer which should be returned to him.

In obedience to your Lordship's commands we have taken Mr. Carson's application into consideration and have the honour to report—

That, in our opinion, your Lordship should, in answer to Mr. Carson's application, direct that he be informed that his claim cannot be enforced.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 337.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 2.)

My Lord, *Temple, November* 2, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 28th ultimo, stating that, with reference to his letter of the 16th instant, he was directed by your Lordship to transmit to us a letter from Messrs. Hamilton, Megan, and Thompson, relative to their claim for grain on board the "La Fayette," which was destroyed by the "Alabama;" and he (Viscount Enfield) was to request that we would take that application into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship should direct Messrs. Hamilton to be informed that Her Majesty's Government cannot entertain their claim.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 338.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 21.)

My Lord, *Temple, November* 20, 1872.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. McFeely, complaining of the rejection of his claim by the Washington Commission, and asking that his case might be reopened by the intervention of Her Majesty's Government; and he was to request that we would advise your Lordship what answer should be returned to that application.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship may properly answer Mr. McFeely that his application cannot be acceded to.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 339.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December* 6.)

My Lord, *Temple, December* 6, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that we had on several occasions been requested to favour your Lordship with our opinion in regard to claims brought forward by British subjects and others interested in vessels and property destroyed by the "Alabama" and vessel of that class, to be indemnified by Her Majesty's Government for their losses.

And that the communication which he (Mr. Hammond) inclosed, received from the Board of Trade, referred to such claims advanced by merchants and underwriters as are now put forward by the Salvage Association, and similar claims may be expected to be presented by other parties.

And that your Lordship was, therefore, desirous to learn our opinion generally upon the merits of the claims, on whatever ground they were preferred, and whether made on the strength of the award of the Tribunal of Arbitration at Geneva, or any other allegation, so that your Lordship might be prepared at once to deal with such cases, and, more immediately, to return an answer to the Board of Trade.

And that he (Mr. Hammond) was therefore to request us to give the matter our earliest consideration, and report our opinion, and the grounds on which we may arrive at it, as to the liability of Her Majesty's Government to British subjects for the acts of the "Alabama" and other similar vessels.

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In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That we are of opinion that Her Majesty's Government is not liable to British subjects for the acts of the "Alabama" and other similar vessels.

1. The finding of the Tribunal of Arbitration of Geneva was based upon the principle of the obligations and duties of the British Government, as the Government of a neutral country, towards the subjects of a foreign belligerent Government.

That finding in no way and in no degree affected the duties or obligations of the British Government in respect to British subjects.

2. The British Government was under no obligation towards British subjects to prevent the sailing of the "Alabama" or other similar vessels, and was guilty of no negligence in those respects towards British subjects.

3. The acts of the "Alabama" and of other similar vessels were committed under a duly recognized belligerent flag; the Government under whose flag those acts were committed is alone liable for the commission of the acts of such commissioned vessels.

And the fact that such Government has ceased to exist does not place the liability on the British Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 340.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 13.)

My Lord, *Temple, December* 12, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating, with reference to our letter of the 10th July, relative to the claim of Messrs. Shand, Higson, and Co. against the United States' Government, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Washington, forwarding the reply of the United States' Government to the application which he (Her Majesty's Minister at Washington) was instructed to make on behalf of the claimants; and he (Mr. Hammond) was to request us to take the despatch and former papers sent therewith into consideration, and favour your Lordship with our opinion as to the course that should be taken in regard to that claim.

In obedience to your Lordship's commands we have the honour to report—

That we have not before us the former papers, which showed the title of Messrs. Shand, Higson, and Co., as assignees of Messrs. Johnson; nor have we the memorial of Messrs. Shand, or copies of the evidence in support of that memorial.

If the statement in the note of Mr. Fish to Sir E. Thornton of the 11th November, 1872, to the effect that Messrs. Johnson had no interest in the destroyed cotton, the claim of Messrs. Shand cannot be farther supported.

Before advising your Lordship what course to take, we request you to direct that the memorial of Messrs. Shand, and the evidence in support of the memorial, and the letter referred to in Messrs. Bateson's letter of the 27th May, 1872, be supplied to us.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 341.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 16.)

My Lord, *Temple, December* 16, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence which had passed between Mr. Howard, the Agent to the Claims Commission at Washington, and the Foreign Office, as to the testimony of Sir George Cartier, which was required to rebut certain statements made in two of the memorials from citizens of the United States presented to the Commission.

That we would see that it had been arranged that Sir George Cartier, who was now in this country, should give his evidence before the American Consul-General, at noon on the 7th January, and that Mr. Howard had given notice to that effect to the United States' Agent.

That we would find in Mr. Howard's despatch No. 70 of the 26th November, which was written before his (Mr. Hammond's) telegram communicating the above arrangement reached him, full particulars as to the regulations under which the evidence was to be taken, and we would see that he (Mr. Howard) recommended that Counsel should be appointed to examine Sir George Cartier.

And that your Lordship considered that Dr. Deane would be the proper person to take charge of the case; and he (Mr. Hammond) was accordingly to request that, after taking the papers into consideration, we would agree with him as to the course that should be pursued, and advise your Lordship as to any farther steps that might be necessary, and specially whether it would be desirable to ask Lord Monck, or his Secretary to give confirmatory evidence, as suggested by Mr. Howard.

In obedience to your Lordship's commands we have the honour to report—

That the course suggested by Mr. Howard may properly be followed, and that it would be desirable to obtain the evidence of Lord Monck or, if he cannot attend, then of his Secretary.

The papers should be in the hands of Counsel as soon as can be.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 342.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 18.)

My Lord, *Temple, December* 17, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relating to the claim of Dr. Tumblety against the United States' Government for his arrest and imprisonment on two occasions in the year 1865; and he (Mr. Hammond) was to request us to take the papers into consideration, and report to your Lordship our opinion as to the answer that should be returned to Dr. Tumblety's letter of the 30th August.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may direct that Dr. Tumblety be informed, in answer to his letter, that Her Majesty's Government will bring his case to the consideration of the United States' Government, but that it will probably be better to defer any representation on the subject of the second arrest till the Mixed Commission have heard the evidence upon the first arrest and determined the claim arising out of it.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# Venezuela.

## No. 343.

*The Queen's Advocate to Earl Granville.*—(*Received February* 10.)

My Lord, *Temple, February* 10, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that, with reference to my Report of the 23rd October last, on the subject of two outrages committed, at the instigation of General Pulgar, the President of the State of Zulia, on British subjects, Mr. Hammond was directed to state to me that Her Majesty's Chargé d'Affaires at Caracas availed himself of the discretionary power allowed him, and demanded the dismissal of General Pulgar as the best course to obtain redress. Mr. Hammond was now to transmit to me the accompanying despatch, and its inclosures, from Mr. Middleton, from which I should perceive that his demand has not been complied with; and Mr. Hammond was pleased to request that I would take the same into my consideration, and furnish your Lordship with my opinion as to any further steps that should be taken in the matter. The previous papers were also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That there does not appear to me, looking at the last communication from Mr. Middleton, to be any other practical course open to your Lordship than to instruct Mr. Middleton to wait until the event occurs which is contemplated in Señor Guzman's letter, when the Venezuela Government will feel itself able and at liberty to dismiss General Pulgar from his present post, and when it will be proper for Mr. Middleton to renew his application for General Pulgar's dismissal.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 344.

*The Queen's Advocate to Earl Granville.*—(*Received March* 4.)

My Lord, *Temple, March* 4, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that, with reference to my Report of the 25th November last, relative to the claim of Mr. Pierre Sora against the Government of Venezuela, for compensation for losses which he had sustained in consequence of the proceedings of the party in arms against the present Government of that Republic, Mr. Hammond was pleased to transmit to me the accompanying further letter from the claimant, and to request me to take the same into my consideration, and furnish your Lordship with my opinion thereupon. The previous papers in this case were also inclosed.

In obedience to your Lordship's commands, I have the honour to report—

That, assuming the statement in Mr. Pierre Soria's letter of the 25th January last to be correct, that he carries on trade between the Port of Spain and the Port of Yropa, that circumstance will not, in my opinion, affect the question, as he is not entitled, as a British subject, to any other protection for his landed property in Venezuela than the Venezuelan Government is able to accord to the landed property of Venezuelan subjects.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 345.

*The Queen's Advocate to Earl Granville.*—(*Received March* 9.)

My Lord, *Temple, March* 9, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed to transmit to me the accompanying correspondence relative to the proceedings of the Venezuelan authorities towards Evaniste E. Abbott, a British subject, who was seized for a soldier whilst working on a coffee-estate in the neighbourhood of Petaré; and to request that I would take the case into my consideration, and furnish your Lordship with my opinion as to any steps which Her Majesty's Government should take in the matter.

In obedience to your Lordship's commands I have the honour to report—

That Her Majesty's Government is not, in my opinion, called upon to take any further steps in this matter.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 346.

*The Queen's Advocate to Earl Granville.*—(*Received March* 12.)

My Lord, *Temple, March* 11, 1872.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed to transmit to me the accompanying despatch from Her Majesty's Minister at Washington upon the subject of the claims of United States' citizens upon the Government of Venezuela, and the steps contemplated by the United States' Government with a view to obtain a settlement thereof. The draft to which this despatch is an answer, and a letter from Mr. Eastwick, the representative of British holders of Venezuelan bonds, were also inclosed, together with a memorandum showing the present state of affairs in regard to British American and other claims on Venezuela; and Mr. Hammond was pleased to request that I would take these papers into my consideration, and furnish your Lordship with my opinion as to the character of the American claims on Venezuela, as explained to Sir Edward Thornton by Mr. Fish.

A despatch from Her Majesty's Chargé d'Affaires at Caracas, showing the respective positions of foreign claims on Venezuela at the end of last year, was also inclosed.

In obedience to your Lordship's commands I have the honour to report—

That the character of the first and second classes of claims on the part of the United States against Venezuela, as explained to Sir Edward Thornton by Mr. Fish, may, in my opinion, be properly regarded as international.

With regard to the third class of claims, I am unable to form an opinion of their character in the absence of all information as to the details of them. A similar remark will apply to the fourth class of claims, with the exception of the case of the American steamers, the seizure of which, under the circumstances set forth in the "Daily Patriot" of the 27th January, 1872, may properly be regarded as a fit subject of an international claim.

I have, &c.
(Signed) TRAVERS TWISS.

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## No. 347.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 4.)

*Temple, June* 3, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office, inclosing a correspondence relative to a seizure by the Colonial authorities at Trinidad of a sloop named the "Violet" on suspicion of being intended for the conveyance of warlike stores to Venezuela; and he was to request us to favour your Lordship with our opinion as to whether any notice

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should be taken of the proceedings of the Venezuelan Consul-General in connection with this matter.

That he was further to request us to favour your Lordship with our opinion on the instructions which, as stated in the Colonial Office letter, the Earl of Kimberley proposed to address to the Governors of British Guiana and Grenada relative to the export of arms to Venezuela.

In obedience to your Lordship's commands we have the honour to report—

That the correspondence inclosed in the letter from the Colonial Office does not show that the Venezuelan Consul-General at Trinidad was personally cognizant of or implicated in the manufacture or in having possession or intended conveyance of warlike stores to Venezuela, and that the letter to the Consul-General from Mr. Brooks of the 25th March, 1872, is for the present all the notice which need be taken of his proceedings.

If, however, it should come out in the trial before the Supreme Court in the matter of the seizure of the sloop "Violet," that the Consul-General acted illegally in respect to the warlike stores, it will be right to communicate with the Governments whose Consul he is at Trinidad, in order to his removal from his offices, and also to bring him to trial.

In reference to the second subject in Mr. Hammond's letter, we are of opinion that the instructions which Lord Kimberley proposes to address to the Governors of British Guiana and Grenada relative to the export of arms to Venezuela are sufficient.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 348.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 7.)

My Lord,

*Temple, September* 6, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to us a correspondence (see list) relative to the outrages committed at the instigation of General Venancio Pulgar, the President of the State of Zulia, and his brother Don Rafael Pulgar, on Mr. Joseph Harris and Mr. O'Connor.

That in the case of Mr. O'Connor, your Lordship had decided, on the advice of the late Queen's Advocate, that redress must be sought through the Courts of Venezuela. It was therefore unnecessary that we should pay any attention to such parts of the correspondence as related to that (Mr. O'Connor's) case.

That in regard to the case of Mr. Harris, we would see that, on the advice of the Queen's Advocate, Her Majesty's Chargé d'Affaires at Caracas was instructed to use his discretion whether to demand the dismissal of General Pulgar, or pecuniary compensation to Mr. Harris, and that Mr. Middleton adopted the former alternative.

That the Venezuelan Government, however, declined to dismiss General Pulgar at first, upon the ground that Mr. Harris was born in Venezuela, and was therefore a Venezuelan citizen, and subsequently, upon farther ground that he was illegitimate.

That under these circumstances, he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion—

1. As to whether the demand for the dismissal of General Pulgar should be farther pressed; and,

2. As to the instructions which should be given to Mr. Middleton in reply to the last paragraph of his despatch No. 55 of the 1st instant, in regard to the exact line of conduct he (Mr. Middleton) should observe towards the children of British subjects born out of wedlock, but recognized by their father.

In obedience to your Lordship's commands we have the honour to report—

1. That the demand made by Her Majesty's Government for the dismissal of General Pulgar should not be farther pressed, since at the time when that demand was made Her Majesty's Government was acting on information that Mr. Harris was a British subject, which he is not.

2. That children born out of wedlock take their nationality from their mother at their birth, and will not acquire the rights of, and ought not to be treated as, British subjects when subsequently recognized by their father.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 349.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 12.)

My Lord,

*Temple, November* 12, 1872.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us a correspondence relative to the case of Mr. Luciano Agostin, a British subject, who was arrested and imprisoned for fifty hours in July 1871, by the authorities at Caracas, in Venezuela, for having neglected to comply with an order to supply a baggage-horse for the public service.

And that he (Viscount Enfield) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the course which should be taken in the matter to which they related.

In obedience to your Lordship's commands we have the honour to report—

That the order to supply a horse was served on the 1st July, 1871.

Mr. Middleton's letter to Señor Guzman, remonstrating against this order, was written on the same day. Notwithstanding this, Mr. Agostin was arrested on the 4th.

Mr. Middleton again remonstrated on the 5th, but the release was delayed on the excuse of a public holiday till the 6th.

Mr. Middleton's letter of the 23rd September, 1871, received no answer.

Mr. Middleton again wrote to Señor Barrios on the 23rd September, 1872, and received an answer dated 5th October, 1872, justifying the course followed by the Venezuelan Government, on the ground that Mr. Agostin had disobeyed a summons to appear before a Venezuelan authority, and treated the Venezuelan authorities with disrespect.

Mr. Agostin denies that he received any such notice as Señor Barrios seems to refer to, and Mr. Agostin also denies all disrespectful conduct towards the Venezuelan authorities.

If Mr. Agostin is to be relied on, and we see no reason to doubt his accuracy, we are of opinion, from the facts and dates above referred to, that an insult has, through Mr. Agostin, been thrown upon the British Government by the Venezuelan authorities, and that Mr. Middleton may be instructed to require an apology being made to the British Government, and reasonable compensation (the 3,000*l.* demanded by Mr. Agostin seems to us preposterous) be made to Mr. Agostin.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Zanzibar.

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### No. 350.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 19.)

*Temple, April* 18, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us a letter which your Lordship had received from the Lords Commissioners of the Admiralty, inclosing a Report, from the Commander of Her Majesty's ship "Columbine," of the capture of a slave dhow attended by bloodshed and loss of life; and he (Viscount Enfield) was to request us to take these papers into consideration, and favour your Lordship with our opinion as to how far Her Majesty's cruizers are entitled to enforce the liberation of slaves, and the surrender of resisting crews of slave dhows on those parts of the African coast where the Sultan's authority is merely nominal.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, considering the barbarous state of the country in question, and that the nominal Sovereign, although bound to suppress the Slave Trade, cannot fulfil his Treaty obligations on this part of the African coast, we think Her Majesty's cruizers may properly compel the liberation of slaves and the surrender of resisting crews on those parts of the African coast where the Sultan's authority is merely nominal, by the use of all necessary force.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## Appendix.

## GENERAL.

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### No. 122 A.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 12.)

*Temple, April* 10, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the correspondence relative to the manner of dealing with the estates of intestate British subjects, more particularly seamen in Russia; and that he (Mr. Hammond) was to request that we would take the matter into consideration, and favour your Lordship with our opinion as to the course which it would be proper for Her Majesty's Government to take with regard to it.

In obedience to your Lordship's commands we have the honour to report—

That from the various and not altogether consistent statements made in the long series of documents submitted to us, it is not easy to arrive with certainty at the facts on which your Lordship desires us to advise. From the despatches of Mr. Abbott it would appear that at least at Odessa the Russian authorities are in the habit of conceding to the English Consuls all reasonable power and authority in the matter of the goods of intestates, and from the concluding sentence of Mr. Hertslet's Report, it would seem that at Moscow in 1867 "a custom" existed in the assumed absence of Treaty rights whereby the English Consuls were allowed the practical control of the goods of intestate Englishmen dying there. All this is, however, inconsistent with the fair effect of the correspondence between Consul Carruthers, the English Chargé d'Affaires and the Russian Minister at St. Petersburgh. It is possible and even probable that the state of things on the subject varies according to the various characters and dispositions of the English and Russian functionaries in different parts of Russia. But the state of things at Taganrog, as narrated by Consul Carruthers, is a serious evil in itself to whatever cause it is to be ascribed, an evil well warranting, if you think fit, your Lordship's interference with the Russian Government to prevent its recurrence by means of new Treaty stipulations. We are of opinion that the XVth Article of the Treaty of 1859 would not give our Consuls the power they ought to have, because the very question of succession upon intestacy is specifically dealt with in the XIIIth Article of the same Treaty. But we think it only reasonable that if it be not the law of Russia it should become so by Treaty, that the Consuls should represent the family of such of his countrymen who die intestate, he being obliged, in order to maintain their rights, to submit to the same laws as any native Russian subject, but that the Consul should be allowed to stand in the place of the next of kin or heirs and represent them before the Russian Courts. This is, *mutatis mutandis*, the state of things which exist, or at least, under Treaties, may exist in England, and is therefore a state of things the legal allowance of which the English Government may fairly ask at the hands of a friendly Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 122 B.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received April* 12.)

*Temple, April* 11, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's memorandum of the 9th instant, stating that with reference to his letter of the 4th instant, respecting the administration of the estates of intestate British subjects in Russia, he was desired to transmit the accompanying papers, with the request that they might be taken into consideration in connection with those already before us.

In obedience to your Lordship's commands we have the honour to report—

Since writing our Report of yesterday, the 10th April, we have had the advantage of seeing the further papers sent to us by Lord Enfield on the 9th April. They do not induce us to make any substantial change in what we have already written.

Mr. Mitchell's memorandum confirms the view we had already expressed as to the effect on Consular rights of the most-favoured-nation clause in the French Treaty. But we gather both from his paper and from the despatch of Lord Augustus Loftus, that it is not impossible the Russian Government may be inclined to concede to English subjects some immunity from the inconvenient and oppressive provision of the Russian law in relation to intestacy as at present existing. And it would certainly be worth while to endeavour to obtain some relaxation of some of its provisions, especially that most inconvenient one, that two years must in all cases elapse before any administration can be had of the intestate's effects, a provision in the case of English sailors which is practically confiscation. It would be also very desirable to clothe the English Consuls with the official character of representatives of the deceased intestates for all purposes of obtaining administration.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 122 C.

*The Law Officers of the Crown to Earl Granville.*—(*Received July* 22.)

*Temple, July* 22, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that he was directed by your Lordship to request our opinion on the following point:—

Is a State whose neutrality has been guaranteed so entirely independent in its relations with other Powers (whether such Powers are or not parties to the guarantee), as to admit of its entering into any engagements with them or any of them (or either category), bearing on its neutral character, without communicating with, or obtaining the concurrence of, the guaranteeing Powers?

In obedience to your Lordship's request we have the honour to report—

That a State whose neutrality has been guaranteed does not by reason of such guarantee lose its independence.

The guarantee is only an engagement on the part of the guaranteeing Powers that the neutrality shall not be violated from without.

Consequently the guaranteed State retains the paramount right of entering into any Treaty engagement with any other Power.

Where such new engagements defeat the object for which the neutrality was guaranteed or prejudicially affect the guaranteeing Powers or make the guarantee more onerous, such engagements should in good faith be communicated to the guaranteeing Powers, and these will be released from the guarantee unless they give their consent to the new engagements.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 122 D.

*The Law Officers of the Crown to Earl Granville.*—(*Received August* 9.)

*Temple, August* 9, 1872.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed by your Lordship to state to us that an inquiry had been put to you by one of the Foreign Ministers at this Court whether a Secretary of a foreign Legation accused of blows and wounds ("coups et blessures") upon an English subject could be prosecuted before the English Courts.

And that your Lordship would be glad to be favoured with our opinion as to the answer which you should return to that inquiry.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that a Secretary of a foreign Legation (not being a British subject) accused of blows and wounds ("coups et blessures") upon an English subject could not be prosecuted before the English Courts.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

1873

*Printed for the use of the Foreign Office. July* 1880.

CONFIDENTIAL.

(4259.)

# REPORTS

BY THE

# LAW OFFICERS OF THE CROWN.

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1873.

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# LIST OF REPORTS.

*(Arranged according to Countries.)*

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| 1 | Law Officers .. | June 13, 1873 | On request of the Austrian Ambassador as to the extent to which sentences of foreign Tribunals could be carried out in England, or be pleaded as a ground of action in English Courts of Law. They may form the basis of action in England, but cannot be enforced without one .. .. | 1 |

## BRAZIL.

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| 2 | Law Officers and Dr. Deane | Jan. 16, 1873 | The marines of Her Majesty's ship "Reindeer" accused of murdering Brazilian boatmen in the Bay of Rio may be put on their trial, as the offence was committed in a navigable river where the tide ebbs and flows, and that is the same as if committed on the high seas, and the Admiralty would have jurisdiction in this case .. .. .. .. | 2 |
| 3 | Law Officers and Dr. Deane | June 23, | Case of the Queen's Insurance Company. Her Majesty's Minister at Rio Janeiro should not at present adopt official measures with regard to the bankruptcy of the Company, or to the agents, Messrs. Taylor and Lyde. If the decision of the Court of Appeal be right, no redress could be obtained from Brazilian Government. The agents appear, however, to have been illegally treated .. .. .. | 2 |
| 4 | Law Officers and Dr. Deane | Aug. 4, | As to the ratification of the Consular Convention with Brazil. They may be exchanged as soon as Article II, relating to wreck, has been agreed to, without the sanction of Parliament .. .. .. .. .. .. | 3 |
| 5 | Law Officers and Dr. Deane | 16, | As to the appropriation by Her Majesty's Consuls, under the Marriage Act, 12 and 13 Vict., cap. 68, of fees for marriages performed by them .. .. .. .. | 3 |
| 6 | Law Officers and Dr. Deane | Sept. 2, | The expense of bringing to England British subjects who had been induced to emigrate to Brazil should be paid by this country, and the sums should be claimed from the Brazilian Government. The case of the United States' immigrants a case in point .. .. .. .. .. | 4 |

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| 8 | Law Officers and Dr. Deane | 9, | As to the distribution of certain sums paid to Her Majesty's Government on account of British claims on Honduras under the Chatfield-Cruz Convention. A Commission should be appointed for the purpose, but no payment made until a the claims and accounts have been settled .. .. | 5 |

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| No. | | Date. | Subject. | Page |
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| 9 | Law Officers and Dr. Deane | Jan. 10, 1873 | The measures taken by the Lieutenant-Governor of British Honduras to prevent hostilities against the Guatemalan Government correct, but the Foreign Enlistment Act cannot be put in force until the existence of hostilities commence | 6 |
| 10 | Law Officers and Dr. Deane | Feb. 7, | Further respecting claims of the Honduras Company. No reason to alter opinion given in former Report | 6 |
| 11 | Law Officers and Dr. Deane | Mar. 31, | As to claims on Honduras under the Chatfield-Cruz Convention. Approve letter proposed to be addressed to Mr. Bury, who represents the claimants | 6 |
| 12 | Law Officers and Dr. Deane | July 4, | On complaint of Mr. Paris against the conduct of the Guatemalan Government with regard to bonds issued on a contract with Mr. Thos. Greenhill for the construction of two iron piers at San José and Zulate. Her Majesty's Government cannot interfere, as the contract was not fulfilled | 7 |
| 13 | Law Officers and Dr. Deane | 16, | As to the case of the Guatemala bonds. Her Majesty's Government should take no steps in the matter, although Mr. Paris maintains that the Guatemalan Government broke the contract, and not Mr. Greenhill | 7 |
| 14 | Law Officers and Dr. Deane | 18, | Further respecting the case of the Guatemala bonds. Their former Report was formed on the statement of Mr. Corbett, and Mr. Paris' letters do not alter their opinion, and they need not be sent to Mr. Corbett | 8 |
| 15 | Law Officers and Dr. Deane | Aug. 18, | Further respecting the Guatemalan bonds held by Mr. Paris. No reason to alter former opinion. Her Majesty's Government should take no further steps in the matter | 8 |
| 16 | Attorney-General and Dr. Deane | Sept. 10, | Further respecting the British claims on Honduras under the Chatfield-Cruz Convention of 1852, and the additional sum of 1,800*l.* offered as a final settlement by the Honduras Government of all claims, and if agreed to, measures to be taken to appoint Commissioners to distribute the sums to the claimants. Proposed reply to Mr. Bury, who represents the Carmichael claim. Her Majesty's Government should press for payment, both under the Convention of 1852 and the Treaty of 1859 | 8 |
| 17 | Attorney-General and Dr. Deane | 10, | Her Majesty's Government may now insist upon the Nicaraguan Government returning to Mr. Hilario Goussen the money extorted from him as a forced loan, as that Government has acknowledged his British nationality | 9 |
| 18 | Attorney-General and Dr. Deane | Oct. , | As to the validity of the notice received by the Lieutenant-Governor of British Honduras of the blockade of the port of Omoa by General Enrique Palacios, he being in possession of a ship named the "General Sherman," and an island belonging to Honduras. The blockade should be respected by neutral shipping | 10 |
| 19 | Law Officers and Dr. Deane | Nov. 5, | As to the Proclamation issued by the Lieutenant-Governor of British Honduras forbidding the export of arms, &c., from the Colony. To make it legal it should have been absolute, and apply to all exports of arms, &c., except for the use of Her Majesty's service | 10 |
| 20 | Law Officers and Dr. Deane | Dec. 19, | Approve draft of letter to General Negrete, the Guatemalan Minister, on his complaint against the proceedings of Sir Lambton Loraine, commander of Her Majesty's ship "Niobe," on the Atlantic coast of Central America. (Bombardment of Omoa) | 11 |
| 21 | Law Officers and Dr. Deane | Dec. , | Further respecting the Proclamation of the Lieutenant-Governer of British Honduras for the prohibition of the export of arms, &c. Reasons for its inexpediency in its present form. It should not be confined to the export of arms of any particular country, nor refer to the relations of belligerents and neutrals, but the Governor may permit the export under his licence, carefully granted | 11 |

| No. | | Date. | Subject. | Page |
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| 22 | Law Officers and Dr. Deane | Dec. 31, 1873 | As to the offer of Señor Gutierrez, the Honduras Minister, of 1,800*l.* in payment of the British claims in full under the Chatfield-Cruz Convention of 1852, and the request of Messrs. Harwood, Banner, and Co., who represent the estate of Mr. Carmichael, for the distribution of the money on receipt of their debt. He should be told that if the claimants refuse to accept the compromise the money will be returned as insufficient | 12 |

## CHILI.

| No. | | Date. | Subject. | Page |
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| 23 | Law Officers and Dr. Deane | May 24, 1873 | As to the reply to be sent to Mr. J. Michael, who is about to send out a vessel with emigrants and goods to a port in Araucania, having obtained a concession from a person calling himself King of Araucania and Patagonia, and who desires British protection. Protection will be granted if the expedition is engaged in lawful business | 13 |

## CHINA.

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| 24 | Law Officers and Dr. Deane | Mar. 27, 187 | On draft Ordinance of the Hong Kong Government to prevent the building and equipment of vessels for the coolie trade. Approve, with certain suggestions and alterations | 14 |
| 25 | Law Officers and Dr. Deane | 27, | The Governor of Hong Kong should be instructed that in case the Chinese officer sent to demand the extradition of a Chinaman should misconduct himself during that duty, he should be sent back to his own Government to be punished, and the Chinaman should not be subject to extradition | 15 |
| 26 | Law Officers and Dr. Deane | Apr. 2, | The proposed Order in Council, amending that of 1865, for China and Japan, relative to the deportation of offenders to Hong Kong, may be issued, with the modifications suggested by Lord Kimberley | 15 |
| 27 | Law Officers and Dr. Deane | 7, | As to the course to be pursued on the difficulties raised to the appointment of a British Consul for Peking | 16 |
| 28 | Law Officers and Dr. Deane | 25, | As to whether an Acting Consul, not holding a British warrant, can solemnize marriages abroad. Sir E. Hornby may be informed that, under the Act of Parliament 31 and 32 Vict., cap. 61, every person authorized to act as Consul is also authorized to solemnize marriages | 16 |
| 29 | Dr. Deane | June 5, | On request of Mr. Jamieson for support of Her Majesty's Government, on his petition to the Benchers of the Inner Temple, for admission to the bar before his return to China, having only kept eight terms | 17 |
| 30 | Law Officers and Dr. Deane | 23, | On the proposed revision of the Order in Council of 1865 for China and Japan, suggested by Sir E. Hornby. Suggesting alterations to be made, with the assistance of Mr. C. W. Goodwin, the Assistant Judge of the Supreme Court at Shanghae | 17 |
| 31 | Law Officers and Dr. Deane | July 7, | Further respecting the alterations in the proposed draft Order in Council of China and Japan of 1865, which will confer on the Judge of the District Court at Yokohama the same powers with regard to deportation as are given to the Chief Judge of the Supreme Court | 18 |
| 32 | Law Officers and Dr. Deane | Oct. 20, | On proceedings of the case of Mr. G. W. Caine, tried before Sir E. Hornby at Shanghae. His directions to the jury were correct | 18 |
| 33 | Law Officers and Dr. Deane | Nov. 7, | On further despatch from Sir E. Hornby on the trial of Mr. G. W. Caine. Have no observations to make | 18 |

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| No. | | Date. | Subject. | Page |
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| 34 | Law Officers and Dr. Deane | Nov. 11, 1873 | As to a German firm accused of their connection with the vessel "Fatchoy," said to be engaged in the Macao coolie trade, and the steps to be taken for prosecuting the Messrs. Elilers. The present Ordinance is sufficient to prevent recurrence of such cases if put in force, but there is not sufficient evidence to prosecute | 19 |
| 35 | Law Officers and Dr. Deane | Dec. 16, | Macao coolie traffic. Her Majesty's Consul at Canton not justified in interfering with the vessel alleged to have been fitted out for that purpose. Approve Sir E. Hornby's letter to the Consul on the general question | 19 |
| 36 | Law Officers and Dr. Deane | 18, | Revised Order in Council for China and Japan relating to deportation from Hong Kong embodied into it. Proposed regulations for issuing passports to British subjects intending to travel beyond, and not within, Treaty ports of Japan are not consistent with the Order in Council. A provision should be inserted sanctioning the Regulations | 20 |
| 37 | Law Officers and Dr. Deane | 19, | As to instructions issued by Sir E. Hornby to Her Majesty's Consuls at Shanghae and Foochow with reference to the regulations of the Tea and Silk Guilds at those ports. No remonstrance should be made unless they are found to be prejudicial to British trade | 20 |
| 38 | Law Officers and Dr. Deane | , | On Regulations issued by Her Majesty's Minister at Peking for the management of the prison there, and whether he had the power to make them under the Order in Council of 1865. Provision should be made in the revised Order in Council to enable the Regulations to be made, and the Queen's consent must first be obtained | 21 |

## DENMARK.

| No. | | Date. | Subject. | Page |
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| 39 | Law Officers and Dr. Deane | July 3, 1873 | Complaint of Danish Minister on refusal of executors in England to pay legacies to Danish subjects, minors, until they come of age, and whether steps could not be taken to pay the legacies to the Danish authorities on their behalf. He should be told the law of England would not allow the legacies to be paid to the Danish authorities, but the guardian of the infant might receive the income for the child's maintenance or education | 21 |

## EGYPT.

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| 40 | Law Officers and Dr. Deane | Jan. 3, 1873 | As to the proposed scheme of the Austrian and Italian Consuls-General for the settlement of the outstanding claims of their subjects against the Egyptian Government. Her Majesty's Government would be justified in approving it; also on the part of British subjects, should the case arise | 22 |
| 41 | Law Officers and Dr. Deane | Feb. 1, | No reason to alter opinion already given as to the non-liability of Her Majesty's Government relative to the claim of Messrs. Wills, Manché, and Co., for money deposited in the hands of a former British Consular Agent at Port Saïd | 22 |
| 42 | Attorney- and Solicitor-General | Mar. 10, | As to the reply to be given to the Admiralty whether the Egyptian vessel "Charkieh" is to be considered a ship of war, and not liable to arrest during the legal proceedings arising out of her collision with the "Batavier." Messrs. Clarkson to be informed that these points will be decided by the Admiralty Courts | 23 |
| 43 | Law Officers and Dr. Deane | 24, | Judicial Reforms in Egypt. Report of Sir P. Francis on the decision of the International Commission on the scheme agreed upon by the Powers. The proposal might receive the sanction of Her Majesty's Government, and adopted as soon as possible | 23 |
| 44 | Law Officers an Dr. Deane | May 19, | As to the deportation of a British subject under sentence of imprisonment passed by the Consular Court at Alexandria to this country to complete his sentence. Consul Lane's recommendation could not be carried out, as the prisoner could claim his discharge on his arrival in England | 24 |

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| 45 | Law Officers and Dr. Deane | June 2, 1873 | Judicial Reforms in Egypt. As to the proposed mode of selecting the Judges over the new Tribunals. Scheme of the Khedive may be carried out. The French proposal for a second French Judge of Appeal would give a preponderance, and would on that account be objectionable | 24 |
| 46 | Law Officers and Dr. Deane | 5, | As to the dispute between the Daïra of the Khedive and the Ramlé Railway Company. Course that should be pursued by Colonel Stanley, Her Majesty's Agent and Consul-General. Her Majesty's Consular Court has no jurisdiction in the matter | 25 |
| 47 | Law Officers and Dr. Deane | July , | On complaint of Messrs. Barker and Co. against the Egyptian Government for destruction of the palisade surrounding their coal yard at Alexandria. They should be told Her Majesty's Government cannot support their claim | 25 |
| 48 | Law Officers and Dr. Deane | 21, | On claim of Mr. Samuel Hood against the Egyptian Government for 100*l*., on his arrest and detention by the police. Her Majesty's Government should not take any action in the case, as the soldiers who assaulted Mr. Hood were sufficiently punished | 25 |
| 49 | Law Officers and Dr. Deane | Aug. 1, | As to claim of Messrs. Joyce, of Alexandria, against the administrator of the Khedive's sugar estate, for the sale of damaged sugar. Her Majesty's Government should not interfere | 26 |
| 50 | Law Officers and Dr. Deane | 29, | Further respecting the claim of Messrs. Joyce, of Alexandria. No reason to alter opinion already expressed | 26 |
| 51 | Attorney-General and Dr. Deane | Sept. 30, | On complaint of Messrs. Bott and Co., for the non-fulfilment of a shipping contract on the part of the Egyptian Government with Messrs. Barker and Co., and also to the alleged detention of British vessels at Alexandria while loading ballast. Approves the case being brought before the Mixed Commercial Tribunal; but this claim, and that of Messrs. Wilson, should not be pressed on the Egyptian Government | 26 |
| 52 | Law Officers and Dr. Deane | Oct. 9, | Further respecting the complaints against the Ramlé Railway Company. No steps whatever should be taken as regards Mr. Schutz, a shareholder, and the original "concessionaire" | 27 |
| 53 | Law Officers and Dr. Deane | 24, | Claim of Mr. Isaac Pariente on the Egyptian Government cannot be supported by Her Majesty's Government | 27 |
| 54 | Law Officers and Dr. Deane | Nov. 4, | Further respecting the complaint of the Ramlé Railway Company against the Egyptian Government. Her Majesty's Government cannot give assistance to Mr. Flemming or Mr. Hugh Rose, shareholders of the Company, and they may be told they must accept the responsibility of a Tribunal in Egypt | 28 |
| 55 | Law Officers and Dr. Deane | 5, | Further respecting the complaints of shareholders of the Ramlé Railway Company against the Egyptian Government. Her Majesty's Government should not interfere in the cases of Messrs. Wilson, M'Lay, and Co., or Mr. Bulkeley | 28 |
| 56 | Law Officers and Dr. Deane | 13, | As to a case of disputed salvage at Suez, and the Tribunal before which it should be tried. To avoid delay, Her Majesty's Consul-General had been instructed to allow the case to go before the Egyptian Tribunal, and this Court has jurisdiction in the matter | 29 |
| 57 | Law Officers and Dr. Deane | Dec. 4, | Further respecting the claim of Mr. Isaac Pariente against the Egyptian Government. No reason for Her Majesty's Government to support his claim when a remedy by way of appeal was open to him, which he declined to avail himself of | 29 |

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## FRANCE.

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| 58 | Law Officers and Dr. Deane | Jan. 7, 1873 | Proposed Treaty between France and Belgium, and Articles relating to the most-favoured-nation clause, and provision in case of the duty on raw materials not being imposed, and whether these would affect the Protocol about to be proposed to the French Government. No reason to alter the Protocol, as the clause is the same in both Treaties | 30 |
| 59 | Law Officers and Dr. Deane | 8, | As to the French Treaty, Protocol, and the amendment in the wording to be proposed in the revised draft | 30 |
| 60 | Law Officers and Dr. Deane | 10, | The duties charged by the French authorities in the Gaboon River on goods transhipped from one vessel to another in transit for this country were properly levied | 31 |
| 61 | Law Officers and Dr. Deane | 18, | As to the Protocol to be negotiated with the French Government with regard to the French Treaty. That proposed by the French Government too vague and ambiguous to be adopted. The proposal of Her Majesty's Government more preferable in form | 31 |
| 62 | Law Officers and Dr. Deane | 18, | On claim of French Government brought before the Tariff Commission, by M. Ozenne, of the right to alter the scale of drawbacks in Annex No. 1 of Treaty of the 5th November, 1872. The question of drawbacks no longer an open question, but is decided by the Tariff in Annex 1 | 32 |
| 63 | Lord Chancellor.. | 19, | Opinion that as long as the Pouyer-Quertier clause remains the French Government cannot lay duties on raw materials so long as other foreign nations are not subject to compensatory duties on the introduction of raw materials. Necessity of the Protocol proposed being very clearly expressed | 32 |
| 64 | Law Officers and Dr. Deane | 24, | Suggestion of Mr. Kennedy that notarial duties performed at Paris under 18 & 19 Vict., cap. 42, should be carried out at Her Majesty's Consulate, and not at the Embassy, is a good one, as an Embassy may refuse to perform notarial acts in the presence of a Consul | 33 |
| 65 | Law Officers and Dr. Deane | Feb. 24, | As to the difficulty a British subject at Havre had to register the birth of his son as Horace *Richardson* Goodday, on account of the French law prohibiting the "prénoms" of modern date being put on the register. Instructions might be given to Lord Lyons to obtain an alteration of the law as regards British subjects | 34 |
| 66 | Law Officers and Dr. Deane | 26, | On claim of Mr. Hinton on the French Government on account of the occupation of the Hôtel des Bains at Cherbourg, of which he had a lease, by order of the French military authorities, during the war. Cannot suggest further steps to induce the French Government to pay to him the amount of the original sum awarded | 34 |
| 67 | Law Officers and Dr. Deane | Mar. 3, | As to the contract entered into before the war with Mr. Porter for gasworks, and correspondence with Mr. Brogden and Mr. Silverthorne on the subject. This case not one for representation to the French Government | 35 |
| 68 | Law Officers and Dr. Deane | 8, | The "Exposé des Motifs" which prefaced the Projet de Loi, to enable the President of the Republic to ratify the Treaty of Commerce, will not invalidate the agreement as to the construction of the Treaty recorded in the interchange of notes of the 29th January | 35 |
| 69 | Law Officers and Dr. Deane | 12, | On request of Messrs. Prévité and Greig to be relieved from paying the "surtaxe d'entrepôt" on a cargo of bitumen from Trinidad to London, and there transhipped to France. Her Majesty's Government should not bring the request before the French Government, as this is levied alike on French and English vessels | 36 |

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| 70 | Law Officers and Dr. Deane | Mar. , 1873 | As to the decision arrived at by the French Council of State in a prize case, that no other evidence is necessary to prove the neutral character of cargoes captured on board enemies' ships than that of the papers found on board. It would be a question for consideration whether a representation should be made, as a contrary practice is adopted in this country and America | 36 |
| 71 | Law Officers and Dr. Deane | 19, | Further respecting the case of Mr. Porter, against whom legal proceedings had been taken in the French Courts, on account of certain gas contracts, and in which Mr. Brogden was implicated, and as to the reply to be sent to Mr. Silverthorne on behalf of Mr. Brogden. The case must be left to the French Tribunals | 37 |
| 72 | Law Officers and Dr. Deane | 27, | On claim of Mr. David Jones for damage to his house and property at Blois, which the French Government refused to entertain. As to the instructions to be given to Lord Lyons. The claimant should apply to the proper authorities, as advised by M. de Rémusat | 37 |
| 73 | Law Officers and Dr. Deane | April 25, | As to the form of representation to be sent by Lord Lyons to the French Government on the question of the appointment of Magistrates on the French shore of Newfoundland, and suggests the retention of the words relating to the "protection of the buildings of the fishermen" in the letter from the Colonial Office | 38 |
| 74 | Law Officers and Dr. Deane | May 28, | Instructions that should be given to Mr. Kennedy, the British Representative at the Tariff Commission in Paris, on subject of the claims of importers of mineral oils into France. Points of differences may be referred to the Arbitrator | 39 |
| 75 | Law Officers and Dr. Deane | June 16, | On complaint of Mr. Morrison of the fraudulent imitation in France of the British Government stamp affixed to his medicines, and request for the interference of Her Majesty's Government. He should give further information of the forgery, and, if found true, the French Government may be called on to punish the guilty parties | 40 |
| 76 | Law Officers and Dr. Deane | 26, | As to the liability of foreigners to military service in France. Lord Lyons need not take further steps in the matter | 40 |
| 77 | Law Officers and Dr. Deane | July 7, | As to the Treaty of Frankfort between France and Germany having a perpetual most-favoured-nation clause | 41 |
| 78 | Law Officers and Dr. Deane | 7, | As to the interpretation to be put on the XIth Article of the Treaty of Commerce, and the duration of the stipulation with regard to the most-favoured-nation treatment | 41 |
| 79 | Law Officers and Dr. Deane | 7, | Draft of new Treaty of Commerce may be proposed and sent to Lord Lyons to negotiate. Parliamentary legislation will not be required | 42 |
| 80 | Law Officers and Dr. Deane | 11, | As to course to be pursued by Lord Lyons on the application of Mr. Maugham, an English solicitor resident in Paris, who was appointed Commissioner to take evidence in a suit against the "Times" newspaper, and who wanted certain documents at the Préfecture de Police on the subject. The attorney to the parties in the suit should apply himself to the French authorities for the evidence | 42 |
| 81 | Law Officers and Dr. Deane | 12, | Approve draft Treaty of Commerce with France and the draft note to French Government prescribing the subjects with which the Mixed Commission should deal. Suggestions with regard to Article III on question of mineral oils | 43 |
| 82 | Law Officers and Dr. Deane | 15, | Further respecting the Bill before the French National Assembly on the liability of foreigners to military service. Unofficial requisition should be made by Lord Lyons to obtain reciprocal privileges for British subjects | 43 |

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| 83 | Law Officers and Dr. Deane | July 18, 1873 | As to the action against the "Times" newspaper. Application for documentary evidence refused by French authorities unless applied for through Her Majesty's Ambassador at Paris. Lord Lyons may request the French authorities for production of the documents and attendance of witnesses, but to state that he does so in accordance with the practice in similar requests by the Ambassador of a foreign Power | 44 |
| 84 | Law Officers and Dr. Deane | Aug. 16, | Further relative to the liability of foreigners to military service in France. Should concur in deferring making any further representations, as the Bill may not become law | 45 |
| 85 | Law Officers and Dr. Deane | 28, | On passports having been obtained by two British subjects, named Ashton and Collins, from Her Majesty's Consulate at Nantes, in order to enable a Carlist General to pass with safety into Spanish territory. As to whether punishment can be awarded to the guilty parties. No indictment can be framed against them | 45 |
| 86 | Attorney-General and Dr. Deane | Sept. 15, | On request of Consul at Havre to know whether a person acting for a Vice-Consul, holder of a marriage warrant, can legally solemnize marriages. A person holding such an office cannot solemnize marriages | 46 |
| 87 | Attorney-General and Dr. Deane | Oct. 20, | On the proceedings of Mr. Bennett, the Premier of Newfoundland, in opening a lead mine at a spot on the French shore. Should concur in measures proposed to be taken by Lord Kimberley, as Treaties provide against permanent occupation | 46 |
| 88 | Attorney-General and Dr. Deane | 20, | Further respecting the issue of passports to two British subjects from the British Consulate at Nantes for Carlist purposes. Her Majesty's Government may offer assistance to French Government by way of evidence, so as the offenders may be tried | 46 |
| 89 | Law Officers and Dr. Deane | 22, | On the proceedings of Captain Miller, of Her Majesty's ship "Sirius," on a voyage round the Newfoundland fisheries, and the correspondence with French naval authorities in consequence; and whether the opinion of the Colonial Law Officer on the question in dispute between the British and French Governments was concurred in; and whether the Colonial Act 23 Vict., cap. 8, should be construed as if there had been a special reservation of Treaty rights in it; and as to the best mode of avoiding the difficulty above indicated. Concur in opinion of Law Officers of the 24th March, 1859, that the French have no right to the fishery in rivers, their rights being limited to fishing in the sea and on the coast, and they have no right to interrupt or molest any British subjects fishing for salmon or other fish in any river in Newfoundland; and agree generally with opinion expressed by Colonial Law Officer on the several questions involved | 47 |
| 90 | Law Officers and Dr. Deane | 25, | On points connected with the commercial negotiations between Great Britain and France: 1st, on the subject of expertise and customs regulations in France; 2nd, whether the French Government would be justified under Treaties of 1860 and 1873, in event of excise duty on mineral oils of French production being imposed, they could be levied according to the illuminating power of the oil? | 51 |
| 91 | Law Officers and Dr. Deane | 29, | Further relative to the question of the excise duties to be levied in France on British mineral oils proposed to be assessed according to the illuminating power of the oils. Her Majesty's Government would not be justified in raising any objection to the proposed excise duties on oils manufactured in France | 52 |
| 92 | Law Officers and Dr. Deane | Nov. 5, | On disputes between Great Britain and France on subject of the Newfoundland fisheries. The words of the Treaties preclude the French from the right of fishery in the rivers, but give uninterrupted right of fishery along the sea-coast. The French, however, have not the exclusive right of fishing so as to make the act of fishing on the part of the British illegal, but the English cannot prevent the French from the right of fishing on the coast. The same waters are not to be fished in by both parties at the same time | 53 |

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| 92* | Law Officers and Dr. Deane | Nov. 5, 1873 | Approve drafts of letters to the Bradford Chamber of Commerce and Mr. K. B. Murray, of Paris, on the system of expertise and other customs matters, but suggests the addition of some words | 54 |
| 93 | Law Officers and Dr. Deane | 7, | Remarks on proposed draft of Supplementary Treaty of Commerce with France and the draft instructions to Lord Lyons. Suggesting alterations | 54 |
| 94 | Law Officers and Dr. Deane | 10, | As to disputes that have arisen respecting the penalties imposed by the Act 31 and 32 Vict., cap. 45, which were alleged to be not in conformity with the Fishery Convention with France of 1867. Before any changes are made, the French Government should engage to give full effect to the XXXIst Article of the Convention | 55 |
| 95 | Law Officers and Dr. Deane | 12, | As to steps to be taken by the Commission under the IVth Article of the Treaty of Commerce and Navigation of July last relative to the mineral oil claims | 56 |
| 96 | Law Officers and Dr. Deane | 17, | Further respecting the claims for the reimbursement of duties on the grounds of warehousing or storage, levied in excess under provision of Article IV of the Treaty of July last | 56 |
| 97 | Law Officers and Dr. Deane | 17, | On the draft of the Supplementary Convention of Commerce with France. Remarks on various Articles of the revised Convention, and suggesting alterations | 57 |
| 98 | Law Officers and Dr. Deane | 25, | Further as to the legal power of a person acting for a British Vice-Consul to solemnize marriages under the 12 and 13 Vict., cap. 68. Although the Vice-Consul may have a marriage warrant, a person acting for him cannot legally, under the Act, solemnize marriages | 58 |
| 99 | Law Officers and Dr. Deane | Dec. 12, | As to the instructions to be given to Mr. Kennedy with respect to the claims of the importers of mineral oils into France. Those of Young's Paraffin and Mineral Oils Company answered by former Reports | 58 |
| 100 | Law Officers and Dr. Deane | 13, | The steps proposed to be taken by Mr. Kennedy in the Anglo-French Commission, with a view to settle the claims of the exporters of mineral oils to France, are right and proper | 59 |
| 101 | Law Officers and Dr. Deane | 13, | Further relative to the consideration by the British and French Commission at Paris of the claims of the exporters of mineral oils. Cases in dispute may be referred to the Umpire | 59 |
| 102 | Law Officers and Dr. Deane | 31, | On memorandum of Mr. Kennedy of the statements of the Sheffield and Derby Chambers of Commerce on the subject of fines, expertise, and value of goods, and their bearing on Article IV of the Convention of the 23rd January, 1860. Instructions to be given to Mr. Kennedy as to the interpretation to be put on the word "value," which means the price that the article cost the importer at the time he purchased it | 60 |
| 103 | Law Officers and Dr. Deane | 31, | As to the trial of eight British seamen, crew of the "Mongol," at Bordeaux, on a charge of conspiracy and mutiny at sea. May be defended by an Avocat, and Consul Hunt should do all in his power to protect the men and communicate with the Consul at Havre, where the trial is likely to take place | 61 |

## GENERAL.

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| 104 | Law Officers and Dr. Deane | Feb. 1, 1873 | As to the proposed amended Circular to Her Majesty's Ministers abroad on marriages between British subjects and foreigners. The parties should ascertain and conform to the requirements of the law of the country in which the marriage is to take place | |

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| 105 | Law Officers and Dr. Deane | Feb. 6, 1873 | As to the instructions to be sent to Lord Odo Russell on subject of the registration in the British Embassy of the births of children of naturalized British subjects residing in Germany, whether naturalized in Great Britain or the Colonies. They should not be sent to other Missions .. | 62 |
| 106 | Law Officers and Dr. Deane | Mar. 16, | On question of the proposed re-marriage of Count Kergonët, a French citizen, and Miss Macpherson Aberbain, a British subject, before the British Consul at Brest, being contrary to the Marriage and Naturalization Acts, and subsequent intention of the parties being married at the British Embassy at Paris. Instructions may be given to Lord Lyons and Consul Rainals that when the parties have been married according to the *lex loci*, similar marriages may be performed at the British Embassies and Consulates .. | 63 |
| 107 | Law Officers and Dr. Deane | July 9, | Case of the Marquise de Seraville, widow of a foreigner. Do not agree with the interpretation put on the 10th section of 33 Vict., cap. 14, by the Home Office, that a woman, being a natural-born British subject, retains her status as a British subject if, after being married to an alien, she becomes a widow before the passing of the Act, and a "statutory alien" after the passing of the Act. Under any circumstances, if no steps were taken to recover her British nationality she remains an alien . .. .. | 64 |
| 108 | Law Officers and Dr. Deane | Aug. 7, | As to the rights of officers of Her Majesty's Navy to search British and foreign vessels for naval deserters. No reason to alter opinion given in October last, and the Admiralty may be informed no such right exists .. .. | 64 |
| 109 | Law Officers and Dr. Deane | 16, | Further relative to the case of the Marquise de Seraville, a natural-born British subject, who married an alien and became a widow previously to the Naturalization Act of 1870. Are still of opinion that she lost her British nationality and became an alien .. .. .. | 65 |
| 110 | Law Officers and Dr. Deane | 29, | As to grants made to British Church establishments abroad. The 10th clause of the Act 6 Geo. IV, cap. 87, does not oblige Her Majesty's Government to continue indefinitely the grants made to those establishments .. .. | 65 |

## GREECE.

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| 111 | Law Officers and Dr. Deane | Feb. 19, 1873 | On the proposed grant by Her Majesty's Government towards the expenses of building a church at Patras on a site given by the Greek Government, and a dispute as to the appointment of a clergyman other than one belonging to the Church of England, and whether that grant would make the parties less free. No proof of the building being used for a place of divine worship, but if so, the grant would not have the means of controlling the parties .. .. | 66 |
| 112 | Law Officers and Dr. Deane | 26, | As to the claim of the agent to a line of steamers at Zante, belonging to Messrs. Papayanni and Mussabini, of Liverpool, to exemption from certain port dues. Not expedient to bring the case officially before the Greek Government .. | 66 |

## HAYTI.

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| 113 | Law Officers and Dr. Deane | Feb. 24, 1873 | As to the second Anglo-Haytian Commission on British claims, and the conditions put forward by Mr. Jenkins on the part of certain British claimants whom he represented. The arrangement proposed by the Haytian Government the best that could be arranged .. .. .. .. | 67 |
| 114 | Law Officers and Dr. Deane | Apr. 7, | On the seizure by the Dominican Government of three Dominicans who had taken refuge in the British Vice-Consulate at Porto Plata. Her Majesty's Government should not insist on the surrender of the refugees, or insist on any reparation to the British flag, which was not insulted, as the refugees were taken from the private dwelling of the Consul. | 68 |

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| 115 | Law Officers and Dr. Deane | May 24, 1873 | On satisfaction having been obtained for the forcible seizure by the Dominican authorities of three Dominican refugees taken from the British Consulate given up to Captain of Her Majesty's ship "Niobe," and the British flag rehoisted over the Vice-Consulate by a Dominican officer under a salute of the Dominican batteries. Cannot demand a pecuniary indemnity for General Miezi and his sons, as they were not British subjects .. .. .. .. | 68 |
| 116 | Law Officers and Dr. Deane | 26, | As to the amount of support to be given by naval officers to the British Consular authorities in affording asylum to political offenders. Cannot lay down general instructions on the subject. The responsibility of acting should rest with the Consular officer who asks for support .. | 69 |
| 117 | Law Officers and Dr. Deane | June 9, | Further on the British claims on Hayti considered by the Anglo-Haytian Commission, and as to the course to be pursued with respect to Mr. Jenkins having put forward certain reserved claims under Class 3. To inform him of the reasons why his applications should not be entertained .. .. .. .. .. .. | 69 |
| 118 | Law Officers and Dr. Deane | 30, | Further relative to the claims put forward by Mr. Jenkins on the Haytian Government. The decision on the case of Messrs. Gerdis and Co. will apply equally to that of Messrs. Brown and Co. and Messrs. Jackson.. .. | 70 |
| 119 | Law Officers and Dr. Deane | July 3, | Further respecting the case of the "Telegrafo." No reason to alter opinion already given. The Dominican Government responsible for the act of their officer, M. Victoria, and therefore are liable to the whole claim. As to the offer of arbitration in the dispute, this is left for the decision of Her Majesty's Government .. .. .. .. | 70 |

## ITALY.

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| 120 | Law Officers and Dr. Deane | Feb. 1, 1873 | On fears of Dr. Grant, the Rector of Scot's College at Rome, in consequence of the Bill before the Italian Parliament, that the rights and privileges of that institution will be removed. Her Majesty's Government cannot officially ask the Italian Government to secure the inviolability of the right of education there .. .. .. .. | 71 |
| 121 | Law Officers and Dr. Deane | 12, | As to the liability of British subjects, claimed to be Italian subjects, to military service. A son, born in Genoa, of Mr. Schiaffino, born at Gibraltar, and Mr. Fernando, born at Genoa, and resident in Italy. Neither cases are exempt from Italian law .. .. .. .. .. | 72 |
| 122 | Law Officers and Dr. Deane | Mar. 10, | Instructions that should be sent to Consul Brown, at Genoa, as to the marriage of a British subject to an Italian woman without the consent of the father, required by Italian law. He should refuse to solemnize the marriage .. .. | 72 |
| 123 | Law Officers and Dr. Deane | 20, | As to the position of certain religious and educational establishments in Rome, and the effect on them by the Bill now before the Italian Parliament for the expropriation of religious establishments there. Sir A. Paget cannot properly interfere, but he may be instructed to watch the measure should the assurances given be not strictly kept .. | 73 |
| 124 | Law Officers and Dr. Deane | Apr. 16, | On representation of the Italian Minister in England that two criminals, on board the "Helene," which put in from stress of weather at Malta, had been set at liberty by orders of the local authorities of the island. According to the present law the release was right and proper, but approve the draft of the Ordinance to meet the case of arrests at Malta .. .. .. .. .. .. | 74 |
| 125 | Law Officers and Dr. Deane | 22, | As to the validity of the proposed marriage at Naples of Mr. Sutcliffe, a British subject, with a native of Switzerland, under the Consular Marriage Act. The woman will follow the nationality of her husband during his life, and, surviving him, may return to her original nationality | 74 |

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| 126 | Law Officers and Dr. Deane | Feb. 25, 1873 | As to the Bill for the suppression of religious corporations in Rome in the Italian Parliament, and the provisions taken to secure the interests of British ecclesiastical establishments, as stated in the "Opinione." If this statement is correct, no protest need be made against the recommendations of the Commission to the Italian Government | 75 |
| 127 | Law Officers and Dr. Deane | May 2, | Complaint of Mr. Arthur Vansittart of an assault committed on him on leaving the Church of the "Gésu" at Rome in company with some friends. No steps need be taken at present, as the subject is before the Judicial Tribunals | 75 |
| 128 | Law Officers and Dr. Deane | 28, | On memorials, the Nicholson family, for intervention on refusal of the Italian Government to pay the full amount of arrears due to them out of some Italian stock left by the will of Jonathan Hatfield | 76 |
| 129 | Law Officers and Dr. Deane | July 9, | On complaint of Mr. Mercer against two carabinieri, who arrested him at Naples and subjected him to torture, and subsequently put upon his trial. Mr. Mercer must attend the trial with witnesses, and Her Majesty's Consul should watch the proceedings, but Her Majesty's Government cannot undertake to pay the legal expenses | 76 |
| 130 | Law Officers and Dr. Deane | Aug. 4, | Further respecting the case of Mr. Mercer, who was acquitted of the acts alleged against him. He is entitled to demand the payment of the expenses of the trial by the Italian Government, and Her Majesty's Government may demand an indemnity to be paid to him as an acknowledgment of the wrongs done to him | 77 |
| 131 | Law Officers and Dr. Deane | 4, | Further relative to the assault on Mr. Arthur Vansittart on leaving the Church of "Gésu" at Rome. Need not make any further representation on the case | 78 |
| 132 | Attorney- and Solicitor-General | 15, | On request of Messrs. Payne and Nelson for intervention of Her Majesty's Government in favour of Mrs. Stevens in a suit before the Italian Courts in regard to the succession to the estate of her father, M. Giuseppe Scolaro. Her Majesty's Government should not interfere | 78 |
| 133 | Attorney-General and Dr. Deane | Sept. 15, | On the Report of Mr. Herries, Secretary to Her Majesty's Legation at Rome, on the origin, character, and possessions of the English, Scots, and Irish colleges at Rome, and their position under the law now passed by the Italian Legislature. As to the instructions to be given to Sir A. Paget on the question | 79 |
| 134 | Law Officers and Dr. Deane | Nov. 18, | Further relative to the release of two criminals on board the "Helene," which was obliged from stress of weather to put into Malta, and who, according to the laws of the island, were set at liberty. Agree generally with the opinion of the Crown Advocate on the subject of the proposed Malta Ordinance, but suggest certain alterations | 80 |

## JAPAN.

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| 135 | Law Officers and Dr. Deane | May 30, 1873 | Notification issued by Mr. Watson, Her Majesty's Chargé d'Affaires, making the regulations relative to the railway between Yokohama and Yedo binding on British subjects, may be sanctioned by Her Majesty's Government | 82 |
| 136 | Law Officers and Dr. Deane | July 16, | As to the inquiry of Messrs. Wilde, Barber, and Co. whether a judgment at common law against a British subject can be enforced at Yokohama. It must be through the process of the Court, where judgment can be given in evidence | 82 |
| 137 | Law Officers and Dr. Deane | Aug. 28, | On subject of the Marriage Law lately published by the Japanese Government, and clauses relating to marriages with foreigners. Do not agree with the views of Mr. Hannen, ~~Judge of the Divorce Court,~~ and there is no right of interference with the law for residents in Japan | 83 |

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| 138 | Attorney-General and Dr. Deane | Sept. 15, 1873 | As to the negotiations between Japan and the Treaty Powers for the admission of foreigners into Japan. The most-favoured-nation clause in the Treaty with Great Britain would only enable British subjects to go into the interior on the same conditions as other nations | 83 |
| 139 | Attorney-General and Dr. Deane | 15, | On steps to be taken with regard to the administration of the estate of Mr. William Milne, a British merchant, who died in Japan in 1871. Mr. Baber should be informed that Mr. Gower, who has custody of the estate, should still take care of it, and the creditors and next of kin should take legal advice or settle the question between themselves | 84 |
| 140 | Law Officers and Dr. Deane | Dec. 8, | Approve draft Regulations proposed by Sir H. Parkes relative to foreigners travelling in Japan beyond the limits of the Treaty ports. Her Majesty's Government has the power to issue them under the passport regulations. Suggestions as to the alteration of the 92nd section of the Order in Council | 84 |
| 141 | Law Officers and Dr. Deane | 8, | Instructions to be sent to Sir H. Parkes as to the necessity for British officers and men in the pay of Japanese Government as naval instructors to register themselves as being resident as British subjects, but, if expedient, special reduced fees may be fixed in their case | 5 |

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| 142 | Law Officers and Dr. Deane | Dec. 31, 1873 | On request of Messrs. Uhthoff and Co. whether they can supply armed steam-vessels to the Mexican Government for revenue purposes, without infringing the laws of England; there is nothing to prevent General Foster or other person from doing so, if they are not to be employed in the naval or military service of any State at war with a friendly State, according to the Act 34 Vict., cap. 90 | 86 |

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| 143 | Law Officers and Dr. Deane | Jan. 21, 1873 | As to the instructions to be given to Consul Munro on a suit brought against him by the Uruguayan Government with regard to a piece of ground forming part of the English cemetery and belonging to Her Majesty's Government | 86 |
| 144 | Law Officers and Dr. Deane | Feb. 7, | As to the infractions by the Uruguayan Government of the Postal Agreement with Great Britain. Her Majesty's Government will be justified in terminating summarily that Agreement, but British interests may suffer, if that act affects the contracts for conveyance of the mails | 87 |

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| 145 | Law Officers and Dr. Deane | Apr. 3, 1873 | On the difficulties alleged to be thrown in the way of British subjects obtaining justice in prosecuting their claims on Moorish authorities before the local Tribunals, and instructions to be given to Her Majesty's Minister to take Article IX of the Treaty of 1856 for his guidance in the case | 88 |
| 146 | Law Officers and Dr. Deane | 7, | As to the validity of a marriage between an English lady and a Moorish Shereef under the Consular Marriage Act, and Sir John Hay's proceedings in performing it, may be approved | 88 |
| 147 | Law Officers and Dr. Deane | Sept. 2, | The gate tax imposed by the Moorish Government on camels bringing produce from the interior of Morocco to Tangier is not illegal, but is contrary to the spirit of Article III of the Treaty of 1856. Sir J. Hay may follow the course he proposes to adopt | 89 |

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| 148 | Law Officers and Dr. Deane | Oct. 9, 1873 | The Order in Council provides for the trial in the Consular Court of civil cases between British subjects and between British and Moorish subjects, but not between British and foreign, other than Moorish, subjects. The British Vice-Consul at Mogador must therefore cancel his decision as to an appeal in the suit of an Italian firm against a British Company .. .. .. .. .. | 89 |

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| 149 | Law Officers and Dr. Deane | Mar. 24, 1873 | Claims of Messrs. Swanzy against the Netherlands Government, arising out of plunder of their property at Dixcove. The depositions of Serjeant Kwater Kwassie with the reply of Netherlands Government persuade them that Her Majesty's Government should no longer support their claims .. | 90 |
| 150 | Law Officers and Dr. Deane | May 12, | Further respecting the claims of Messrs. Swanzy. Her Majesty's Government should not continue to support them .. .. .. .. .. .. | 90 |
| 151 | Law Officers and Dr. Deane | July 11, | On the appeal of the Sultan of Acheen for the aid of the Governor of the Straits Settlements to save him from danger of the Dutch invasion. Approves proposed reply to the Colonial Office. Great Britain freed from obligations of Treaty of 1819 .. .. .. .. .. | 91 |
| 152 | Law Officers and Dr. Deane | 22, | As to the collision in the harbour of Bordeaux between the Netherlands vessel "Termonde" and the British vessel "Gogo," the property of Messrs. Scott and Co., of Greenock, and chartered by Messrs. Moss and Co., of Liverpool. Her Majesty's Government cannot interfere with the judgment of the Court at Bordeaux, and the redress sought by Count Bylandt can only be obtained through the ordinary Tribunals .. .. .. .. .. | 92 |
| 153 | Attorney-General and Dr. Deane | Sept. 10, | On the alleged fraudulent proceedings in the case of the British vessel "Florence," and the proceedings of Acting Vice-Consul Mackintosh and Vice-Consul Cohen and the Dutch authorities in Surinam. No representation should be made by Her Majesty's Government .. .. | 92 |
| 154 | Attorney-General and Dr. Deane | 23, | Further respecting the hostilities between the Netherlands and Acheen, and the Proclamation that was issued by the Governor of the Straits Settlements prohibiting the export of arms, &c., to certain parts of the Island of Sumatra. Proceedings taken by Sir H. Ord just and proper, but the practice of the Straits Settlements should be in conformity with that of Her Majesty's Government at home .. | 93 |
| 155 | Attorney-General and Dr. Deane | 27, | As to the nationality of a person named John Uren, said to have been born in England in 1845, but had resided since 1849 in Holland. British subjects are exempt from the Dutch militia, and the above subject, born in England, is a British subject .. .. .. .. .. | 93 |
| 156 | Attorney-General and Dr. Deane | 30, | As to the validity of marriages solemnized by British Vice-Consul at Surinam and refused to be admitted by the local authorities. Her Majesty's Government would not be justified in remonstrating .. .. .. .. | 94 |
| 157 | Attorney-General and Dr. Deane | Oct. 17, | Instructions that should be sent to Her Majesty's Consul at Batavia on English steamers being transferred under the Dutch flag to be used as transports in the war with Acheen. He should proceed against the parties under the Foreign Enlistment Act .. .. .. .. .. | 94 |
| 158 | Law Officers and Dr. Deane | 20, | Further respecting the case of the British vessels "Florence" and "Kohinoor," and the conduct of Vice-Consuls Mackintosh and Cohen in attempting to exercise criminal jurisdiction over the captains of the vessels. Course they should pursue .. .. .. .. .. .. | 95 |
| 159 | Law Officers and Dr. Deane | 24, | As to the instructions to be given to Her Majesty's Consul at Batavia on English steamers being used as transports in the war with Acheen, and proceedings to be taken under the Foreign Enlistment Act .. .. .. .. | 95 |

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| 162 | Law Officers and Dr. Deane | Sept. 2, | Further relative to the case of Messrs. Dudley and Davoren, whose estate has been given up by the Colombian Government. Of right they are entitled to damages, but Her Majesty's Government need not proceed further in the case. In expressing satisfaction that justice has been done, to state the hope of Her Majesty's Government that the local authorities would not be permitted to interfere with the due administration of justice .. .. .. .. | 98 |
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| 165 | Law Officers and Dr. Deane | 15, | On proceedings of the Fijian authorities relative to the estates of deceased British subjects. A ship of war should be sent to aid Her Majesty's Consul at Fiji for the protection of British interests there .. .. .. .. | 100 |
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| 167 | Law Officers and Dr. Deane | 14, | As to the instructions to be given to naval officers employed in the suppression of the Slave Trade among the islands of the South Pacific Ocean .. .. .. .. | 101 |
| 168 | Law Officers and Dr. Deane | 20, | Further relative to the instructions to naval officers engaged in the suppression of the Slave Trade, especially with regard to kidnapping. British vessels do not lose their nationality by carrying the Fijian flag, and the Act of the Fijian Assembly will not relieve British subjects from their liability under British law .. .. .. .. | 101 |
| 169 | Law Officers and Dr. Deane | Apr. 22, | Nothing to alter opinion already expressed in former Reports as to the liability of British subjects under Fijian nationality to British jurisdiction .. .. .. .. | 102 |
| 170 | Law Officers and Dr. Deane | May 6, | As to the position of Consul March in Fiji, as Her Majesty's Government has acknowledged the *de facto* Government of Fiji. Observations on memorandum prepared showing the practice adopted by this country and the United States on the withdrawal of diplomatic relations, and where Consuls still continue to reside at their posts .. .. .. | 103 |
| 171 | Law Officers and Dr. Deane | June 27, | On proceedings of Captain Chapman, of Her Majesty's ship "Dido," in preventing a collision between certain planters and the *de facto* Government of Fiji. Though that officer cannot be blamed, his conduct should not be approved; and British officers should be told they must not interfere unless for the protection of British interests .. .. | 103 |

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| 173 | Law Officers and Dr. Deane | Aug. 1, | Her Majesty's Government would not be justified in approving the Treaty entered into between Captain Simpson, of Her Majesty's ship "Blanche," and certain Chiefs of the Rubiana Islands for the execution of a native Chief who had destroyed the English vessel "Marian Rennie" | 104 |
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## PERSIA.

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| 177 | Law Officers and Dr. Deane | May 28, | On claim put forward by the executors of the estate of the late Mr. H. V. Walton for redress on account of the alleged violation of the estate while under the protection of Her Majesty's Legation in Persia. Her Majesty's Government cannot interfere, as the estate was never under the control of Her Majesty's Legation, but passed into the hands of the telegraph officials by action of a brother of the deceased at Kurrachee. The executors must apply for the 961*l.* 13*s.* and unsold articles to the Committee of Adjustment | 107 |
| 178 | Law Officers and Dr. Deane | Oct. 24, | On protection being requested of Her Majesty's Minister at Tehran, by the ex-Grand Vizier from fear of his life. Her Majesty's Legation in Persia cannot protect Persian subjects unless in the employment of Her Majesty's Diplomatic or Consular officers, under the XIIth Article of Treaty of 1857 | 108 |
| 179 | Law Officers and Dr. Deane | 31, | Her Majesty's Government cannot properly insist on the money being paid which was promised to be exacted from the Chief of Kashkai tribe by the Persian Government for the murder of Serjeant Collins near Shring in 1872 | 108 |
| 180 | Law Officers and Dr. Deane | Nov. 5, | The money promised to be exacted from a Chief of the Kashkai tribe for the murder of Serjeant Collins cannot properly be insisted on by Her Majesty's Government, as the Persian Government took active measures to punish the guilty parties | 109 |

## PERU.

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| 181 | Law Officers and Dr. Deane | July 18, 1873 | Her Majesty's Government cannot demand compensation from the Peruvian Government for the detention of William How, a ship carpenter, on board a Peruvian ship of war, on account of his exercising his calling in the Bay of Callao without a "matricula," as measures have been taken to prevent a similar recurrence of the case, and no punishment was awarded to him for refusing to work | 109 |
| 182 | Law Officers and Dr. Deane | Dec. 15, | As to the monopoly in the sale of nitrate of soda by the Peruvian Government, and claim of an English firm against that Government on account of losses to them in consequence. No claim can be made, as the Peruvian Government have a right to make any regulations they desire, and the English firm must obey the laws of Peru | 110 |

## PORTUGAL.

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| 183 | Law Officers and Dr. Deane | Jan. 29, 1873 | As to the privileges hitherto enjoyed by the factory at Surat, and proposed communication of memorandum of India Office to Portuguese Minister in England on the subject | 110 |
| 184 | Law Officers and Dr. Deane | Feb. 1, | Further respecting the commercial privileges enjoyed by the Portuguese at Surat. They are revocable, and on account of abuses should be put an end to | 111 |
| 185 | Law Officers and Dr. Deane | Apr. 2, | Her Majesty's Government cannot take any steps for the liberation of Antonio Martino, a Portuguese sailor, detained in Bristol prison as a necessary witness in a case about to be tried for murder | 111 |
| 186 | Attorney-General and Dr. Deane | Sept. 16, | On complaint of British merchants residing at Funchal against a system of levying 1 per cent. additional *ad valorem* duty on goods entering Portugal, as well as requirement of an oath on the goods imported, and giving the custom-house officers the power of taking the percentage on the invoice value of the goods only at 5 per cent. instead of 10 per cent. under the XIIth Article of the Treaty of 1842 | 112 |
| 187 | Law Officers and Dr. Deane | Dec. 19, | As to the liability of British subjects to taxation within the dominions of Portugal, and the reply that should be given to the Portuguese Minister by Her Majesty's Government. Cannot interfere if the new tax is equally levied on British and Portuguese subjects | 112 |

## PRUSSIA.

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| 188 | Law Officers and Dr. Deane | Jan. 8, 1873 | As to the claim of Messrs. Hirsch and Josephé, naturalized British subjects, though natives of Mecklenburg-Schwerin. If these parties retain their German nationality, they cannot claim the protection of Her Majesty's Government | 113 |
| 189 | Law Officers and Dr. Deane | Feb. 1, | On proposed draft of Convention for the mutual recognition of joint stock companies, and the form to be adopted. No objection to the additional paragraph proposed by Count Bernstorff conditionally | 114 |
| 190 | Law Officers and Dr. Deane | 4, | Her Majesty's Government cannot at present take any steps to recover from the German Government the insurance on the German vessel "Turandot," which was captured by the French at the conclusion of the Franco-German war | 114 |
| 191 | Law Officers and Dr. Deane | Apr. 18, | The case of ill-treatment of the Rev. Mr. Harrison and his friend Mr. George by the Aix-la-Chapelle police. Should be brought to the notice of the German Government | 115 |
| 192 | Law Officers and Dr. Deane | 18, | On request of Mr. Phelps, British Chaplain at Bonn, to the British Embassy at Berlin, for a certificate of the legality of a marriage between an English lady and an English officer in the German service. The validity of the marriage must depend on the law in force in Germany, and no certificate should be issued | 115 |

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| 193 | Law Officers and Dr. Deane | Apr. 18, 1873 | Approve proposed draft of reply to Her Majesty's Ambassador at Berlin as to when a certificate of a foreigner naturalized in a British Colony, especially Victoria, becomes void .. .. .. .. .. .. | 116 |
| 194 | Law Officers and Dr. Deane | June 23, | Approves proposed draft of reply to Her Majesty's Ambassador at Berlin on the subject of the claim of a German naturalized in England to have his passport viséd at the British Embassy .. .. .. .. .. | 116 |
| 195 | Law Officers and Dr. Deane | July 3, | On the refusal of the German Government to reopen the inquiry into the ill-treatment by the police at Aix-la-Chapelle of the Rev. Mr. Harrison and Mr. George, as legal remedy is open to the parties by civil action. They should be informed of the reply of the German Government, but no further diplomatic action should be taken .. | 116 |
| 196 | Law Officers and Dr. Deane | Aug. 4, | As to the question of the repatriation of pauper lunatics in Germany, and whether Her Majesty's Government could or should enter into the proposed Convention providing for the treatment of distressed subjects of one country in the territory of the other .. .. .. .. | 117 |
| 197 | Law Officers and Dr. Deane | 4, | As to the instructions to be given for the guidance of Her Majesty's naval forces at Carthagena and elsewhere in the case of revolted Spanish ships, Her Majesty's ship "Swiftsure" and the German iron-clad "Frederick Carl" having captured two of these ships at Gibraltar. Her Majesty's naval officers must not interfere, except for protection of property and persons of British subjects .. .. | 118 |
| 197* | Law Officers and Dr. Deane | Nov. 4, | No objection to the verbal alterations suggested by the German Chargé d'Affaires in the counter-draft of the proposed Agreement between Great Britain and Germany for the mutual recognition of joint stock companies .. | 118* |
| 198 | Law Officers and Dr. Deane | Dec. 19, | On request of German Ambassador in England that instructions may be sent to the Governor of Heligoland to administer an oath to Dr. Zimmermann, a co-defendant in a suit pending before the German Tribunal. The parties should apply to the local Courts and not through the agency of the Foreign Office, and Her Majesty's Government should not interfere with any legal procedure .. | 118 |
| 199 | Law Officers and Dr. Deane | 31, | As to the steps to be taken for the protection of the sons of Mr. Griffiths and a man named Duggan, who were bound to a performer named Alfred Gaillard, in a circus at Aix-la-Chapelle, and for the restoration of these boys, who were subjected to ill-usage. Cannot officially interfere, but Her Majesty's Consular Agent should endeavour to obtain the restoration of the boys through the local authorities .. | 119 |

## RUSSIA.

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| 200 | Law Officers and Dr. Deane | Jan. 6, 1873 | Approve proposed draft of letters to Consul Zohrab and Mr. G. Tagliaferro, with alterations, on complaints of the latter that the interests of his wards, heirs of his late brother, Mr. T. Tagliaferro, had been neglected by the Consul .. .. .. .. .. .. | 120 |
| 201 | Law Officers and Dr. Deane | 27, | A marriage celebrated in the British chapel at Moscow between British subjects by the chaplain of the Russia Company is valid if according to the *lex loci*, and if performed in the interior of Russia at a private house it is equally valid. Instructions should be sent to Consul Roberts in the question .. .. .. .. | 120 |
| 202 | Law Officers and Dr. Deane | Aug. 1, | On subject of the claim of Mr. Donadato against the Russian Government. Should not be supported by Her Majesty's Government until he has given further and satisfactory proof of the alleged injury he sustained and failure to obtain redress .. .. .. .. .. .. | 121 |
| 203 | Law Officers and Dr. Deane | Nov. 7, | As to the reply to be sent to Messrs. Flavell regarding a machine alleged to have been obtained from Messrs. Powis, James, Western, and Co., and shipped to Odessa .. | 121 |

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| 204 | Law Officers and Dr. Deane | Nov. 3, 1872 | Her Majesty's Government would not be justified in instructing Her Majesty's Ambassador at St. Petersburgh to bring the case of Mr. Marsden again before the Russian Government, on the ground that he died in prison before his trial for murder, from ill-treatment of Russian officials, but inquiry may be instituted into the case.. .. .. | 122 |

## SPAIN.

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| 205 | Law Officers and Dr. Deane | Feb. 6, 1873 | On the detention of six British subjects in the prison at Humacao, without trial, for sixteen months, and without knowing the charges against them, while the representation of the Consul at Porto Rico had been disregarded. Instructions that should be given to Her Majesty's Minister at Madrid on the question .. .. .. .. | 122 |
| 206 | Law Officers and Dr. Deane | 20, | As to the claim for the detention of the British vessel "Saxon Maid" at Portugalete, during the investigation by the local authorities respecting the death of a seaman on board that vessel .. .. .. .. .. .. | 123 |
| 207 | Law Officers and Dr. Deane | 20, | Further relative to the case of the "Saxon Maid" .. | 124 |
| 208 | Law Officers and Dr. Deane | Mar. 1, | No steps necessary to be taken with respect to an advertisement in the "Westminster Gazette" inviting subscriptions in aid of the Carlist insurrection in Spain, complained of by Señor Moret. Any contract for this purpose would be illegal and actionable in the English Courts, but gifts by money not punishable .. .. .. .. .. | 124 |
| 209 | Law Officers and Dr. Deane | 3, | As to the proceedings of the Customs authorities at the port of Iloilo towards Messrs. Loney, owners of the British vessel "Priam," and the conduct of the British Vice-Consul at that port. The explanation offered by the latter not satisfactory. | 125 |
| 210 | Law Officers and Dr. Deane | 3, | Instructions should be sent to Her Majesty's Minister at Madrid to reclaim from the Spanish Government the fees paid by the steam-ship "Trinacria" and other British vessels in Spanish ports subsequently to the revocation of the Regulation imposing such fees .. .. .. | 125 |
| 211 | Law Officers and Dr. Deane | Apr. 30, | Further relative to the subscription raised in this country for the Carlist insurrection in Spain, and complaint of Spanish Minister in England. No reason to alter opinion already given | 126 |
| 212 | Law Officers and Dr. Deane | May 12, | As to the instructions to be given by Her Majesty's Minister at Madrid to Her Majesty's Consul at Cadiz as to the liability of British subjects to serve as jurors in Spanish Courts of Law, and the right of British subjects to exemption from payment of forced loans or contributions .. | 127 |
| 213 | Law Officers and Dr. Deane | 24, | As to the remission of part of the fine inflicted on the British vessel "Erl King," levied on account of informalities in the manifest when the vessel was forced into Corunna by stress of weather. Her Majesty's Government should take measures to enforce the compliance of the full demands, and a security in future for the protection of British and general maritime commerce .. .. .. .. | 128 |
| 214 | Law Officers and Dr. Deane | 26, | On subject of the arrest of Mr. Abel, a British subject and correspondent of the "New York Herald," and demand on Spanish Government for an apology. Her Majesty's Government cannot properly make this demand, as Mr. Abel was found with a band of Carlist insurgents who had made a stand against the Government troops .. .. | 128 |
| 215 | Law Officers and Dr. Deane | 27, | As to instructions to be sent to the Governor of the Bermudas in the event of those islands being made a base for operations by the Cuban insurgents, and the course he should pursue as to the prohibition of export of arms and ammunition under the Local Act of 1862 .. .. .. | 129 |
| 216 | Law Officers and Dr. Deane | 27, | The Governor of Gibraltar may, by proclamation, forbid the transhipment of arms and ammunition of war destined for Spain within the Bay of Gibraltar .. .. .. | 130 |

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| 217 | Law Officers and Dr. Deane | May 30, 1873 | As to claims on the Spanish Government arising out of the seizure of the British vessel "Lark" by Spanish authorities in Cuba. The original claim should not be demanded, but the reduced claim may be properly demanded | 130 |
| 218 | Law Officers and Dr. Deane | June 6, | On complaint of Mr. McCormick on detention of his vessel, the "Tantivy," at Matanzas. No further steps can be taken in the matter until Consul-General Dunlop has reported on the case | 131 |
| 219 | Law Officers and Dr. Deane | 10, | Instructions should be sent to Her Majesty's Minister in Madrid to state to the Spanish Government that as the property of Messrs. McKillop and Co. and other British subjects, detained by Spanish authorities in Havana, is of a perishable nature, and liable to damage by detention, they will be held responsible for any loss that may happen to the goods | 131 |
| 220 | Law Officers and Dr. Deane | 27, | As to steps to be taken with regard to the "Deerhound," a vessel suspected of shipping arms for the Carlist war | 132 |
| 221 | Law Officers and Dr. Deane | 27, | Further respecting the case of the "Deerhound," suspected of being used for the purpose of carrying arms to Spain | 132 |
| 222 | Law Officers and Dr. Deane | July 16, | As to the nationality of the children of Mr. T. Rich, born of a Spanish subject previous to his marriage with her. By the law of England they are illegitimate, and retain the nationality their mother was under at the time of their births. | 132 |
| 223 | Law Officers and Dr. Deane | 21, | On the request of the Captain of Her Majesty's ship "Triumph," now at Cadiz, to know if he was to detain the "Murillo" in the open sea. He should be instructed not to arrest or in any way interfere with that vessel | 133 |
| 224 | Law Officers and Dr. Deane | 24, | On Decree issued by the *de facto* Government of Madrid declaring certain Spanish ships of war to be pirates, and that vessels of friendly Powers were authorized to treat them as such. Her Majesty's Government should take no action on the subject, but instructions should be sent to Her Majesty's naval officers to treat the vessels as if they were those belonging to friendly Powers | 133 |
| 225 | Law Officers and Dr. Deane | 25, | Further as to the ships of war in revolt against the Spanish Government. Her Majesty's Government cannot comply with request of the Spanish Minister to treat the alleged revolted crews as pirates | 134 |
| 226 | Law Officers and Dr. Deane | 28, | Observations on the trial in the Spanish Courts of the "Murillo," on a charge of having run down and sunk the British vessel "Northfleet," off Dungeness, on the 23rd January last. Proceedings before the court-martial defective without the evidence of persons on board the "Northfleet" | 134 |
| 227 | Law Officers and Dr. Deane | Aug. 4, | As to the instructions to be given for the guidance of Her Majesty's naval forces at Carthagena and elsewhere in the case of revolted Spanish ships, Her Majesty's ship "Swiftsure" and the German iron-clad "Frederick Carl" having captured two of these ships at Gibraltar. Her Majesty's naval officers must not interfere, except for protection of property and persons of British subjects | 135 |
| 228 | Law Officers and Dr. Deane | 4, | Further relative to the treatment of the revolted Spanish ships and the views entertained by the French Government on the subject, in which they do not agree in considering them as pirates | 135 |
| 229 | Law Officers and Dr. Deane | 7, | On the request of Commander Cole Hamilton, of Her Majesty's ship "Zephyr," to the Admiralty for instructions how to act in the event of Carlists blockading the entrance to the port of Bilbao with torpedoes. Proposed reply to be sent to the Admiralty | 136 |
| 230 | Law Officers and Dr. Deane | 28, | As to the proposed publication by the Municipality of Malaga of a Tariff of export duties in contravention of Spanish Law. Her Majesty's Chargé d'Affaires at Madrid should not interfere, and he rightly advised payment of the exactions under protest; and he should inform the Central Government that Great Britain holds it responsible for the illegal exactions | 136 |
| 231 | Law Officers and Dr. Deane | Aug. 28, 1873 | Further respecting the case of the "Deerhound," which was suspected of being about to leave this country with arms for the coast of Spain, and as to the reply to be sent to Colonel Kirkpatrick, calling himself Military Representative of Don Carlos VII, in London, and to Colonel Stuart, who complained of the seizure of the vessel in French waters | 137 |
| 232 | Law Officers and Dr. Deane | 28, | No objection to the suggestion of Colonel Chacon and Captain Phillimore that the evidence of Charles Hooper, the wounded seaman belonging to Her Majesty's ship "Vigilant," be taken before the Spanish Consul-General in London, owing to the disturbed state of Spain | 138 |
| 233 | Law Officers and Dr. Deane | 29, | Further relative to the case of the British vessel "Tantivy," which was detained by the Custom-house authorities at Matanzas on account of the charterer not having paid the export duties on a cargo of sugar. Question should wait for Report of Consul Crawford | 138 |
| 234 | Law Officers and Dr. Deane | Sept. 1, | Further relative to the case of the "Deerhound." No reason to alter opinion given on seizure of the vessel | 138 |
| 235 | Law Officers and Dr. Deane | 2, | Further relative to the seizure of the "Deerhound" by the Spanish man-of-war "Buenaventura." Mr. Macdonell to use extreme caution not to compromise Her Majesty's Government, as the real facts of her seizure are at present unknown | 139 |
| 236 | Attorney-General and Dr. Deane | 15, | As to the right of British subjects in Spain to exemption from forced loans and contributions, and the war tax about to be levied at Barcelona on all property, industry, and commerce, under a law passed at Madrid. British subjects cannot claim exemption from taxes equally imposed on all natives and foreigners | 139 |
| 237 | Attorney-General and Dr. Deane | 15, | Further relative to the case of the "Deerhound," and Report of the inquiry made by Mr. Graham, Her Majesty's Consul at Bayonne, on the subject of the seizure of the vessel; the statements of Colonel Stuart and the captain of the vessel that the arms were put on board at sea is not to be credited. Instructions to represent views of Her Majesty's Government to the Spanish Government | 140 |
| 238 | Attorney-General and Dr. Deane | 20, | Further relative to the case of the "Deerhound," and the steps necessary to be taken. No other course to be adopted than already advised. The Spanish Reports on the subject contradictory | 140 |
| 239 | Attorney-General and Dr. Deane | 27, | Claim of Messrs. McAndrew and Co. for reimbursement of loss sustained by them through the seizure by the insurgents at Cadiz of a cargo of coal shipped to that port on board the "General Ros de Olano." Should not be supported, as they took upon themselves the risk of sending the coals in a Spanish ship during the insurrection in 1873 | 140 |
| 240 | Attorney-General and Dr. Deane | 27, | On the question raised as to rights of Spain to the sovereignty over the islands in the Archipelago of Sulu, by a notice at Singapore of the Spanish Consul, calling attention to a notification issued by the Spanish Government in 1860 prohibiting vessels from resorting there except in cases of distress. Not sufficient information to enable them to say whether the claim of Spain to sovereignty over Sulu can be disputed or not. The notification, however, should be confined to vessels engaged in illegal traffic | 141 |
| 241 | Attorney-General and Dr. Deane | Oct. 1, | Further relative to the imprisonment of British subjects at Humacao, Porto Rico, in August 1871, but now pardoned. Compensation should be demanded for the woman Williams who was found innocent, and on account of her long imprisonment without trial, and the case of the men might be brought to the favourable consideration of the Spanish Government | 142 |
| 242 | Law Officers and Dr. Deane | 22, | On request made to the Admiralty by the Admiral of the Spanish Government fleet to be supplied with coal at Gibraltar. No reason to refuse compliance with this request | 143 |

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| 243 | Law Officers and Dr. Deane | Oct. 28, 1873 | Further as to the supply of coal at Gibraltar to the Spanish fleet, and the probability of the Spanish insurgents requesting similar favour. As long as the insurgents are not considered belligerents Her Majesty's Government may supply coals to the Spanish fleet, but may refuse the insurgents, as they carry no national flag | 143 |
| 244 | Law Officers and Dr. Deane | 29, | Further relative to the case of the "Deerhound," which has been released with her crew by the Spanish Government, who hope that if any British law has been infringed by Colonel Stuart and the crew they will be punished. No grounds for instituting criminal proceedings against them or any of the parties connected with the vessel | 144 |
| 245 | Law Officers and Dr. Deane | Nov. 10, | No steps should be taken by Her Majesty's Government on a boat belonging to Her Majesty's ship "Lively" being fired at, and a boy wounded, by a Carlist sentry in the Bilbao River | 144 |
| 246 | Law Officers and Dr. Deane | 12, | Further respecting applications to Her Majesty's Consul at Bilbao from British subjects residing there, for permission to fly the British flag for the protection of their property, and on receiving instructions that they had no right to do so, although Consul Young had issued a prohibition against it, and of which Mr. Woods complained. The Consul exceeded his instructions, but British subjects flying British colours will not add to their right to British protection | 144 |
| 247 | Law Officers and Dr. Deane | 17, | As to the duty of 5 per cent. imposed on all exports from Spain, and the liability of British subjects to war taxation. The reduction of the tax does not affect the right of imposition, and British subjects cannot claim exemption, as already reported | 145 |
| 248 | Law Officers and Dr. Deane | 17, | Further relative to the war taxes levied in Spain, and the Decree issued by the *de facto* Government, and claim of British subjects to exemption from them. Her Majesty's Government should not claim any exemption for British subjects from these taxes | 145 |
| 249 | Law Officers and Dr. Deane | 18, | Further on the refusal of the Spanish Government to remit the fines levied on the British vessel "Erl King." Her Majesty's Government should not enforce the restitution of the fines, but no reason to withhold the publication of the notice proposed to be issued by Mr. Layard | 146 |
| 250 | Attorney-General and Dr. Deane | 21, | On request of the Spanish Representative in this country for measures to be taken to prevent the shipment at Newport of certain arms suspected to be exported for use of the Carlists, and desire of Mr. Downing, the consignee, for the advice of Her Majesty's Government in the matter. The only laws whereby a vessel can be detained under such circumstances are those which affect the Customs regulations, which require a declaration as to goods to be exported, whether contraband or not. The Customs authorities to be informed of Señor Rubio's letter, and Mr. Downing must act on his own responsibility | 146 |
| 251 | Law Officers and Dr. Deane | 28, | On the proposal that certain stores in the arsenal at Carthagena, the property of the Spanish nation, may be received by Her Majesty's Government as a guarantee for the future payment for coals, British property, seized and consumed by the Spanish insurgents. Her Majesty's Government cannot accept the proposed security | 147 |
| 252 | Law Officers and Dr. Deane | Dec. 1, | Further relative to the shipment of arms at Newport, suspected to be for use of the Carlists, and the precedent brought forward of the expedition to Terceira in 1828-29 being prevented from shipping arms for insurgents. Formerly prohibitions were issued under 33 Geo. II and 29 Geo. III, but the modern policy of the British Government has been not to interfere with the export of munitions of war, and this policy is advised to be maintained | 148 |

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| 253 | Law Officers and Dr. Deane | Dec. 2, 1873 | Further relative to the war taxes levied on British subjects at Barcelona, and the exemptions allowed to French, Italian, and Portuguese subjects, and as to the claim of British subjects to most-favoured-nation treatment or on other grounds. Their former Report was conclusive as regards "other grounds," but Her Majesty's Government have the right to claim exemption under Treaty right, but calls attention to the omission of Spain in the Returns to Parliament of 1843 and 1860, as to the most-favoured-nation clause | 148 |
| 254 | Law Officers and Dr. Deane | 8, | As to the instructions to be given to Her Majesty's Minister at Madrid on the right claimed by the Spanish Government to requsition of horses *bonâ fide* the property of British subjects for purposes of war. Privileges of exemption may be demanded for all persons attached to Her Majesty's Representative at Madrid | 149 |
| 255 | Law Officers and Dr. Deane | 16, | Instructions should be sent to Her Majesty's Minister at Madrid to demand compensation for the families of British subjects who were executed at Santiago, as those British subjects on board the "Virginius" had committed no offence worthy of death, either against municipal or international law | 150 |
| 256 | Law Officers and Dr. Deane | 17, | As to the proceedings of Sir Peter Grant, Governor of Jamaica, on the arrival of the British vessel "Virginius," and as to the proceedings of that vessel at Port-au-Prince, as reported to the Admiralty by Commodore De Horsey, the vessel supposed to be intended for the employment of the Cuban insurgents. Want further explanations from the Governor of Jamaica before giving Report | 150 |
| 257 | Law Officers and Dr. Deane | 18, | As to the system of fines levied by the Spanish Government on foreign vessels in Spanish ports, and the joint protest of British and foreign Representatives on the subject. Approve note of Mr. Layard to Spanish Government, but in future remonstrance should not allude to Treaty of 1667 | 151 |
| 258 | Law Officers and Dr. Deane | 24, | Further as to rights of British subjects to exemption from forced loans and war taxes, and requisitions for horses, and explanation of Mr. Hertslet as to the omission in the Returns to Parliament of the List of Treaties. British subjects are entitled to exemptions granted to other foreigners. Her Majesty's Government should approve Mr. Layard's letter to Spanish Government of 1st December last and await reply. Translation of Spanish Decree should be obtained | 151 |
| 259 | Law Officers and Dr. Deane | 27, | Further relative to the shipment of arms, &c., at Newport, said to be for the use of the Carlists, and an additional quantity brought by the Turkish vessel "Malfilatre" to be removed to Cardiff, purchased by Mr. Hugh L. F. Palmer, alleged to be for sale to the Greek Government. No steps to be taken by Her Majesty's Government to prevent the export, beyond directing the Customs authorities to watch closely that their rules are observed | 152 |
| 260 | Attorney-General and Dr. Deane | 27, | Further respecting the claim of the relatives of the British members of the crew of the "Virginius," who were executed at Santiago de Cuba, to compensation, and the statement of the United States' Government that that vessel had no right to the use of the American flag or papers, though the survivors of the crew were detained pending the result of an inquiry. Demands of Her Majesty's Government should be modified, but the Spanish Government should be called on to explain the charges against the British crew of the vessel | 152 |
| 261 | Law Officers and Dr. Deane | 31, | Further relative to the execution of the British subjects on board the "Virginius" at Santiago. Conduct of British naval officers judicious, and their remonstrances well founded. Conduct of the Governor of Jamaica ~~should be blamed~~ | 154 |
| 262 | Law Officers and Dr. Deane | 31, | As to the liability of British Consular Agents, who happen to be Spanish subjects, to serve in the militia | 154 |

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| 263 | Law Officers and Dr. Deane | Dec. 31, 1873 | Further respecting the capture of the British vessel "Deerhound," and claim of Colonel Stuart to compensation for his imprisonment, and damages to his vessel during her detention. Adhere to former opinion | 155 |

## SWEDEN.

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| 264 | Law Officers and Dr. Deane | Mar. 9, 1873 | On request of Mrs. Pihl, a British subject resident at Stockholm, and married to a Russian subject in England, but now deceased, to know if she and her children are to be considered British subjects. She may obtain a certificate of naturalization, and with her children under 21 be deemed British subjects while resident in England, but subject, within the limits of the Russian Empire, to the conditions imposed by section 8 of the 33 Vict., cap. 14 | 156 |
| 265 | Law Officers and Dr. Deane | June 16, | On claim of the Tyne and Wear Iron Steam-ship Insurance Association for compensation from the Swedish Government for damage to the steam-ship "Stagshaw" by the Swedish vessel "Vanadis" in Alexandria Harbour. Her Majesty's Government cannot at present interfere, nor until the Swedish Government refuse to entertain the claim for damages | 157 |

## SWITZERLAND.

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| 266 | Law Officers and Dr. Deane | May 24, 1873 | As to the validity of mixed marriages according to the *lex loci*, but not performed at the Legation, and proposed form of certificate to be adopted by Her Majesty's Legation at Berne. Suggest alterations in the certificate, and each applicant should be informed of the formalities necessary to be fulfilled | 157 |
| 267 | Law Officers and Dr. Deane | Nov. 5, | As to the marriage of naturalized British subjects at Her Majesty's Mission at Berne. They may claim to be married under the Consular Marriage Act, but a certificate of naturalization must first be obtained on all occasions to make such marriage valid, and a naturalized British subject is in the same position as a natural-born subject, save in the country of his birth, in which case the validity of the marriage would be doubtful | 158 |
| 268 | Law Officers and Dr. Deane | Dec. 31, | As to the claim put forward by the Canton of Geneva to succession duty on the personal estate of Mr. Forbes, formerly Her Majesty's Minister at Dresden, but lately deceased at Geneva. Her Majesty's Minister should not interfere further than to see that the property seized is not unnecessarily injured before the representatives appear | 159 |

## TUNIS.

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| 269 | Law Officers and Dr. Deane | June 13, 1873 | On the proposed rules of procedure in the Mixed Tribunals at Tunis. Approve Sir P. Francis' Report, and Her Majesty's Government may assent to the rules | 160 |
| 270 | Law Officers and Dr. Deane | 23, | Approve proposed instructions of Consul-General Wood to British Consular Agents in Tunis, for the prevention of the clandestine import and export of goods in vessels under British flag from Tunisian ports | 160 |
| 271 | Law Officers and Dr. Deane | 23, | As to the restrictions imposed on the Bey of Tunis by his Decree of the 5th July, 1869, establishing the Mixed Commission for liquidating the debts of the Regency to the subjects of foreign Powers | 161 |
| 272 | Law Officers and Dr. Deane | Nov. 10, | As to the right of Her Majesty's Government to continue British protection to Si Hamuda Ben Ayat in Tunis. It would be right and expedient to do so | 161 |

## TURKEY.

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| 273 | Law Officers and Dr. Deane | Jan. 17, 1873 | On claim of Messrs. Laycock and Co. for the intervention of Her Majesty's Government to obtain payment from the Turkish Government for supply of coals delivered in 1868. Her Majesty's Minister at Constantinople should inquire into the facts of the case, and, if found correct, should press for payment | 162 |
| 274 | Law Officers and Dr. Deane | Feb. 1, | As to the instructions to be given to Her Majesty's Ambassador and the Judges of Her Majesty's Consular Court at Constantinople on the point of jurisdiction raised with regard to the "Arturo," an Italian vessel, claimed as a direlict by the crews of two English vessels in the Black Sea | 162 |
| 275 | Law Officers and Dr. Deane | 1, | On complaint of Paul Tamagian against Sir P. Francis, Judge of Her Majesty's Consular Court at Constantinople. He should be told there is no sufficient ground for an inquiry | 163 |
| 276 | Law Officers and Dr. Deane | 19, | Her Majesty's Government should not request the Turkish Government to compensate the family of one of the crew of the "Cashmere," who was murdered by pirates, who carried off a large sum in specie | 163 |
| 277 | Law Officers and Dr. Deane | 21, | Further relative to the piratical attack on the British vessel "Cashmere." No reason to alter former opinion | 164 |
| 278 | Law Officers and Dr. Deane | Mar. 18, | Further relative to the case of the "Arturo." Views of Her Majesty's Ambassador at Constantinople are correct, and no ship on which a claim for salvage has been made should be allowed to leave until full security for the amount claimed has been given. After security offered, the "Arturo" or other vessels may be released | 164 |
| 279 | Law Officers and Dr. Deane | 22, | On complaint of Sir Francis Goldsmid of the law passed by the Roumanian Chambers prohibiting the grant of licences to sell spirituous liquors to persons not electors, so that Jews are prevented from carrying on their trade. Representations in concert with other Powers may be made against a harsh measure, but it is not contrary to the XLVIth Article of the Treaty with Turkey of 1858 | 165 |
| 280 | Law Officers and Dr. Deane | Apr. 22, | Proposed draft notice to be issued by Her Majesty's Consular officers on the north coast of Africa for the prevention of embarking negroes on board British vessels without a Consular pass. Commanding officers would be liable to punishment on embarking negroes | 165 |
| 281 | Attorney- and Solicitor-General | May 17, | Approve the views of the Advocate-General of Bombay as to measures for prevention of British Indian and protected subjects engaging in Slave Traffic or holding slaves. Cannot report on the Indian Statute, which they have not seen | 166 |
| 282 | Law Officers and Dr. Deane | June 23, | Further relative to the case of the "Arturo." The salvors have a right to bring or place the property within the jurisdiction of their own Courts, both to obtain the security and assess the amount of the awards in the exercise of its jurisdiction | 167 |
| 283 | Law Officers and Dr. Deane | 26, | As to the dispute between the Turkish Government and the Danube and Black Sea Railway Company. Instructions should be sent to Sir H. Elliot to induce the Porte to submit the differences to arbitration or a Mixed Commission, and the agent of the Company, Mr. Austin, might be assisted | 167 |
| 284 | Law Officers and Dr. Deane | July 8, | As to the instructions to be given to Her Majesty's Ambassador at Constantinople, on refusal of the Ottoman Government to pay the holders of Syrian Indemnity Consolidé bonds the interest on the bonds while overdue: 6 per cent. and possibly a compound interest is all that can be demanded for Messrs. Black and Co. | 168 |

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| 285 | Law Officers and Dr. Deane | Aug. 29, 1873 | Approve the course proposed by Sir H. Elliot to be followed on the new regulations issued by the Porte relative to the transmission of property, as British interests are not likely to be injured | 168 |
| 286 | Law Officers and Dr. Deane | 29, | Claim of M. F. Mida for British protection cannot be entertained, as he has returned to his native country | 169 |
| 287 | Law Officers and Dr. Deane | 29, | Approves draft of revised Order in Council prepared by Mr. Riley, in connection with Sir P. Francis, for regulating the Consular jurisdiction in the Ottoman dominions | 169 |
| 288 | Law Officers and Dr. Deane | Sept. [illegible] | Approve proposed Schedules to the Revised Order in Council, with alterations in the proposed forms to be adopted | 169 |
| 289 | Attorney-General and Dr. Deane | Oct. 3, | As to the claim of Mr. Smylie Robson for 12 per cent. interest on the Syrian Consolidé bonds overdue. Cannot claim more than 6 per cent., but the Porte may be urged to pay compound interest | 170 |
| 290 | Law Officers and Dr. Deane | 20, | No reason to alter opinion already given as to the right of M. F. Mida to British protection | 170 |
| 291 | Law Officers and Dr. Deane | Nov. 26, | Further as to the Revised Order in Council for the regulation of British Consular jurisdiction in the Ottoman dominions, and the scale of bankruptcy fees | 171 |
| 292 | Law Officers and Dr. Deane | Dec. 2, | Further relative to the claims of British subjects for interest on the overdue Syrian Consolidé bonds. The bondholders would be entitled to their 12 per cent., as the bonds derived their chief value from being terminable | 171 |
| 293 | Law Officers and Dr. Deane | 19, | As to the marriages of Maltese subjects in the Ottoman dominions, and the special case of a Maltese named Antonie Aquilina. British Maltese subjects are not compelled to avail themselves of the Consular Marriage Act | 172 |

## UNITED STATES.

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| 294 | Law Officers and Dr. Deane | Jan. 3, 1873 | As to the course that should be pursued by Sir E. Thornton on the claim of Mr. George Wigg for seizure of the British steamer "Virgin." Should decline to support him | 172 |
| 295 | Attorney- and Solicitor-General | 4, | Claims Commission. Will communicate with Dr. Deane as to the evidence of Lord Monck as well as of Sir George Cartier, to be taken before the United States' Consul-General in London, relative to the St. Alban's raid | 173 |
| 296 | Law Officers and Dr. Deane | 14, | As to the reply to be sent to Messrs. Shand, Higson, and Co., with regard to their claim on the United States' Government. Must not further support the claim | 173 |
| 297 | Law Officers and Dr. Deane | 18, | Approve draft of instruction to Sir E. Thornton, with annexed Protocol, and instruction to Admiral Prevost on the formal demarcation of the boundary between Her Majesty's Possessions and those of the United States of America, under the Treaties of Washington of 1846 and 1871 | 174 |
| 298 | Law Officers and Dr. Deane | 31, | As to the claims of Mr. Stewart on the United States' Government for destruction of his cotton in 1865 by the United States' troops | 174 |
| 299 | Law Officers and Dr. Deane | Feb. 1, | Further evidence produced by Messrs. Ellman, Raper, and Ellman relative to the claim of Mrs. Cassin, and the evidence of Mr. Young, induce them to state that the claim may be brought to the favourable notice of the United States' Government | 174 |
| 300 | Law Officers and Dr. Deane | 1, | Her Majesty's Government cannot properly instruct Her Majesty's Minister at Washington to apply for the extradition of John Robinson on a charge of absconding with money belonging to his creditors. He was guilty of a misdemeanour, but this is not mentioned in the Xth Article of the Treaty of 1842 | 175 |
| 301 | Law Officers and Dr. Deane | Feb. 2, 1873 | Claim of Mr. A. Ravenscroft may be brought to the notice of the United States' Government. Though that Government may refuse to entertain the claim, their reasons for doing so cannot be the same as those used in the claim of Messrs. Shand, Higson, and Co. | 175 |
| 302 | Law Officers and Dr. Deane | 19, | Instructions to be given to Sir E. Thornton as to the manner in which the declarations of aliens should be taken in the United States so as to be valid in this country | 176 |
| 303 | Law Officers and Dr. Deane | Mar. 6, | Further relative to the claim of Messrs. Shand and Co. against the United States' Government, and reply of Messrs. Bateson and Co. to objections of Mr. Fish to the recognition of their claims. The evidence of Mr. Cromwell, that the cotton was bought by him for Mr. Wigg, should have been brought forward at first, and the claim cannot now be supported | 176 |
| 304 | Law Officers and Dr. Deane | 7, | No reason for the Additional Article to the Treaty of the 8th May, 1871, for the Mixed Commission to meet out of Washington, not being ratified | 177 |
| 305 | Law Officers and Dr. Deane | 17, | On protest of Mr. Stewart against the Commissioners of Claims withdrawing his additional claim for the destruction of his cotton by the United States' troops in 1865. He may be informed that, under the XIVth Article of the Treaty of 1871, the Commissioners had the power to reject his supplemental claim, and no further support can be granted. | 177 |
| 306 | Law Officers and Dr. Deane | 22, | As to the seizure of the vessel "Bessie," of New Brunswick, by the United States' Customs officials. Inquiry should be made into the conduct of the British master by Her Majesty's Consul, as it is evident he was endeavouring to evade a legal demand | 177 |
| 307 | Law Officers and Dr. Deane | 24, | As to the Bill which passed the United States' House of Representatives for carrying into effect the Treaty of Washington regarding the fisheries. It complies with the provisions of the Treaty | 178 |
| 308 | Law Officers and Dr. Deane | 24, | Instructions to be sent to Sir E. Thornton as to the rights of British subjects settled in the Island of San Juan. Should keep the question of their land claims before him, though the conduct of the Governor of Washington territory appears satisfactory | 178 |
| 309 | Law Officers and Dr. Deane | 28, | As to the claim of Dr. Rufus Bratton for compensation on account of his abduction from Canadian territory. Her Majesty's Government cannot demand compensation, as the explanations given by Mr. Fish of the circumstances are satisfactory | 179 |
| 310 | Law Officers and Dr. Deane | Apr. 2, | Instructions to be given to Mr. Howard as to certifying the awards given by the Claims Commission. He should endeavour to get the Rule No. 17 cancelled, so as to prevent money being raised on the assignments | 179 |
| 311 | Law Officers and Dr. Deane | 2, | Further relative to the refusal of the Claims Commission to allow Mr. Stewart's supplemental claim to be filed. No reason to alter former opinion | 180 |
| 312 | Law Officers and Dr. Deane | 3, | As to the claim of the Great Western Steam-ship Company against the State of New York for return of head money on passengers, stated to have been levied between 1838 and 1844, a portion of which had been recovered. Her Majesty's Government cannot properly support their claim | 180 |
| 313 | Law Officers and Dr. Deane | 18, | Further relative to the claim of Mr. H. Stewart on the United States' Government. No reason to alter opinion already given on this case | 181 |
| 314 | Law Officers and Dr. Deane | 22, | Instructions to be sent to Sir E. Thornton on the second claim of Dr. Tumblety on account of his arrest. Should inquire why he did not offer any evidence on the presentation of his first claim, which was disallowed by the Commission | 181 |

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| 315 | Law Officers and Dr. Deane | Apr. 25, 1873 | Approve letter of the United States' Attorney-General to the District Attorney at New York, as to the course to be pursued in a case of attempted violation of the neutrality of the United States | 182 |
| 316 | Law Officers and Dr. Deane | May 5, | Further relative to the case of Mrs. Cassin before the Claims Commission. Cannot press the United States' Government further, as they decline to reopen the investigation made in 1866 | 182 |
| 317 | Law Officers and Dr. Deane | 9, | As to the reply of the United States' Government to representations made as to the treatment of the British vessel "Grace" and also of Captain Irvine. It does not satisfactorily dispose of the question of the treatment of the latter | 182 |
| 318 | Law Officers and Dr. Deane | 14, | Claim of Mr. Mogridge on the United States' Government, brought forward by Messrs. Harrison, Beal, and Harrison. The decision of the Commissioners considered final, under Article XIII of the Treaty of Washington of 1871 | 183 |
| 319 | Dr. Deane | 21, | As to memorandum to be prepared to be used in any argument raised upon a certain point before the Commission relative to the XXIst Article of the Treaty of Washington | 184 |
| 320 | Law Officers and Dr. Deane | 29, | On subject of the Act that passed the Legislature of Newfoundland for carrying out the provisions of the Treaty of Washington relative to the fisheries. Important points to be observed in framing the clauses of the Act | 184 |
| 321 | Law Officers and Dr. Deane | June 2, | Further relative to the claim of Mr. George Wigg for the seizure of the British vessel "Virgin" at Mobile, and request of Mr. F. B. Stuart, official liquidator of the European Trading Company, on behalf of the creditors and shareholders of the Company. Her Majesty's Government should not support this claim | 187 |
| 322 | Law Officers and Dr. Deane | 7, | Further relative to the recent Act which passed the Legislature of Newfoundland for giving effect to the Treaty of Washington as regards the fisheries. The Act does not sufficiently comply with the Treaty. A Protocol should be signed similar to that for Canada and Prince Edward Island | 187 |
| 323 | Dr. Deane | 9, | As to the privileges accorded to British subjects in return for those accorded to citizens of the United States under the XVIIIth Article of the Treaty of Washington, XXnd Article of which Treaty provided for the appointment of a Mixed Commission. Has prepared a memorandum for use in argument before the Commission, and would wish to have the assistance of the Agent to be appointed to attend the Commission | 187 |
| 324 | Law Officers and Dr. Deane | 13, | Lord Kimberley may inform Governor-General of Canada, and Lieutenant-Governor of Prince Edward Island, that they may issue their Proclamations for bringing the Articles XVIII, XXV, and XXX of the Treaty of Washington into force in those Colonies | 188 |
| 325 | Law Officers and Dr. Deane | 30, | Further relative to the claim of Dr. Tumblety on the United States' Government for arrest. Sir E. Thornton may write the note he proposes to that Government provided he does not commit Her Majesty's Government to support a doubtful claim. He should also write to Her Majesty's Consul at St. Louis to substantiate the facts of the case | 189 |
| 326 | Law Officers and Dr. Deane | July 4, | As to the reply to be sent to the Admiralty, who consider an Article in the United States' Naval Regulations of 1870, relating to convoys, to be contrary to international law, and whether any change should be made in the British Naval Regulations on the same subject. No reason for altering the 11th Article of Her Majesty's Naval Regulations. Remarks on the case of the "Maria," as decided by Lord Stowell, as to the right to visit ships under convoy, and naval officers should be instructed not to insist on visiting such ships | 189 |

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| 327 | Law Officers and Dr. Deane | July 12, 1873 | The claims of Messrs. Parr and Mrs. Elizabeth Luck may be brought to the favourable consideration of the United States' Government, as they were deprived of their property by order of the United States' officers | 190 |
| 328 | Law Officers and Dr. Deane | 19, | Further relative to the claim of Captain Irvine, of the British vessel "Grace." Her Majesty's Government cannot take any further steps in favour of this claim | 190 |
| 329 | Law Officers and Dr. Deane | Aug. 1, | Further particulars brought forward by Mr. J. W. Miles with respect to the claim of the Great Western Steam-ship Company on the State of New York, for repayment of head-money levied on that Company. Do not alter opinion already expressed | 191 |
| 330 | Law Officers and Dr. Deane | 6, | Further relative to the claim of Mr. Stewart on the United States' Government. He should be told Her Majesty's Government will not interfere with the decision of the Commissioners | 191 |
| 331 | Law Officers and Dr. Deane | 6, | On request of Mrs. Lambert, a British-born subject and the widow of an American subject, for a Foreign Office passport to return to St. Petersburgh, the United States' Legation having refused to give her one. Mrs. Lambert not entitled to claim a passport as a British subject | 191 |
| 332 | Law Officers and Dr. Deane | 29, | Further relative to the claim of Mrs. Cassin against the United States' Government. Reply should be sent to Messrs. Ellman, Raper, and Ellman, that Her Majesty's Government cannot interfere further | 192 |
| 333 | Law Officers and Dr. Deane | 31, | As to the instructions to be given to Mr. Howard on his proposal to make a protest against the decision of the Commissioners on Mr. Stewart's claim | 193 |
| 334 | Attorney-General | Sept. 10 | Wants more information as to the alleged violation of the territorial authority of the United States in the case of the abduction of Samuel Joy, a citizen of the United States, and before he is set at liberty | 193 |
| 335 | Attorney-General and Dr. Deane | 15, | On the detention at Fort Garry of certain American citizens charged with an attempt to carry off an Englishman named Gordon by force from Manitoba. The old acknowledged line of boundary between the two States must be taken until the new one is admitted or declared to be the true one | 193 |
| 336 | Attorney-General and Dr. Deane | 15, | Instructions to be sent to Sir E. Thornton to apply to the United States unofficially as to their interpretation of the Article in their Naval Regulations on the subject of capture for carrying contraband of war | 193 |
| 337 | Law Officers and Dr. Deane | Oct. 30, | The terms of the XXIIIrd Article of the Treaty of Washington are distinct and peremptory as to the appointment of a third Commissioner for the Fishery Commission at Halifax, and the nomination by the Austrian Ambassador in London should not be delayed | 194 |
| 338 | Law Officers and Dr. Deane | Nov. 10, | Further relative to the case of Samuel Joy. He should not have been taken into New Brunswick nor detained there in prison, and Mr. Fish was justified in making the remarks he did in his letter of the 9th October last | 194 |
| 339 | Law Officers and Dr. Deane | 17, | Further relative to the appointment of a third Commissioner under the XXIIIrd Article of the Treaty of Washington. Do not concur with the interpretation put upon that Article by Mr. Fish. The selection is clearly in the Austrian Ambassador in London | 195 |
| 340 | Law Officers and Dr. Deane | Dec. 23, | On request of Messrs. Whitley and Maddock that the claim of Messrs. C. and H. Wilson against the United States' Government may be supported by Her Majesty's Government. They must first give further reasons why the claim was rejected by the United States' Government | 195 |

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## VENEZUELA.

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| 341 | Law Officers and Dr. Deane | Feb. 15, 1873 | Instructions may be given to Mr. Middleton to press for an apology to the British Government from the Government of Venezuela for insult on endeavouring to enforce the order for delivery of a horse after that gentleman's letter to Señor Guzman; and Mr. Agostini is entitled to compensation for arrest and imprisonment in July 1871 .. .. | 196 |
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1873

## AFRICA.

No. 1. **[Colonial Office.**

*Law Officers of the Crown to the Earl of Kimberley.*

My Lord, *Temple, May* 15, 1873.

Importation of arms into Assinee for sale to Ashantees. As to mode of checking.

WE were honoured with your Lordship's commands signified in Mr. Holland's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us the copy of a despatch which has been received from the Officer administering the Government of the West African Settlements,* and to refer us to that part of it in which it is stated that "large quantities of arms and ammunition were being landed from English vessels for sale to the Ashantees, and that one ship, the , master, had landed no less than 150 cases of muskets and 200 barrels of powder."

2. That it would be seen that Assinee, which lies to the west of Her Majesty's Settlement on the Gold Coast, is a port under French protection, and cannot, therefore, be affected by any Proclamation of the Officer administering the Government of that Settlement, or by any local British Ordinance; but should the present war between the Ashantees and the tribes of the British Protectorate continue, it might become necessary for Her Majesty's Government to endeavour, by such means as they are advised they may legally adopt, to check the importation into Assinee, or other West African ports, of arms and ammunition which readily find their way into the hands of the Ashantees, and thus enable them to prolong the war.

3. That in these circumstances Mr. Holland further stated he was to request that we would report to your Lordship what steps by Royal Proclamation or otherwise can be properly taken by Her Majesty's Government to stop the importation by British subjects, or in British vessels, of arms and ammunition into Assinee or any other neighbouring port outside the limits of Her Majesty's Settlement on the Gold Coast.

In obedience to your Lordship's commands we have the honour to

*Report—*

That Her Majesty's Government cannot in our opinion take any steps to stop the importation by British subjects, or in British vessels, of arms and ammunition into Assinee, or any other neighbouring port outside the limits of Her Majesty's Settlement on the Gold Coast, other than to obtain the joint offices of friendly Powers to prevent the importation and sale of arms and ammunition into and out of their territory, and to prevent by all means within the power of the Local Government the sale of arms and ammunition to the Ashantees.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* March 25, 1873, No. 30.

1873

# AFRICA.

## No. 1*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 10.)

My Lord,

*Temple, September* 10, 1873.

Proposed Agreement between Governments of England, France, and Portugal to prevent supply of arms to tribes on West Coast of Africa.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was to transmit to us, by direction of your Lordship, various letters which had been received from the Colonial Office on the question of the expediency of addressing a representation to the French Government with the view of preventing the importation of arms and ammunition into Ashantee through the adjacent territory of Assinee, which is under French protection.

That your Lordship had hitherto hesitated to make any such representation in the absence of any measures on the part of Her Majesty's Government to prevent the supply of arms to the Ashantees by British subjects.

That it would appear from these papers that our advice had been given against the introduction of a Bill into Parliament to enable Her Majesty to prohibit, by Proclamation or Order in Council, the export of arms, ammunition, and other articles of military or naval use to specified places; and that Her Majesty's Government had not adopted the practice, which, as stated in the Report of the Commissioners of Customs inclosed in the letter from the Colonial Office of the 10th June last, had been resorted to on previous occasions, of prohibiting generally the export of certain articles, but allowing, by subsequent Order in Council, their exportation under bond to other places than those from which it was desired to exclude them.

That your Lordship had now received from the French Chargé d'Affaires an inclosed note, proposing an Agreement between the Governments of England, France, and Portugal, to prevent, by combined action, the supply of arms to the tribes on the West Coast of Africa.

That Mr. Hammond was to request that we would take these papers into our consideration, and favour your Lordship with our opinion whether Her Majesty's Government could properly enter into such an Agreement as was suggested.

That he (Mr. Hammond) was further to inclose a letter from the Admiralty, from which it would be perceived that Commodore Commerell had already addressed a representation to the French Admiral on the Coast, drawing attention to the import of arms and powder through Assinee.

That a copy of a printed statement drawn up in the Foreign Office, of the Acts of Parliament and Orders in Council for prohibiting the export of arms was also inclosed.

In obedience to your Lordship's commands, we have the honour to report—

See no reason why such an agreement should not be entered into. Importation of arms and ammunition may be forbidden by Proclamation.

That the importation of arms and ammunition may, we believe, be forbidden, by Proclamation made by the Governor or Governors of the British Settlements on the West Coast, and we see no reason why an agreement, as proposed by M. Dutreil, should not be entered into by the Governments of Great Britain, France, and Portugal.

We are aware that in giving this opinion to your Lordship, we are advising a course of action which may be directly injurious to the manufacturers of arms and ammunition in this country, but it seems to us, and we respectfully submit to your Lordship's consideration, that England should not hold back, out of consideration for a particular branch of manufacture, from adopting a measure suggested by a great friendly Power, in itself lawful and well fitted to promote civilization and the cause of humanity, and to lead in the way of barter and trade to the introduction of other manufactures of at least equal importance.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

1873

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CONFIDENTIAL.

# REPORTS BY THE LAW OFFICERS OF THE CROWN: 1873.

## Austria.

### No. 1.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 23.)

My Lord,
*Temple, June* 23, 1873.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 13th instant, stating that he was directed by your Lordship to state to us that your Lordship would be glad to receive our suggestion as to the answer which should be returned to the inquiry contained in the inclosed note from the Austrian Ambassador, as to the extent to which sentences of foreign Tribunals could be carried out in England, or be pleaded as a ground of action before English Tribunals, and specially as to whether, if an Englishman, or person resident in England, should volunteer to acknowledge the competence of a foreign Tribunal, the sentence of such Tribunal could, in consideration of the acknowledgment, be executed in England with the assistance of the English authorities. And that he (Viscount Enfield) was to observe that the Ambassador appeared to wish for an opinion on the latter point in the form of a Declaration signed by competent authorities; and that your Lordship would be glad, therefore, to learn our opinion as to whether such a document could be supplied, or whether the reply should be given in a general form.

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report—

That, in our opinion, the Austrian Ambassador may properly be informed that the sentences of foreign Courts of competent jurisdiction are received in England as evidence of the facts decided between the same parties.

But that such Judgments cannot be carried out in England without an action founded upon them, as, for instance, where the foreign Judgment is for a definite sum of money, the debt may be made the subject of action, and the Judgment will be evidence of the debt.

This appears to be the nature of the special case referred to by the Austrian Ambassador.

On the general question we are of opinion, as above stated, that foreign Judgments cannot be put into execution directly in England, but an action will lie upon such foreign Judgment, which may be used as evidence of a debt.

We have, &c.
(Signed) J D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

1873

## Brazil.

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### No. 2.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 16.)

My Lord, *Temple, January* 16, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, with reference to our Report of the 17th ultimo on the case of the Brazilian boatmen alleged to have been murdered in the Bay of Rio by marines of Her Majesty's ship "Reindeer," in which we advised your Lordship that the Brazilian Minister might properly be informed that Her Majesty's Government were quite willing to put such of the men upon their trial in this country who could be brought to trial, he was directed by your Lordship to request that we would explain to him, before you communicated with the Brazilian Minister, how those men could be put upon their trial in England for a murder committed on foreigners in the territorial waters of Brazil.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the marines who are accused of having committed a murder upon foreigners within the territorial waters of Brazil may be put upon their trial in England, inasmuch as the alleged offence was committed in a navigable river, in a broad part of it below all bridges, and at a point where the tide ebbs and flows, and where great ships lie and hover. The Admiralty clearly has jurisdiction in such a case, and it stands precisely the same as if the alleged offence had been committed upon the high seas, and the marines may be properly put upon their trial at the Central Criminal Court. See Reg. v. Anderson, L. R. I. C. C. Reserved, 161.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 3.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 24.)

My Lord, *Temple, June* 23, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that, with reference to our Report of the 15th July last upon the case of the Queen Insurance Company, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Rio de Janeiro, reporting that the Court of Relação had not reversed the sentence of bankruptcy pronounced against the Company, but had merely confined its classification as "casual" and not fraudulent.

And that he (Mr. Hammond) was to request us to take the despatch into consideration, together with the previous papers, and favour your Lordship with our opinion as to the steps which should now be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Minister at Rio Janeiro may properly be instructed to endeavour, as he suggests, to settle the matter both with regard to the bankruptcy of the Company and with regard to the agents, Messrs. Taylor and Lyde, without diplomatic action.

Should he fail in obtaining a satisfactory result, your Lordship will be able to decide more clearly what steps then to take.

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## Bolivia.

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### No. 1A.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 9.)

My Lord, *Temple, January* 8, 1873.

Seizure of the "Morro" by persons in rebellion against the Government of Bolivia.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 31st ultimo, stating that he was directed by your Lordship to request that we would again take into our consideration the case of the seizure of the "Morro" by persons in rebellion against the Government of Bolivia, which formed the subject of our Report of the 5th ultimo.

That the Report and its inclosures from the British Vice-Consul at Iquique was returned, and a Memorandum of a conversation with Mr. Johnston, which occurred subsequently to the receipt of our Report, was also inclosed.

That from the letter from Mr. Nairns, who is agent for the owners of the vessel, as well as Acting British Vice-Consul, to Mr. Morris, of the 13th August, and from Mr. Morris' reply of the same date, it appeared the vessel was placed at the disposal of the latter gentleman as Agent of the Bolivian Government subject to certain conditions, one of which was that the value of the vessel was guaranteed to be made good in the sum of 25,000 soles in the event of her being lost in the service of the Bolivian Government and in consequence of that service.

That it appeared to your Lordship from the statements made as to the voyage, and from the circumstance that there was a passenger on board with sealed papers (probably an officer of the Bolivian Government), that the vessel was, at the time of her capture, actually in the service and being employed on the service of the Bolivian Government. If so, it appeared questionable whether the British flag should have been hoisted on board the "Morro," or, at all events, without the Bolivian flag being hoisted as well.

That there seemed to be, moreover, other considerations connected with the case, such as whether the Bolivian Government could be asked for redress in respect of proceedings of persons in rebellion against them; whether the conditions under which the "Morro" was chartered implied a responsibility for damage as well as total loss; and whether this latter point should not be dealt with in connection with the question as to how far due caution was exercised to keep the vessel out of the hands of the rebels.

That we stated in our Report that, as it appeared that Her Majesty's Government had no diplomatic relations with the Government of Bolivia, we saw no objection to your Lordship's instructing Mr. Vice-Consul Nairns to press the settlement of the case upon the Bolivian authorities. He (Lord Tenterden) was, however, to point out to us that Mr. Nairns is the Acting British Vice-Consul at Iquique, in Peru, and has no means of pressing the settlement of the case upon the authorities of Bolivia; and he (Lord Tenterden) was to suggest, for our consideration, whether the proper course for him (the Vice-Consul) to adopt would not be to take proceedings against Mr. Morris, or whoever might now be acting as Agent for the Bolivian Government, in the Peruvian Courts for the settlement of any claim arising under his contract with that gentleman.

He (Lord Tenterden) was also to request that we would take into consideration the other points in the case to which he adverted, and favour your Lordship by informing him whether, having regard to them, we still adhered to the opinion expressed in our Report of the 5th instant.

In obedience to your Lordship's commands we have the honour to report—

Are of opinion that Mr. Nairns should press the claim of the owners of the "Morro" for compensation upon the Bolivian Government.

We are still of opinion that Mr. Nairns, who let the ship "Morro" to the Bolivian Government, should press the claim of her owners for compensation upon that Government.

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We see no objection to Mr. Nairns, in the event of the Bolivian Government refusing his application to that Government for redress and compensation, taking proceedings against Mr. Morris, as the Agent of the Bolivian Government, in the Peruvian Courts.

We submit, however, for your Lordship's consideration, whether, in the event of Mr. Nairns failing to obtain redress and compensation by that course, you will not be disposed to take some further action for the insult offered to the British flag by subjects of Bolivia, those subjects being, it is true, in rebellion against the Government authorities.

Employment of a man-of-war may be resorted to in order to enforce compensation if necessary.

We are of opinion that the "Morro," owned, manned, and navigated by British subjects, though hired by the Bolivian Government, was entitled to carry the British flag, being engaged in an occupation lawful to a British subject, and we are still of opinion that, for the outrage to the flag, and for enforcing compensation to the owners of the "Morro," if the Bolivian Government will not submit to the jurisdiction of the Peruvian Courts, or those Courts refuse to entertain the case, the employment of a man-of-war may be resorted to.

The imperfect state of the machinery of the "Morro," which made it necessary for her to keep in shore and was the cause of her easy seizure, and the possible difficulty of the question whether she met with a total or a partial loss, are strong reasons why the owners should be satisfied with a moderate compensation, whether by agreement with the Bolivian Government themselves, or through Her Majesty's Government.

Some satisfaction is due for outrage on the British flag.

In any event, we submit to your Lordship that some satisfaction or apology is due for the outrage on the British flag.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

## Annex.

*Memorandum by the Lord Chancellor.*

I AM unable to agree with the Law Officers as to the insult to the British flag.

It appears that the British Consul at Iquique in Peru chartered this vessel to the Bolivian Consul there, knowing that an armed revolutionary movement was going on in Bolivia, and expressly with a view to the use of this vessel by the Representative of the Bolivian Government at Cobija, for his own preservation, in case he should have to yield to superior force on the part of the insurgents. It also appears that the captain, under this charter, thought proper to sail under the British flag, which (I agree with the Law Officers in thinking) he was entitled to do, but which did not the less leave him exposed to the consequences of an employment by a foreign Government, for a purpose connected with its own measures of defence against its insurgent citizens.

I hold it utterly impossible, under these circumstances, to do more, with respect to the insult offered to the flag, than to ask from the Bolivian Government an expression of the regret, which they must undoubtedly feel, that such an insult should have been offered to the national ensign of this country by Bolivian subjects, though in armed opposition to their Government.

But with respect to the damage to the ship and her equipments, and the loss of property on board by the master and crew, I think there is a strong case for asking compensation from the Bolivian Government, by whatever peaceable means may be most convenient; and the fact that there may be a doubt upon the letter of the contract whether the charterers undertook to make good anything less than a total loss is (in my judgment) one reason why the application should be made directly to the Bolivian Government. It may, indeed, turn out that they may deny having authorized Mr. Morris, their Consul at Iquique, to charter the vessel for their service, in which case

different questions may arise. But, for the present, I assume that they did give that authority, and if so I certainly consider that they ought to indemnify the owners and crew from all losses sustained by them, while the ship was in that service, through the acts of the enemies of the Bolivian Government in Bolivia.

The case, however, does not rest here. If the facts alleged in the protest of the principal engineer are true, it would appear that after the vessel had passed out of the power of the revolutionary party at Tocopilla into that of the Constitutional Government at Bolivia, the agents of the Bolivian Government themselves inflicted divers personal indignities upon the engineers and men of the ship, and pillaged a great part of their property.

(Signed) SELBORNE.

30, *Portland Place, London,*
*February* 24, 1873.

In the meanwhile, and with reference to the Company, it seems to us, at present, that the decision of the Court of Appeal may probably be right according to the law of Brazil; should this be so, no redress could properly be sought from the Brazilian Government. Upon this point, whether the decision is right by the law of Brazil, Mr. Mathew should be instructed to inform your Lordship.

The agents, however, appear from the minutes of the section of Council of State for the affairs of justice to have been illegally treated, and if so, will be entitled to some compensation from the Brazilian Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 4.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August 5.)*

My Lord,

*Temple, August* 4, 1873.

WE are honoured with your Lordship's commands signified in Lord Tente[illegible] letter of the 1st instant, stating that, with reference to our Reports of the 5th December and 17th July last, and to Article VI of the Consular Convention between Great Britain and Brazil therewith inclosed, he was to request that we would acquaint your Lordship, at our earliest convenience, whether the Convention as it now stands will require any authorization from Parliament, or whether Her Majesty's Minister at Rio de Janeiro might be instructed to exchange the ratification of the Convention with the Brazilian Government as soon as the alteration in Article II, which relates to wreck, in the Convention signed by Mr. Mathew and the Brazilian Plenipotentiary on the 22nd April last, has been agreed to by the Brazilian Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Convention as it now stands will not require any authorization from Parliament, and Her Majesty's Minister at Rio de Janeiro may be instructed to exchange the ratifications as soon as the alteration in Article II has been agreed to by the Brazilian Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 5.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August 16.)*

My Lord,

*Temple, August* 16, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th August instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Mr. Lennon Hunt,* Her Majesty's Consul at Rio de Janeiro, in which the question was raised whether those of Her Majesty's Consuls who are instructed to collect fees on account of Her Majesty's Government are, under the terms of the Marriage Act, 12 & 13 Vict., cap. 68, entitled to appropriate to their own use the fees leviable under that Act.

That previous to 1858 Her Majesty's Consuls, with the exception of those in China, Japan, and Siam, were authorized to retain all fees by law leviable by them, but subsequently to that date, in conformity with the opinion expressed by the Consular Committee in their Report dated the 27th July, 1858,† of which a copy was therewith transmitted, that such an arrangement was open to serious objections, Her Majesty's Consulates at certain places had from time to time been placed on a different footing, and an allowance assigned to them in lieu of the fees which the Consuls were instructed to collect on behalf of Her Majesty's Government.

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* No. 2, June 26, 1873.

† Page 11 of Report.

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That on Mr. Hunt's appointment as Consul at Rio in 1864, that post was placed on the new footing. His letter of appointment was therewith inclosed, together with copies of the Circulars of the 8th July, 1859, and the 20th May, 1861, therein referred to.[*]

Lord Tenterden was pleased further to inclose a copy of the Order in Council of the 1st May, 1855,[†] under which Her Majesty's Consular officers are authorized to levy certain fees, a Table of which was annexed, a form of annual return of all fees and remuneration received by Consular officers,[‡] which they are directed, by paragraph 4 of the General Instructions to Consuls,[§] to send home to the Foreign Office, and a copy of the Marriage Act;[‖] and to say that he was to request that we would take the papers into our consideration and favour your Lordship with our opinion whether Her Majesty's Consuls who remit fees to Her Majesty's Government should also remit marriage fees, or whether they are entitled to appropriate them to their own use.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That, in our opinion, Her Majesty's Consuls who remit fees to Her Majesty's Government are entitled to appropriate to their own use and should not remit marriage fees.

There is, we consider, a material difference between fees received for the performance of general Consular duties, such as are scheduled in p. 61 of the General Instructions, and the fees received for a marriage. But we do not think it necessary to trouble your Lordship with any observations on that head, because our opinion proceeds on the words of 12 & 13 Vict., cap. 68, sec. 10, p. 189 of the General Instructions, that the Consuls shall be entitled to have a sum of 20*s.* or 10*s.*, as the case may be, for every marriage, and we think this word "have" means for his own use, as distinct from "take" in the Order at p. 61, and the words "take," "accept," and "receive" in the 6 Geo. IV., cap. 7, sec. 4, p. 17 of the General Instructions.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 6.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 2.)

My Lord, *Temple, September* 2, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relative to the position of certain British subjects who had been induced to emigrate to Brazil; and that he was to request us to take the papers into consideration and favour your Lordship with our opinion as to the propriety of the course suggested in the Colonial Office letter of the 23rd ultimo, viz.:—

That in the event of the Brazilian Government refusing to send to England at once such of the emigrants as desire it, the emigrants should be brought home at the expense of the country, and the cost claimed from the Brazilian Government.

In obedience to your Lordship's commands we have the honour to report—

That in the event of the Brazilian Government refusing to send to England at once such of the British emigrants as desire it, the emigrants should be brought home at the expense of this country, and the cost claimed from the Brazilian Government.

The conduct of the Brazilian Government in the case of United States' immigrants referred to in Mr. Mathew's letter of the 10th July, 1873, is a precedent directly applying to the circumstances of the British immigrants.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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[*] To Consul Hunt, No. 1, October 28, 1864; Circular, July 8, 1859; Circular, May 20, 1861.

[†] Volume of General Instructions, pp. 59, 60, and 61.

[‡] Ibid., Annex 5, p. 64.

[§] Ibid., par. 4, p. 5.

[‖] Ibid., Annex 11, p. 185.

## Central America.

### No. 7.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 8.)

My Lord, *Temple, January* 8, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires in Central America, inclosing the claim of the Honduras Railway Company for compensation for losses suffered during the late revolution in that country; he (Mr. Hammond) also inclosed previous correspondence showing the disturbed state in which Honduras had been for some time past; and he was to request that we would take the papers into consideration and favour your Lordship with our opinion as to the support which Her Majesty's Government should give to the claims now advanced.

In obedience to your Lordship's commands we have the honour to report—

That the claims advanced by the Honduras Railway Company for compensation cannot, in our opinion, be supported by Her Majesty's Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 8.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 10.)

My Lord, *Temple, January* 9, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that, with reference to our Report of the 29th November upon the subject of the distribution of certain sums paid to Her Majesty's Representative in Central America, on account of British claims on Honduras under the Chatfield-Cruz Convention of 1852, he was directed by your Lordship to transmit to us the accompanying letter from the Treasury, from which we would see that their Lordships refused to render any assistance in the matter.

And that, in view of that refusal, he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to the best course to pursue in order to insure a fair distribution of the money in question, and to protect the Secretary of State against legal proceedings arising out of such distribution.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship might appoint some properly qualified person to act as a Commissioner in the distribution of the money in question.

If your Lordship thinks fit to adopt this suggestion, we advise that no distribution or payment of money actually be made till the whole of the claims and accounts and the Report of the Commissioner have been advised upon and examined on your Lordship's behalf.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 9.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 11.)

My Lord,

*Temple, January* 10, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office, inclosing copies of two despatches from the Lieutenant-Governor of British Honduras, reporting the measures which he had adopted to prevent any hostile preparations in that Colony against the Government of Guatemala.

That we would observe that in his despatch No. 195 of the 28th October the Lieutenant-Governor raised the question whether the Foreign Enlistment Act could properly be put in force in cases where evident preparations for hostilities were being made in a foreign State, or whether the Act could only be put in force when hostilities had actually commenced on one or the other side.

That he (Mr. Hammond) was accordingly to request us to favour your Lordship with our opinion upon that point.

In obedience to your Lordship's commands we have the honour to report—

That "The Foreign Enlistment Act, 1870," cannot, in our opinion, be put in force until the existence of hostilities.

At the same time we are of opinion that it is the duty of the person administering the Government of any British possession, in this case of the Lieutenant-Governor of British Honduras, to take every possible measure to be able to put the Act in force on the first outbreak of hostilities.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 10.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 8.)

My Lord,

*Temple, February* 7, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Minister in Guatemala, with inclosures, respecting the claims advanced by the Honduras Railway Company; and he was to request us to take the papers into consideration and favour your Lordship with our opinion as to whether they contained any statements which would lead us to alter the Report which we made on that subject on the 8th ultimo.

In obedience to your Lordship's commands we have the honour to report—

That there is nothing in the papers transmitted by Her Majesty's Minister in Guatemala which would lead us to alter the Report which we made on the 8th ultimo.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 11.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 1.)

My Lord,

*Temple, March* 31, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that, with reference to our Report of the 9th January, he was directed by your Lordship to transmit to us the draft of a letter which your Lordship proposed to address to Mr. Bury, who represents the principal claimants upon Honduras under the Chatfield-Cruz Convention. That draft had, as we would see, been founded upon the recommendations of the Treasury; and he (Mr. Hammond) was to request that we would inform your Lordship whether we concurred in the suggestion and terms of the proposed letter.

In obedience to your Lordship's commands we have the honour to report—

That we concur in the suggestion and terms of the proposed letter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 12.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 4.)

*Temple, July* 4, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us a correspondence relative to a complaint made by Mr. Thomas Paris of the conduct of the Guatemalan Government in regard to certain bonds issued by that Government in 1863, in pursuance of a contract made with Mr. Thomas Greenhill for the construction of two iron piers at the ports of San José and Tulate, certain of which bonds are now held by Mr. Paris.

And that he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to whether any steps should be taken in the matter to which they relate.

In obedience to your Lordship's commands we have the honour to report—

That it appears from the Report of Mr. Corbett that Mr. Greenhill never completed his part of the contract in consideration of which the bonds were issued by the Guatemalan Government.

That on the failure of Mr. Greenhill to fulfil his contract the Guatemalan Government cancelled, as it had, in our opinion, the right to do, those bonds, and consequently that Mr. Paris may properly be informed that Her Majesty's Government can take no steps in the matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSELL.
J. PARKER DEANE.

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### No. 13.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 17.)

*Temple, July* 16, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that, on the receipt of our Report of the 4th instant, your Lordship caused Mr. Paris to be informed that Her Majesty's Government could take no steps in regard to his Guatemala bonds.

And that he (Mr. Hammond) was now to transmit to us a reply which had been received from Mr. Paris, in which he maintained that the Guatemala Government, and not Mr. Greenhill, broke the contract, in consideration of which the bonds were issued.

And he (Mr. Hammond) was to request us to take Mr. Paris' letter into consideration (with former papers inclosed) and favour your Lordship with our opinion as to whether any steps should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That our former Report was founded on the facts stated by Mr. Corbett in his Report to your Lordship dated 26th April, 1873, and we are still of opinion that Her Majesty's Government should take no steps in the matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 14.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July* 19.)

My Lord,

*Temple, July* 18, 1873.

WE are honoured with a memorandum from Mr. Hammond stating that, with reference to his letter of the 12th instant, he was directed by your Lordship to transmit to us two further letters from Mr. Paris relative to his Guatemalan bonds, and that he was to request us to take the letters into consideration together with the papers already before us.

In obedience to your Lordship's commands we have the honour to report—

That the opinion which we formed, as we have already had the honour to report to your Lordship, upon Mr. Corbett's Report is in no way altered by Mr. Paris' letters of the 12th and 14th of the present month.

We are unable to see what good result, or indeed what result of any kind, can follow from sending Mr. Paris' letter of the 12th July last to Mr. Corbett. Your Lordship, however, will be the best able to judge whether this request of Mr. Paris may not be complied with.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 15.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 18.)

My Lord,

*Temple, August* 18, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that, with reference to our Report of the 18th ultimo, and to previous Reports upon the subject of certain Guatemalan bonds held by Mr. Paris, he (Mr. Hammond) was directed by your Lordship to transmit to us two further letters from Mr. Paris upon the same subject; and he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to the answer which should be returned thereto.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason to alter the opinion we have already given. We think Mr. Paris should be informed that Her Majesty's Government will take no farther steps in the matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 16.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received September* 10.)

My Lord,

*Temple, September* 10, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st September instant, stating that, with reference to our Report of the 31st March last, he was directed by your Lordship to transmit to us further correspondence, as marked in the margin,* relative to the British claims on Honduras under the Chatfield-Cruz Convention of 1852, and that we would see from those papers that the Honduras Minister in London had tendered the sum of 1,800*l.* (in addition to the sums now in hand) as a final settlement of the claims in question; and that your Lordship had caused M. Gutierrez's offer to be communicated to the representatives of the various claimants, so far as they were known, inquiring whether they were willing to accept the same, and requesting them in that case to agree on a joint representative who should undertake the distribution of the money, and through whom all correspondence with the Foreign Office should pass.

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* Mr. Bury, August 23.

Mr. Hammond also stated that we would further see from Mr. Bury's letter of the 23rd August ultimo that that gentleman, who represents as surviving assignee the bankrupt Carmichael estate, considered that he had no power to accept the suggested compromise without the permission of the Bankruptcy Court, now the County Court at Liverpool, the Judge of which would probably require the consent of the creditors, a very large and miscellaneous body; and

That the matter was further complicated by the fact that the Carmichael estate had another claim on Honduras under a Treaty of 1859 which cannot at present be taken into consideration, as the proposal of the Honduras Minister had exclusive reference to the claims under the Chatfield Cruz-Convention of 1852.

That in these circumstances Mr. Hammond was pleased to say that he was to request that we would take the papers into our consideration, together with the previous correspondence which was also inclosed, and that we would favour your Lordship with our opinion as to the answer that should be returned to Mr. Bury; and generally as to the course that should be pursued with reference to the claims in question.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Bury may properly be answered that, looking to the situation and circumstances of the Honduras Government, a considerable time will probably pass before that Government will be able, and possibly it may never be able, to pay the whole debt, principal and interest, and that consequently it is for the Carmichael creditors and himself to consider whether it may not be to their advantage to accept the compromise.

We are of opinion that the compromise cannot be accepted by your Lordship without the assent of all the parties interested, who should appoint one agent to represent them, and that in the event of such assent not being obtained, M. Gutierrez should be informed that the 1,800*l.* cannot be accepted as a discharge of the debts under the Chatfield-Cruz Convention, and that Her Majesty's Government should earnestly press upon the Honduras Government the necessity of paying the claims under the Convention and under the Treaty of 1859.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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## No. 17.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received September* 10.)

My Lord,

*Temple, September* 10, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that, with reference to our Report of the 4th October last, he was directed by your Lordship to transmit to us a further correspondence, as marked,* relative to the claim of M. Hilario Goussen to be considered a British subject, and, as such, to be refunded a sum of money extorted from him in 1869 by the Nicaraguan authorities as a contribution to a forced loan.

That the former papers were also inclosed, and that Mr. Hammond was to request that we would take the case into our consideration and favour your Lordship with our opinion as to the steps which should now be taken therein.

In obedience to your Lordship's commands we have the honour to report—

That the letter of Senhor Castillo, dated the 8th April, 1863, is so direct and official recognition of the British nationality of M. Goussen, and followed by the promise of an order to restore the money collected under the forced loan, that Her Majesty's Government may now insist upon the money, with interest, being repaid by the Nicaraguan Government to M. Goussen.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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* Mr. Corbett, No. 39, July 1, 1873.

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## No. 18.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received October* 20.)

**My Lord,** *Temple, October* 19, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a letter, which your Lordship had received from the Colonial Office, inclosing a despatch from the Lieutenant-Governor of British Honduras, from which it appeared that he had received notice from General Enrique Palacios of his blockade of the port of Omoa.

That General Palacios, as we would see from the accompanying correspondence, was at the head of the party opposed to the present Government of Hondurus, and he, with his confederates, were in possession of a ship called the "General Sherman," and also of an island belonging to Honduras.

That Mr. Hammond was to request, therefore, that we would take those papers into our consideration and report to your Lordship whether General Palacios and his party were in a position which entitled them to proclaim a blockade of Honduras ports which should be respected by neutral shipping.

In obedience to your Lordship's commands we have the honour to report—

That General Palacios and his party are in a position, having regard to the state of things existing in Spanish Honduras, which entitles them to proclaim a blockade of Honduras ports which should be respected by neutral shipping.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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## No. 19.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 5.)

My Lord, *Temple, November* 5, 1873.

WE were honoured with your Lordship's commands signified in Lord Enfield's letter of the 27th October last, stating that he was directed by your Lordship to transmit to us a letter which your Lordship had received from the Colonial Office, together with a memorandum drawn up in the Foreign Office (September 6), respecting a Proclamation issued by the Lieutenant-Governor of British Honduras forbidding the export of arms from that Colony.

That the Earl of Kimberley having asked your Lordship's concurrence in the approval of that Proclamation, Lord Enfield further stated that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion (1) as to the propriety and legality of the issue of the Proclamation by Lieutenant-Governor Cairns; and (2) as to the terms in which it was drawn up.

Lord Enfield was also pleased to say that the former papers bearing on the case were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the issue of a Proclamation forbidding the export of arms from the Colony may in some cases be legal and proper, but such Proclamation should be absolute, and apply to all exportation of arms, &c., excepting, of course, articles supplied for the use of Her Majesty's service, or the property of Her Majesty.

In this sense, we are of opinion that the Proclamation of Governor Cairns would have been proper and legal had he not added the paragraph respecting the state of hostilities in Honduras and Guatemala.

That paragraph affected the whole Proclamation, which consequently became illegal, since in effect it limited the prohibition of exportation to those States, besides coming very close to a declaration of neutrality.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 20.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December* 20.)

My Lord, *Temple, December* 19, 1873.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 3rd December instant, stating that he was directed by your Lordship to transmit to us a correspondence, as marked in the margin, relative to certain complaints made by the Guatemalan Minister at this Court against the recent proceedings of Sir Lambton Loraine, Commander of Her Majesty's ship "Niobe," on the Atlantic coast of Central America, and that he (Lord Tenterden) was also to inclose a draft of the reply which your Lordship proposes to address to General Negrete on the subject, and to request that we would favour your Lordship with our opinion thereon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the reply of which a draft is inclosed in Lord Tenterden's letter may properly be sent to General Negrete.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 21.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December* 26.)

My Lord, *Temple, December* , 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th instant, stating that, with reference to our Report of the 5th ultimo, he was directed by your Lordship to transmit to us a further correspondence between that Office and the Colonial Office relative to the prohibition of the export of arms, &c., from British Honduras.

That we would see from that correspondence that Her Majesty's Secretary of State for the Colonies wished for further explanations as to the instructions that should be given to the Lieutenant-Governor of British Honduras upon the subject; and that Lord Tenterden was to request that we would favour your Lordship with our opinion as to the answer that should be returned to the Colonial Office.

That the former papers were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That the objection to the Proclamation in its present form is not one which touches its legality, but which affects its policy. The Government of any country may legally forbid the exportation of any commodity to any or to all places, whether for any special reason or without giving any reason. Such a power belongs essentially to its sovereign right.

There is nothing, therefore, illegal in the form of the Proclamation itself. Such Proclamations were frequently issued by Order in Council in England in former times, as we have pointed out in a recent opinion on the same subject.

But as a matter of policy it has not been thought fit in recent times to treat the prohibition of the exportation of arms to belligerent States as one of the ordinary obligations of neutral Powers. The real objection to the form of the Proclamation is that it appears to assume that the exportation is and ought to be prohibited to a belligerent country, because it is a part of the duty of neutrality so to prohibit it in this special case and to a particular distinction.

This would furnish an inconvenient precedent in the future, and might be appealed to as an argument for pressing on the English Government, by its own example, a policy which it has repeatedly, and, as we think, wisely, declined to adopt.

We should be doing in Honduras what we have refused to do in France and in the United States. We should be supplying out of our own armoury weapons to those who, in the future, may make demands upon us similar to those urged by Prince Bismarck and Mr. Seward.

This, it appears to us, would be inconsistent and unwise. We therefore recommend that the Proclamation should be general in its terms; that it should not be

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confined to exportation to any particular country, and that it should not refer at all to the relations of belligerents and neutrals.

We see no objection to the provision that the Governor may permit the exportation under a licence from himself, but this power should be most carefully granted.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 22.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received January 1, 1874.)*

*Temple, December 31, 1873.*

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th instant, stating that, with reference to our Report of the 10th September last, relative to the offer made by the Honduras Minister at this Court of 1,800*l.* as a compromise of British claims on Honduras under the Chatfield-Cruz Convention of 1852, he was directed by your Lordship to transmit to us a letter from Messrs. Harwood, Banner, and Co., who now represented the estate of Mr. Carmichael, the principal claimant, inquiring whether there was now any objection to an immediate distribution of the money in the hands of Her Majesty's Government, as far as the share of the Carmichael estate was concerned.

That Lord Tenterden was also to inclose the previous papers, and some further correspondence which had passed upon the subject of our above-mentioned Report; and that he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to whether the 1,800*l.* offered by Señor Gutierrez could not be accepted by Her Majesty's Government as an instalment of the sum due, without prejudice to the claim for the payment of the balance, and whether it would be proper and advisable for Her Majesty's Government to propose to do so.

In obedience to your Lordship's commands we have the honour to report—

That the 1,800*l.* offered as a settlement of the whole claim cannot properly, without Señor Gutierrez's consent, be distributed as a payment on account, and must either be accepted by the claimants in full discharge, or returned to the Honduras Representative.

A representation may properly be addressed to Señor Gutierrez suggesting that, as the claimants are clearly entitled to at least this sum, and as it is already provided and appropriated to the claims, he should consent to its distribution, without prejudice to further claims.

It may be represented to Señor Gutierrez that it would not have been competent to Mr. Chatfield, any more than to Her Majesty's Government, to bind the creditors by any compromise without their consent.

Unless Señor Gutierrez should consent to the 1,800*l.* being treated as a payment on account, the claimants should be informed that if they do not accept the sum in full discharge of their claims, it will be returned to the Honduras Government.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## Chile.

### No. 23.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 24.)*

*Temple, May 24, 1873.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. J. Michael, stating that, in virtue of a concession granted to him by a person styling himself King of Araucania and Patagonia, he was about to send a ship with goods and emigrants to a port in Araucania, and requesting to be informed whether the proposed expedition would be entitled, in case of need, to British protection.

That he (Mr. Hammond) was to inclose correspondence with the Chilian Minister at this Court and with the Home Office, relative to a filibustering expedition said to be preparing in England against one of the provinces of Chile, which expedition would appear to be the one being fitted out by Mr. Michael.

That he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the answer which should be returned to Mr. Michael's letter, and as to whether Her Majesty's Government should take any steps in regard to the proposed expedition.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Michael may, in our opinion, be properly answered that your Lordship knows nothing of an Orelie Antoine I, King of Araucania and Patagonia. That Mr. Michael and his property and the passengers will be, as British subjects and British property, entitled to the protection of Her Majesty's Government if employed in lawful business, but that Her Majesty's Government will not interfere to protect either goods or persons from the consequences of any breach of the laws of Chile.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# China.

### No. 24.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 28.)

My Lord,

*Temple, March* 27, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, inclosing a draft Ordinance, which had been prepared by the Hong Kong Government, for the purpose of preventing the building or equipment in that Colony of vessels intended for the coolie trade. The Ordinance was accompanied by an explanatory letter by the Attorney-General of Hong Kong, and by a minute of the Emigration Board; and he (Mr. Hammond) was to request us to take the papers into consideration, and report to your Lordship our opinion whether the Ordinance might properly be approved by Her Majesty's Government.

That the case of the "Maria Luz," alluded to in the Colonial Office letter, had already been before us, and we reported on the 29th November that the proceedings of the Japanese Government in that affair, fully set forth and commented upon in the accompanying memorandum by Sir E. Hornby, were justifiable and right.

The previous correspondence on the subject was annexed for reference.

In obedience to your Lordship's commands we have the honour to report—

That the Ordinance, with the exceptions which we submit to your Lordship, may, in our opinion, be properly approved by Her Majesty's Government.

1. The words suggested by Lord Kimberley in Mr. Herbert's letter from the Colonial Office of the 8th March last, in the second penalty clause, section 4, and in sections 9 and 10, should be inserted.

2. In section 12, after the word "equipped," which is twice used in that section, we are of opinion that in each case the words "within the waters of the Colony, and contrary to the provisions of this Ordinance," should be inserted.

3. Section 17 is, in our opinion, open to all the objections stated by Sir C. Murdoch.

The section as it stands authorizes the seizure under all the circumstances of any ship (British or foreign) which, carrying Chinese emigrants, may come within the waters of the Colony. In fact forbids, under penalty of seizure and detention, the waters of the Colony to every ship wherever equipped and however employed in carrying every description of Chinese emigrants to any part of the world.

We are of opinion that this clause should either be altogether left out, or modified by inserting, after the word "which," the words "after having been equipped within the Colony without the licence of the Governor, and contrary to the provisions of this Ordinance."

We consider the omission of the clause the preferable course.

The case of the "Maria Luz" was one in which the conduct of the Peruvian master towards the Chinese on board his vessel justified the action of the Japanese authorities, and has, in our opinion, but a remote if any bearing at all upon the propriety of the proposed Ordinance.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 25.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 28.)

My Lord,

*Temple, March* 27, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, covering a despatch from the Governor of Hong Kong relative to certain proceedings which were instituted in that Colony against a Chinese officer by a Chinaman, whose extradition he (the officer) had been employed to demand; and he (Mr. Hammond) was to request us to take the papers into consideration, and report to your Lordship our opinion as to the instructions that the Colonial Office should be advised to send to the Governor of Hong Kong for his guidance in any similar case that might arise.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, an officer employed to demand the extradition of a foreigner, and guilty of offences against the laws of the country to which he is sent, as for instance in the commission or subornation of perjury for the purpose of obtaining that extradition, is liable to and may properly be made amenable to the laws of that country.

There may, however, be public grounds upon which such a course may not be advisable.

We are, for the reasons set out in the papers sent to us, of opinion that the Governor of Hong Kong may be instructed that in the case of the misconduct of a Chinese officer in the discharge of his duty when employed to demand the extradition of a Chinaman, that officer should be sent back for punishment to his own Government, and that the Chinaman demanded should not be subject to extradition.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 26.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 2.)

My Lord,

*Temple, April* 2, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that on receipt of our Report of the 2nd December, the Lords of the Treasury were requested to instruct their Solicitor to draw up a draft Order in Council amending the Order in Council for China and Japan of 1865, with reference to the deportation of offenders to Hong Kong.

And that he was directed by your Lordship to transmit to us the draft which had been prepared, together with a letter from the Colonial Office suggesting certain amendments in it; and he was to request us to take the papers into consideration, and report to your Lordship our opinion whether the Order in Council, with the modifications suggested by Lord Kimberley, might properly be issued.

In obedience to your Lordship's commands we have the honour to report—

That the Order in Council, with the modifications suggested by Lord Kimberley, may, in our opinion, properly be issued.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 27.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 8.)

My Lord, *Temple, April* 7, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us two despatches from Her Majesty's Minister at Peking relative to a difficulty made by the Chinese Government as to the recognition of a British Consul for Peking. The circumstances under which the question had been raised were stated in the accompanying memorandum which had been raised in the Foreign Office; and he (Lord Tenterden) was to request us to take the papers into consideration, and report to your Lordship our opinion as to the course which it would be best to pursue in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the proper course would be to give Mr. Wade (who being on the spot can form a correct opinion of the way out of the difficulty existing at Peking) the instructions which he wishes to receive, namely, that he report to the Prince of Kung that in including Peking within the jurisdiction of the Consular district of Tientsin Her Majesty's Government had no object beyond the exercise of control over British subjects who may frequent the capital, and that the Consul will continue as heretofore to reside at Tientsin, and that in the event of a judicial inquiry becoming necessary in the capital, Mr. Wade, on the application of the Yamên, will be prepared to call on the Consul to proceed to Peking for the purpose of holding the inquiry.

Mr. Wade may be instructed further, as suggested in the memorandum, that if the Chinese Government object to the extension of Mr. Morgan's jurisdiction to Peking, Her Majesty's Government will be happy to give one of the officers of the Legation Consular powers over the Metropolitan Prefecture.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 28.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 26.)

My Lord, *Temple, April* 25, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir E. Hornby, inquiring whether an Acting Consul who does not hold a warrant from Her Majesty's Secretary of State can solemnize marriages.

That Sir E. Hornby referred to a Circular of 1853 (copy inclosed), but he seemed to have overlooked the Act 31 and 32 Vict., cap. 61, which provides that "every person acting, &c., in the place of a British Consul, such Consul being duly authorized to solemnize and register marriages, &c., shall be deemed to be a British Consul duly authorized for all the purposes of the Consular Marriage Act."

And that, as the question was one of great importance, and had been raised by the Chief Judge of the Supreme Court, your Lordship would wish to have our opinion upon it; and Mr. Hammond was accordingly to request us to take the papers into consideration, and report to your Lordship our opinion as to the answer that should be returned to Sir E. Hornby.

In obedience to your Lordship's commands we have the honour to report—

That Sir E. Hornby may properly be informed that, under 31 and 32 Vict., cap. 61, sec. 3, "every person acting or legally authorized to act in the place of a British Consul, such Consul being duly authorized to solemnize and register marriages between persons, both or one of them being a British subject or subjects, shall be deemed a British Consul duly authorized for all purposes of the Consular Marriage Act."

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 29.

*Dr. Deane to Mr. Hammond.*—(*Received June* 5.)

*Inner Temple, June* 5, 1873.

Sir,

I AM honoured with your letter of the 3rd instant, stating that Mr. G. Jamieson, an officer in Her Majesty's Consular Service in China, now on leave in this country, had informed Earl Granville that he was about to petition the Benchers of the Inner Temple for admission to the Bar before his return to China, and after only keeping eight terms; and that he had requested his Lordship to support his application.

You also stated that you were accordingly directed by Earl Granville to request that I would state to the Benchers that it would be a great convenience to the public service if they would grant this privilege to Mr. Jamieson, so as to enable him to return to China at the expiration of his leave of absence.

In answer to your letter, I beg to inform you that I will bring this matter before the Bench to-morrow, which is the earliest opportunity I have of bringing on the question.

I have, &c.  
(Signed) J. PARKER DEANE, *Treasurer.*

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## No. 30.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 24.)

*Temple, June* 23, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd May last, stating that he was directed by your Lordship to transmit to us a despatch from Sir E. Hornby (No. 2), forwarding a draft of a revised Order in Council, which he proposed should be substituted for the Order in Council of 1865 constituting the Supreme Court for China and Japan; and to request that we would take the despatch into our consideration, and report to your Lordship our opinion as to the proposed alterations.

Mr. Hammond was also pleased to state that Mr. C. W. Goodwin, Assistant Judge of the Supreme Court, was in this country, and would be prepared to give any explanations or information that we might require; that he resided at 5, Princes' Terrace, Bayswater, and would be ready to meet us at such time and place as we might appoint.

In obedience to your Lordship's commands we have the honour to report—

That we have availed ourselves of the assistance of Mr. C. W. Goodwin, Assistant Judge of the Supreme Court, and gone through with him the draft of the revised Order in Council.

And, in our opinion, the proposed alterations, subject to the suggestions which follow, may properly be made:—

In paragraph 99, the word "hamlet" may lead, as we are informed, to some difficulty of interpretation, and might be omitted without mischief.

In addition to the words "Consular officer," in paragraph 114, the words "Court or" should be inserted, so that the sentence should run, "to the satisfaction of the Court or Consular officer;" and the words "by the Court or Consular officer" should be inserted after the word "ordered."

In reference to the registration of mortgages, paragraph 117, we would suggest that some provision should be made for first, second, and subsequent mortgages; and that as between themselves mortgages, whether legal or equitable, should rank and take precedence according to the date of their registration at the office of the Consular district within which the property mortgaged is situated.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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### No. 31.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 8.)

My Lord,

*Temple, July* 7, 1873.

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th June ultimo, stating that, with reference to our Reports of the 2nd December and 2nd April last, he was directed by your Lordship to transmit to us a letter from the Colonial Office (June 13), suggesting certain alterations in the draft Order in Council which had been prepared by the Solicitor to the Treasury for amending the Order in Council for China and Japan of 1865, in regard to the deportation of British subjects from China to Hong Kong, and to request that we would take that letter into our consideration, and report to your Lordship our opinion whether the draft may be adopted with those alterations.

Mr. Hammond also stated that he was further to request that we would inform your Lordship whether we saw any objection to such further modification being introduced into the draft as will confer upon the Judge of the District Court at Yokohama the same powers in regard to deportation as are given to the Chief Judge of the Supreme Court.

In obedience to your Lordship's commands we have taken the letter into our consideration and have the honour to report—

That the draft may, in our opinion, be adopted with the alterations, and we see no objection to the modification conferring upon the Judge of the District Court of Yokohama the like powers in regard to deportation as are given to the Chief Judges of the Supreme Court.

We desire, however, to submit for your Lordship's consideration whether the discretionary power given by the proviso in red ink, paragraph 3, may not lead to the inconvenience of uncertainty and variance in practice, and had not, on that account, better be omitted.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 32.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 20.)

My Lord,

*Temple, October* 20, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Sir E. Hornby, forwarding a newspaper report of the trial of Mr. G. W. Caine; and he (Lord Tenterden) was to request that we would take the papers into consideration, and favour your Lordship with our opinion on the proceedings in the case as therein set forth.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the ruling of Sir E. Hornby and his directions to the jury were right.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 33.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 8.)

My Lord,

*Temple, November* 7, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 3rd instant, stating that, with reference to our Report of the 20th ultimo, respecting the case of Mr. Caine, he was directed by your Lordship to transmit to us a farther despatch from Sir E. Hornby upon the same subject; and he (Lord Enfield) was to request us to favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we have no observations to offer upon Sir E. Hornby's despatch.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 34.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 13.)

My Lord,

*Temple, November* 11, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a letter from the German Chargé d'Affaires, respecting the connection of a German firm with the "Fatchoy," a vessel engaged in the Macao coolie trade, together with the papers laid before Parliament, the various Ordinances bearing on the subject, and a memorandum bearing on the case drawn up in the Foreign Office; and he (Lord Tenterden) was to request us to take the papers into consideration, and report to your Lordship, at our earliest convenience, whether any farther law should be passed to prevent the recurrence of such cases, and also whether any, and, if so, what, steps could be taken to prosecute Messrs. Elilers.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the now existing Ordinance is, if strictly enforced, sufficient to prevent a recurrence of such cases as the "Fatchoy."

And we think the evidence placed before us is not sufficient to support a prosecution against Messrs. Elilers.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 35.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 18.)

My Lord,

*Temple, December* 16, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch (No. 11) from Sir E. Hornby, the Judge of the Supreme Court at Shanghae, inclosing copies of a correspondence with the Consul at Canton in regard to vessels employed in the Macao coolie traffic; and he had to request that we would take these papers into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That so far as we see there was nothing in the fitting out of the vessel in question which showed that she was to engage in an illegal traffic, and we therefore consider that there was no reason which would have justified Her Majesty's Consul at Canton in interfering in the particular case.

And we agree with the reasoning and conclusions of Sir E. Hornby upon the more general view of the Macao coolie traffic in his letter to Her Majesty's Consul at Canton.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 36.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 19.)

My Lord, *Temple, December* 18, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 1st instant, stating that, with reference to our Reports of the 23rd June and 7th July last, he was directed by your Lordship to transmit to us the amended draft of the revised Order in Council for China and Japan, in which the provisions of the amended Order relating to deportation from Hong Kong had been embodied; and he was to request that we would take the draft into our consideration, and report to your Lordship our opinion whether the revised Order in Council might properly be issued in the form in which it is now submitted to us.

The former correspondence on the subject was sent therewith for convenience of reference.

In obedience to your Lordship's commands we have taken the matter into our consideration and have the honour to report—

That since the Order in Council was before the late Law Officers and Dr. Deane, we have had to consider how far it was within the power of Her Majesty's Consular officers to issue passports to British subjects intending to travel beyond, and not within, the Treaty ports of Japan.

The proposed Regulations for that purpose appeared to us not altogether consistent with the existing Order in Council, and they are equally inconsistent with the revised Order, clause 8, p. 87.

We suggest, for your Lordship's consideration, that a provision might be with advantage introduced into this part of the revised Order sanctioning the proposed Regulations.

In other respects the revised Order in Council may properly be issued in the form in which it is now drawn.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 37.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 20.)

My Lord, *Temple, December* 19, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch (No. 10) from Sir E. Hornby, inclosing copies of despatches he has addressed to Her Majesty's Consuls at Shanghae and Foochow, with reference to the Rules framed by the Tea and Silk Guilds of those ports; and he was to request that we would take these papers into our consideration, and favour your Lordship with any observations we may have to offer thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That we have not any very clear statement of the nature of the Rules referred to in Sir E. Hornby's despatch, nor of the extent to which such Rules are enforced.

In the absence of such information we cannot advise that Sir E. Hornby would be justified in making any formal remonstrance to the Chinese Government, but if the enforcement of the Rules is found prejudicially to affect English traders, we see no objection to his calling the attention of the Chinese authorities to the injury resulting to trade from such Rules being allowed to exist.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 38.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 26.)

My Lord, *Temple, December* , 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Peking, forwarding a Code of Rules, drawn up by the Consul at Shanghae, for the management of the prison at that port; and that he was to request that we would take the papers into our consideration, and report to your Lordship our opinion as to the power of Her Majesty's Minister to make those Regulations under the Order in Council of 1865.

That a copy of the Order in Council was inclosed therewith for convenience of reference, together with a letter from the Home Office, to whom the Regulations have been submitted, forwarding a Report on them by the Director of Convict Prisons.

In obedience to your Lordship's commands we have the honour to report—

That we are disposed to think that section 85 of the Order in Council may be taken to extend to a power to make Regulations for the governance of persons detained in prison.

But it seems clear that the punishments provided by Rules 40 (last part), 41, and 42 are not warranted by any authority conferred by the Order in Council.

If it is thought desirable that such Rules should be made, it will be proper that express provision should be made for the case in the amended Order in Council for China and Japan, which, it is believed, are under consideration.

But, in the meanwhile, the operation of these Rules should be suspended.

In the second paragraph of the 85th clause there is a stipulation which appears to have been infringed as to the letter, that, save in case of urgency declared in any such Regulations, such Regulations shall not have effect unless and until they are approved by Her Majesty.

We do not find in the Regulations any urgency declared, yet the Regulations are stated to be in force for the period of twelve months without Her Majesty's consent.

It would be well that Mr. Wade's attention should be called to the second paragraph of the 85th clause, and that the Regulations should be withdrawn until after Her Majesty's assent has been signified.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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# Denmark.

## No. 39.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 4.)

My Lord, *Temple, July* 3, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit a note which had been received from the Danish Minister at this Court, stating that considerable inconvenience is frequently caused by the refusal of executors in England to pay over legacies left to Danish subjects who are minors until such legatees have come of age.

That General de Bülow inquired whether executors are, in fact, authorized or (as has been asserted) compelled by English law to retain legacies under such circumstances,

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in the manner described, even when the property was left unconditionally; and in case the law of England should not confer such a right, he was anxious to know what steps are necessary to obtain the payment of the legacies to the Danish authorities charged with the administration of pupillary estates, the organization of which is stated to be such as to offer all proper security for the interests of the parties concerned.

And that he (Lord Enfield) was to request us to take this paper into consideration, and favour your Lordship with our opinion as to the answer which should be returned to General de Bülow.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, General de Bülow may be answered that executors would not be justified, according to the law of England, in paying to the Danish authorities legacies left to infants.

But the executors may, under 23 & 24 Vict., cap. 145, pay to the guardian of the infant, or apply for his maintenance or education, the income of the property.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# Egypt.

## No. 40.

*The Law Officers of the Crown and Dr. Deane to Earl Granville*—(*Received January* 4.)

My Lord, *Temple, January* 3, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed by your Lordship to forward us for consideration the inclosed despatch from Her Majesty's Agent and Consul-General in Egypt, and to request that we would favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in approving the scheme proposed by the Austrian and Italian Consuls-General for the settlement of the outstanding claims of Austrian and Italian subjects against the Egyptian Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government would be justified in approving the scheme proposed for the settlement of outstanding claims against the Egyptian Government whether made on the part of Austrian and Italian subjects, as stated in Mr. Hammond's letter to us, or, should the case arise, on the part of British subjects, to which the despatch of Colonel Stanton refers.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 41.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 3.)

My Lord, *Temple, February* 1, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 29th ultimo, stating that with reference to our Report of the 4th October last, he was directed by your Lordship to transmit to us, together with the previous

papers, a farther despatch, and inclosures, from Her Majesty's Consul at Alexandria relative to the claim of Messrs. Wills, Manché, & Co. on Her Majesty's Government, in connection with a sum deposited in the hands of a former British Consular Agent at Port Saïd; and that he (Lord Enfield) was to request us to take the matter into consideration, and inform your Lordship whether Mr. Stanley's last despatch caused us to alter the opinion which we have already expressed in regard to the liability of Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason to alter the opinion which we have already expressed as to the non-liability of Her Majesty's Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 42.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received March* 11.)

My Lord, *Temple, March* 10, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 8th instant, stating that, with reference to our Report of the 29th November last, he was directed by your Lordship to transmit to us, together with previous papers in the case, a letter, and inclosures, from the Board of Admiralty, wherein the question is again revived as to whether the Egyptian steamer "Charkieh" was to be considered a ship of war, and consequently not liable to arrest pending the legal proceedings arising out of her collision with the "Batavier;" and he was to request that we would again take the case into consideration, and favour your Lordship with our opinion, at our earliest convenience, with the answer which should be returned to the Board of Admiralty on the subject.

In obedience to your Lordship's commands we have the honour to report—

We think that the Board of Admiralty should be informed that they should answer Messrs. Clarkson's letter by a statement of the substance of paragraph 3 of Mr. Vernon Lushington's letter. Having perused the further papers sent, we think, having regard to the additional evidence now produced, that the "Charkieh" was a national vessel; but of course these points will be decided by the Admiralty Court.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 43.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 24.)

My Lord, *Temple, March* 24, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that, with reference to our Report of the 24th August last respecting judicial reforms in Egypt, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Ambassador at Constantinople, forwarding a copy of Sir P. Francis' Report on the decision arrived at by the International Commission which had lately been sitting in that city for the purpose of devising the necessary guarantees for putting into operation the scheme lately agreed upon by the Powers interested.

That he also sent us a copy of the final Report which had been unanimously agreed to by the Representatives, together with a letter from Nubar Pasha, transmitting the Règlement which he had drawn up in conformity with it. He likewise inclosed the papers noted in the margin showing what had passed, with a view to the appointment of the Commission which had now tendered its Report.

That that Report we would perceive, previous to its final adoption, must, in the first instance, obtain the sanction of Her Majesty's Government, and it was with that view that he (Mr. Hammond) was directed to request our opinion upon its provisions, and whether we considered that the proposed arrangement could be accepted.

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Mr. Hammond also inclosed two despatches from Sir H. Elliot with reference to the proceedings of the French Representative in his discussions on the subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the proposed arrangement may be accepted, and the Report receive the sanction of Her Majesty's Government.

We do not think it necessary to trouble your Lordship with any remarks upon the two despatches, with inclosures, from Sir H. Elliot, except this, that the conduct and suggested object of the French Representative are strong reasons why Her Majesty's Government should sanction the Report as soon as possible.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 44.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 20.)

*Temple, May* 19, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Vice-Consul at Alexandria, asking for instructions in regard to the deportation of a British subject, under a sentence of imprisonment passed by the Consular Court, to this country for the purpose of completing the term of his sentence; and he (Lord Enfield) was to request us to take the case into consideration, in connection with the Order in Council of November 1864, a copy of which was inclosed, and favour your Lordship with our opinion as to whether the course recommended by Mr. Lane could properly be followed.

In obedience to your Lordship's commands we have the honour to report—

That the course recommended by Mr. Lane cannot, in our opinion, be followed. There is no provision for continuing the imprisonment in England, and therefore the prisoner, on reaching England, would be entitled to claim his discharge.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 45.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 2.)

*Temple, June* 2, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that, with reference to our Report of the 24th March, he was directed by your Lordship to transmit to us a farther despatch from Her Majesty's Ambassador at Constantinople, inclosing copies of a correspondence which had passed between Nubar Pasha and himself (the Ambassador), and also with his German, French, and Italian colleagues, respecting the mode in which the Khedive proposed to select the Judges to be appointed to preside over the new Egyptian Tribunals; and he (Mr. Hammond) was to request our opinion as to whether the scheme proposed by the Khedive could be properly accepted.

Mr. Hammond also inclosed despatches relative to the desire expressed by the French Ambassador at Constantinople that a second French Judge of Appeal should be appointed in the event of a vacancy arising amongst those who might be first appointed.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the scheme proposed by the Khedive may properly be accepted.

The desire expressed by the French Ambassador, if carried out, would ultimately give the French a preponderance among the Judges of Appeal, and exclude a Judge of some other nationality, and is therefore objectionable in itself, and contrary to the views already expressed on the subject by Her Majesty's Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 46.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 5.)

*Temple, June* 5, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us the inclosed correspondence between Colonel Stanton, Her Majesty's Agent and Consul-General in Egypt, and the Foreign Office, respecting a dispute which had arisen between the Daïra of the Khedive and the Ramlé Railway Company; and he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to the proper course to be pursued by Colonel Stanton in his dealings with the question.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Colonel Stanton may properly be instructed that Her Majesty's Consular Court has no jurisdiction in the matter, and that he do not officially deal with the question.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 47.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 4.)

*Temple, July* , 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying papers relating to a complaint made by Messrs. Barker and Co. against the Egyptian Government for the destruction of the palisade surrounding their coal yard at Alexandria; and he (Mr. Hammond) was to request us to be so good as to furnish your Lordship with our opinion on the case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the statements contained in General Stanton's letter of the 22nd June last, which we assume to be true, are a complete answer to the claim of Messrs. Barker and Co. for damages, and that your Lordship may properly direct that those gentlemen be informed that Her Majesty's Government cannot support the claim which they now bring forward.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 48.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 21.)

*Temple, July* 21, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us the accompanying papers relating to a complaint of Mr. Samuel Hood against the Egyptian Government for an indemnity of 100*l.* for his arrest and temporary detention by the police; and that he (Mr. Hammond) was to request us to take the

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papers into consideration, and favour your Lordship with our opinion as to the merits of the case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the punishment ordered and inflicted upon the soldiers who assaulted Mr. Hood is, on the part of the Egyptian Government, a satisfaction quite fitted in kind and degree to the merits of the case, and that Her Majesty's Government cannot properly take any action in the matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 49.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 2.)

My Lord,
*Temple, August* 1, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th ultimo, stating that he was directed by your Lordship to forward us the accompanying papers relating to a claim preferred by Messrs. Joyce, of Alexandria, against the administrator of the Khedive's sugar estate for the sale of damaged sugar; and he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to the course which Her Majesty's Government should pursue in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government cannot properly interfere in support of the claim preferred by Messrs. Joyce against the administrators of the Khedive's sugar estate.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 50.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 29.)

My Lord,
*Temple, August* 29, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Vivian, Acting Agent and Consul-General in Egypt, relative to the claim of Messrs. Joyce, of Alexandria; and that he (Mr. Hammond) was to request that we would have the goodness to inform your Lordship whether that despatch contained any information which might induce us to alter the opinion expressed in our Report of the 1st instant.

In obedience to your Lordship's commands we have the honour to report—

That we see nothing in the letter of Messrs. Joyce which leads us to alter the opinion which we expressed in our Report on the 1st instant.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 51.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received October* 2.)

My Lord,
*Temple, September* 30, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us a letter, with its inclosures, from Messrs. Bott and Co., complaining of the alleged non-fulfilment of a shipping contract on the part of the Egyptian Government with Messrs. Barker and Co.

That Messrs. Bott's letter also referred to an alleged vexatious detention of British vessels at Alexandria while loading ballast.

That as, however, this latter question was one rather of administration than of law, your Lordship desired to ask our opinion only with regard to the first-named question, a Report on which was contained in the inclosed despatch from the Acting British Consul-General in Egypt; and that Mr. Hammond was accordingly to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Mr. Vivian with regard to Messrs. Barker's claim upon the Egyptian Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Vivian is quite right in his view that the complaint should be brought before the Mixed Commercial Tribunal, and that official pressure should not, except in cases of proved miscarriage by that Tribunal, be brought upon the Egyptian Government.

That view, generally correct, is particularly so in the present case, in which there is some doubt as to the rights of Messrs. Bott or Messrs. Wilson, and the question is one of contract.

Mr. Vivian may therefore properly be instructed not to press the claim upon the Egyptian Government.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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### No. 52.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 11.)

My Lord,
*Temple, October* 9, 1873.

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd October instant, stating that, with reference to our Report of the 5th June last, he was directed by your Lordship to transmit to us, with the former papers, a further despatch from Her Majesty's Acting Agent and Consul-General in Egypt (Mr. Vivian, No. 42), inclosing a letter from Mr. Schutz, a shareholder and the original "Concessionnaire" of the Ramlé Railway Company, seeking advice as to the proper steps to be taken by him to obtain redress for the wrongs which he alleged he had sustained at the hands of that Company, and to request that we would take the matter into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government should take any action in the case, and if so, what would be the proper course for them to pursue.

In obedience to your Lordship's commands we have taken the matter into our consideration and have the honour to report—

That, in our opinion, Her Majesty's Government should not take any action whatever in the matter of Mr. Schutz's private affairs.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 53.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 25.)

My Lord,
*Temple, October* 24, 1873.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 14th October instant, stating that he was directed by your Lordship to transmit to us the accompanying papers relative to the claim of Mr. Isaac Pariente, a British subject, on the Egyptian Government;* and to request that we would favour

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* Mr. Vivian, No. 36; Messrs. Nicholson and Son, October 4.

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your Lordship with our opinion as to whether it would be advisable that Her Majesty's Government should support the said claim.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government cannot properly support the claim of Mr. Pariente.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 54.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 4.)

My Lord, *Temple, November* 4, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 28th October last, stating that, with reference to the Reports of the Law Officers of the 5th June and 9th October last, on the subject of the complaint of the Ramlé Railway Company against the Egyptian Government, he was directed by your Lordship to transmit to us letters from Mr. Fleming, the Chairman, and from Mr. Hugh Rose, a shareholder of the Company, requesting the assistance of Her Majesty's Government on their behalf; and to request that we would take these papers into our consideration, and inform your Lordship whether there is anything in them to induce us to alter the opinion already expressed on the subject.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason to alter the opinion which we have already expressed on this subject.

We take the liberty of suggesting for your Lordship's consideration whether Mr. Fleming may not properly be told that the matter is not one for the interference of Her Majesty's Government, and that he must, if so advised, take his own choice of a Tribunal in Egypt and accept the responsibility.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 55.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 5.)

My Lord, *Temple, November* 5, 1873.

WE are honoured with your Lordship's commands signified in a memorandum from Lord Enfield of the 30th ultimo, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Wilson and Co., urging the case of the Ramlé Railway Company against the Egyptian Government.

We have also received a further memorandum from Lord Enfield, transmitting us a letter from Mr. Bulkeley, urging the case of the same Company against the said Government.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully read the letters of Messrs. Wilson, McLay, and Co., and Mr. Bulkeley. The questions between the Company and the Egyptian Government are, as we have had the honour of submitting to your Lordship, fit for the decision of a Tribunal or by arbitration, and do not in our opinion need, and would not justify, any interference on your Lordship's part.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 56.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 13.)

My Lord, *Temple, November* 13, 1873.

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 10th November instant, stating that he was directed by your Lordship to transmit to us the papers noted in the margin,* relative to a question which had arisen as to the Tribunal before which a case of disputed salvage at Suez should be tried, and that we should observe that, in pursuance of the opinion expressed by Mr. Reilly in the inclosed memorandum, and in order to avoid delay, your Lordship had instructed the Acting Consul-General in Egypt by telegraph to allow the Egyptian Tribunal to judge the case in the present instance, without making it a precedent, until he should have received further instructions in the matter; and that he (Mr. Lister) was to request that we would take the inclosed papers into our consideration, and favour your Lordship with such observations as we might have to offer with regard to the general question of jurisdiction in Egypt in cases of salvage.

In obedience to your Lordship's commands we have the honour to report—

That the only observation which occurs to us upon the question of jurisdiction in Egypt in cases of salvage is that the Egyptian Court has jurisdiction at the present time.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 57.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 4.)

My Lord, *Temple, December* 4, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 28th November ultimo, stating that, with reference to our letter of the 24th October last, he was directed by your Lordship to transmit to us a further communication from Mr. Isaac Pariente (November 10), again urging his claim against the Egyptian Government; and to request that we would have the goodness to take that letter into our consideration, in conjunction with the previous papers therewith inclosed, and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in supporting this claim.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason why Her Majesty would be justified in supporting the claim of Mr. Pariente, to whom, as appears from Mr. Vivian's memorandum of the 23rd August, 1873, a remedy by way of appeal was open, and of which he has declined to avail himself.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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* Mr. Vivian (Telegraphic), November 7; Board of Trade, November 7; Memorandum, Foreign Office, November 8; to Mr. Vivian (Telegraphic), November 10; to Board of Trade, November 10, 1873.

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## France.

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### No. 58.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 7.)

My Lord, *Temple, January* 7, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th instant, stating that, with reference to our Report of the 20th ultimo, he was directed by your Lordship to transmit to us the accompanying copy of a despatch from Her Majesty's Chargé d'Affaires at Brussels, together with a copy of the first two Articles of the draft Treaty of Commerce between France and Belgium therein referred to. These were the Articles containing the most-favoured-nation treatment clause, as well as a provision for the case of the duty on raw materials not being imposed; and he (Lord Tenterden) was to request us to take the same into consideration, and favour your Lordship with our opinion whether, having regard to the stipulations of those Articles, we saw any reason to alter, or add to, the Protocol which Lord Lyons had instructions to propose to the French Government (draft inclosed).

That he was to state that, as the French Assembly met again yesterday, and the Report of the Paris Tariff Commission had been agreed to and was about to be signed, it was of great importance that your Lordship should be furnished with our opinion at our earliest convenience, in order that the negotiation of the Protocol, which had been delayed until the text of the Franco-Belgian Treaty could be examined, might be proceeded with and the Treaty submitted to the Assembly for approval.

In obedience to your Lordship's commands we have the honour to report—

We see no reason to alter the proposed Protocol, which in paragraphs 2 and 3 seems to us to provide for the imposition of compensatory duties in the same way with that provided by the IInd Article of the French and Belgian Treaty.

The most-favoured-nation clause is the same in both Treaties.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 59.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 8.)

My Lord, *Temple, January* 8, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of to-day, stating that, with reference to our Report of yesterday on the subject of the French Treaty Protocol, he was directed by your Lordship to transmit to us the accompanying despatch from Lord Lyons, inclosing a revised draft of Protocol, together with an explanatory memorandum, and he was to request us to take the same into consideration, and favour your Lordship, at our earliest convenience, with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the words "which has been accepted by the two Governments," at the end of paragraph 2, p. 1, of the draft Protocol might, without inconvenience and with possible advantage, be omitted.

The word "consequently," in paragraph 2, p. 5, is, in our opinion, a word which had better be omitted, the word "and" being used instead.

The word "moreover," in paragraph 1, p. 12, might, in our opinion, be well omitted.

In other respects we are of opinion the amended Protocol may be adopted.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 60.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 11.)

My Lord, *Temple, January* 10, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 3rd instant, stating that, with reference to our Report of the 25th May, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Paris, inclosing the reply of the French Government to the representations which were addressed to them in regard to the duties charged by the French authorities in the Gaboon River on goods transhipped from one vessel to another in transit for this country. That your Lordship desired him (Lord Tenterden) to observe that there did not appear to exist any Treaty stipulations between Great Britain and France applicable to that French Colony; and he was to request that we would take that despatch into consideration, and favour your Lordship with our opinion whether the French authorities could properly levy the duties in question.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the French Government has the right to levy the duties in question.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 61.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 18.)

My Lord, *Temple, January* 18, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of to-day, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Lord Lyons, together with the previous correspondence, respecting the Protocol which he was instructed to negotiate with the French Government with regard to the manner in which the Treaty of Commerce was to take effect; and he (Lord Tenterden) was to request us to take the papers into consideration, and favour your Lordship, at our earliest convenience, with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Protocol, as drawn on the part of the French Government,, leaves the question of the imposition of the tax on raw materials, and the effect of the imposition being levied or not, is too vague and ambiguous a form, and we consider the Protocol prepared on the part of Her Majesty's Government to be preferable on that account, and not open to the objections made to its form or substance.

That an arrangement should be come to between the two Governments by "notes" does not appear to us a desirable course, particularly when the negotiation has so far proceeded, but your Lordship is better able to form an opinion upon the subject, knowing the difficulties which the French Government may experience.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

## No. 62.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 18.)

My Lord, *Temple, January* 18, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 16th instant, stating that, with reference to our Report of the 3rd instant, he was directed by your Lordship to transmit to us a further despatch, with its Inclosures, from Mr. Kennedy, accompanied by a memorandum by Mr. Austin Lee, relative to the claim advanced on behalf of the French Government before the Tariff Commission by M. Ozenne, of a right to alter the scale of drawbacks mentioned in Annex I to the Treaty of the 5th November, 1872.

And that he (Lord Tenterden) was to request us to take the papers into consideration, together with previous correspondence on the subject (inclosed), and favour your Lordship with our opinion, and with any farther suggestions which we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we agree with the opinion stated in the memorandum of the 14th January, 1873, and are of opinion that the question of "drawbacks" is no longer an open question, but determined by the Tariff in Annex I.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 63.

*Memorandum by Lord Selborne.*

I THINK that the position in which this matter stands is very embarrassing.

It seems to me clear that, under the Law of July, as long as the Pouyer-Quertier clause remains unrepealed the French Government cannot lawfully levy the duties on raw materials mentioned in that clause, as long as there are any foreign nations from which the same raw materials can be introduced into France without being subject to compensatory duties.

But it is by no means clear that M. Thiers takes precisely this view of the effect of that clause. In the printed correspondence there is more than one indication that the idea exists in some quarters in France that it might be competent for the Government to levy on raw materials imported *from Great Britain or British possessions* the duties under the Tariff of the Law of July, on the ground that by the Treaty Tariff compensatory duties are leviable on British manufactures, although the same duties might not be capable of being levied upon similar raw materials imported from other countries. Such a state of things could scarcely be satisfactory to British merchants, if it could lawfully be done in France, which (as I read and construe the Pouyer-Quertier clause) it could not.

It seems to me, on this point, very important to remember the public declarations made by M. Thiers in his Message of the 13th November, 1872, to the National Assembly, at p. 45 and 46 of the Confidential correspondence. He then said distinctly that the first condition of the Treaty was "la perception au 1er Décembre prochain de nos taxes fiscales;" and "Les taxes fiscales mises sur les produits étrangers, *notamment sur les matières premières, et les droits compensateurs qui en sont la consequence nécessaire, seront perçus à partir du 1er Décembre prochain sur toutes les provenances de la Grande Bretagne*, d'après le Tarif voté par vous le 26 Juillet dernier."

I should infer, from M. Thiers' dislike of the substance as well as the form of the Protocol proposed on our part, and from his impatience of the suggestion that the duties on raw materials, under the Tariff of July, may not, in fact, be levied, that he still retains the views and intentions indicated in the paragraph, and that he is prepared to act *in a distributive sense* on the words of the Pouyer-Quertier clause, *i.e.*, to treat the raw materials imported *from any particular foreign nation* as subject to have the duties levied on them, if he has acquired a right to levy compensatory duties on the manufactures from similar materials of the same nation.

This Message having been M. Thiers' public announcement of the Treaty to the Assembly, and it being admitted that the Assembly, and not M. Thiers, is in this case the Treaty-making and the law-making power, I am of opinion that the signature of diplomatic notes between M. Thiers and the British Government, without communication to a ratification by the Assembly [*sic*], would confer upon the Government of this country no rights against France different from those which the Treaty itself (if ratified) would give; at the utmost such notes would only be binding in honour upon M. Thiers himself as Head of the Executive Government of France to the extent of his powers and individual discretion.

When I look to the Treaty itself I find that the IInd Article is absolute, that, as against this country, the duties specified in the Tariff there referred to shall be leviable after the ratification. Unless, therefore, the Tariff itself be so worded as to show that so much of the "total amount of duties leviable," mentioned in the fourth column, as is composed of the duties called "compensatory for the new taxes on raw materials" in the heading of the third column (with the words "scale arising from the new law" above written), is not to be added to the import duties in the second column, unless the duties on raw materials are legally leviable, and actually levied in France—unless this is the true and necessary interpretation of the words of the Annex I—the second Article of the Treaty makes the duties under the columns headed "Total amount of duties leviable" capable of being exacted as duties really differential though assented to (and fixed in point of amount) as to some extent compensatory from the date of the ratification. I incline to think with the Law Officers that the division of the duties in the Annex into three different columns, with these headings, does really mean that the duties in the third column are only to be levied if and when the new taxes on raw materials take effect; any other sense would, as it seems to me, be inconsistent with the reason and the good faith of the transaction. The recitals in the Report of the Commission under Article XXI (though these recitals can hardly be admissible in aid of the construction of the Treaty) are to the same effect. I think, therefore, that if notes are signed as proposed, the British Government will be fairly entitled to say that such notes do but express the mutual understanding of the two Governments, in accordance with the real sense of the language of the Treaty. But I think a Protocol would be far safer and better if communicated to and ratified by the Assembly; because it is most unsatisfactory and can hardly be safe that so important a matter should be left to depend on inferences, drawn not from any direct declarations of the Treaty itself, but from the manner in which the Annex is divided into columns, and from the headings prefixed to those colums.

If we do not intend to acquiesce in the view that the duties in question may be levied against us, if the duties on raw materials are also levied *against us* (though not against all other nations), we ought to take very good care that the instrument, whether note or Protocol, is on this point unequivocally expressed.

(Signed) SELBORNE.

30, *Portland Place, January* 19, 1873.

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## No. 64.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 27.)

My Lord, *Temple, January* 24, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Kennedy, who had been appointed to inspect and report upon Her Majesty's Consular establishments in France, suggesting a regulation should be made that notarial duties performed at Paris, under the Act 18 and 19 Vict., cap. 42, should be carried out at Her Majesty's Consulate and not at the Embassy.

That he was also to transmit to us a copy of the Act in question, and to request that we would take the papers into consideration, and favour your Lordship with our opinion whether, in the presence of a Consul, an Embassy could refuse to perform notarial business.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, in the presence of a Consul an Embassy can refuse to perform notarial business.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 65.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 25.)

*Temple, February* 24, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us a despatch, and inclosures, from Her Majesty's Ambassador at Paris respecting a difficulty which had arisen at Havre in the case of a British subject who wished to register the birth of a son as that of "Horace *Richardson* Goodday," the French law, as it appears, forbidding the civil officers in registering the births of children to inscribe on the register as "prénoms" any other names than those which occur in the different calendars or have been borne by known personages in ancient history, the name of "Richardson" in the case in question being objected to.

That although the difficulty in that particular instance was got over, yet, with a view to future cases of a like nature arising, Lord Lyons was desirous of receiving instructions, as well for his own guidance as for that of Her Majesty's Consul at Havre; and he (Mr. Hammond) was accordingly to request us to favour your Lordship with our opinion as to the answer which should be returned to Lord Lyons' despatch.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Lord Lyons may be properly instructed to bring the state of the French law, as explained by M. Treitt, to the attention of the French Government, and to place before that Government the great inconvenience which that law so explained enforces on British subjects in France, whilst in its application to British subjects that law cannot subserve the interests of order or of property in France.

And Lord Lyons may be instructed to request the French Government, if the view of the law taken by M. Treitt is right, to procure an alteration in the law as applicable to British subjects, or to give the French authorities some instructions such as those suggested by M. Treitt.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 66.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 26.)

*Temple, February* 26, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a despatch, and inclosures, received from Her Majesty's Ambassador at Paris, respecting a claim upon the French Government preferred by Mr. Hinton, a British subject, on account of the occupation of the Hôtel des Bains, at Cherbourg, of which he had a lease, as a hospital, by order of the French military authorities, during the war.

It would appear from the correspondence that experts on the part of Mr. Hinton and of the Intendance Militaire fixed the compensation to be made at 14,435 fr. (about 577*l*. 8*s*.) of which amount, after a long delay, Mr. Hinton received the sum of 1,500 fr. (about 60*l*.), but this case, with others, had been subsequently referred to a Commission charged to settle the amounts of indemnity to be given for losses occasioned by the war; Lord Lyons was informed that the indemnity, as fixed by the Minister of War, had been reduced to 7,340 fr. (about 294*l*.) which was little more than half the original award.

Lord Lyons, as we would perceive, on the strength of the exceptional hardship of the case, addressed the French Government on Mr. Hinton's behalf; but neither the steps taken by his Excellency, nor the remonstrance of Mr. Hinton, nor those of Her Majesty's Consul at Cherbourg, had availed to induce the French Government to pay Mr. Hinton the amount of the original award, and he was stated to have returned to this country in a destitute condition.

That Lord Lyons had accordingly reported the case to Her Majesty's Secretary of State; and that he (Mr. Hammond) was to request us to take the correspondence into our consideration, and favour your Lordship with our opinion as to the farther steps, if any, which could be taken in Mr. Hinton's behalf.

In obedience to your Lordship's commands we have the honour to report—

That Lord Lyons has, in our opinion, taken every step which would be likely to move the French Government or the French Minister of War to alter the determination made on the subject of Mr. Hinton's claim; and we are unable to suggest any farther steps which would effectually, or at all, be taken on behalf of Mr. Hinton.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 67.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 3.)

*Temple, March* 3, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th ultimo, stating that, with reference to the case of Mr. Porter, who had been involved in certain legal proceedings before the French Courts, in connection with some contracts for gas-works entered into before the war, which formed the subject of our Report of the 29th October last, he was directed by your Lordship to transmit to us the accompanying correspondence, which had passed between Mr. Brogden, Mr. Silverthorne, Her Majesty's Ambassador at Paris, and the Foreign Office upon the subject; and he (Mr. Hammond) was to request us to take the papers into immediate consideration, and favour your Lordship with our opinion, at our earliest convenience, as to the instructions which should be addressed to Lord Lyons in regard to the case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Lord Lyons should be instructed to take no farther steps in this matter, either with reference to Mr. Porter or Mr. Brogden.

This opinion we should have submitted to your Lordship if we had not seen the Report of M. Treitt and the despatch of Lord Lyons dated the 22nd ultimo; and we are now confirmed in the view which we should have taken independently that the case is not one for official representation to the French Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 68.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 8.)

*Temple, March* 8, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 5th March instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Lord Lyons (No. 96, Commercial, February 22, 1873), inclosing the Projet de Loi to enable the President of the French Republic to ratify the Treaty of Commerce of November last. That the Projet de Loi is prefaced by an Exposé des Motifs, into the sentiments expressed in which Her Majesty's Government were not called upon to inquire, as it is not a document on which any official representation would, your Lordship considered, be properly addressed, in accordance with international usage, to the French Government; but that your Lordship would be glad if we would nevertheless take the Exposé des Motifs into our consideration, and favour you with our opinion whether there are any assertions contained in it placing a construction on the Articles of the Treaty which could be considered to invalidate the agreement as to the construction of the Treaty which was recorded by the interchange of notes of the 29th January.

In obedience to your Lordship's commands we have the honour to report—

That we have considered the Exposé des Motifs.

That Exposé is, in our opinion, a fair and proper statement of the negotiations

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for and the objects and provisions of the Treaty, and contains no assertions which would place a construction on the Articles of the Treaty invalidating the agreement as to the construction of the Treaty recorded in the interchanges of notes of the 29th January.

The Protocol is probably not referred to in the Exposé because it bears even date with and is taken as part of the Treaty itself; the omission is not, in our opinion, material.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 69.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March* 13.)

*Temple, March* 12, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Prévité and Greig, praying to be relieved from paying the "surtaxe d'entrepôt" on a cargo of bitumen brought from Trinidad to London, and there transhipped to France.

That he was to inclose a despatch on the subject from Her Majesty's Ambassador at Paris, to whom the above letter was referred; and he was to request that we would take the same into consideration, together with the accompanying copy of the Anglo-French Treaty of Commerce of the 5th November last, and favour your Lordship with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the observations made by Lord Lyons on the letter of Messrs. Prévité and Greig, praying to be relieved from payment of the "surtaxe d'entrepôt," are perfectly sound, and since the "surtaxe d'entrepôt" is levied alike on French and English vessels, and no question arises on this point under the Anglo-French Commercial Treaty of the 5th November, 1872, your Lordship cannot comply with the application of Messrs. Prévité and Greig in bringing their case to the attention of the French Government with any hopes of relieving those gentlemen.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 70.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March* 17.)

*Temple, March* , 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Ambassador at Paris, relative to a decision which had been arrived at by the French Council of State in a prize case, to the effect that, in order to prove the neutral character of cargoes captured on board enemies' ships, no other evidence than that of the papers found on board should be admissible.

And that he was to request us to take the papers into consideration, and favour your Lordship with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the practice in this country and in America has been to require farther proof where the papers found on board were not sufficient to enable the Prize Court to restore or condemn the property upon the evidence of the papers themselves.

We would, however, submit that your Lordship may properly consider whether the decision or practice of a French Prize Court, in a matter not relating to British interests, can be made the subject of any official representation to the French Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 71.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March* 20.)

*Temple, March* 19, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 15th instant, stating that upon receipt of our Report of the 3rd instant respecting the case of Mr. Porter, against whom legal proceedings in the French Courts had been taken on account of certain gas contracts, and which had also led to an application from Mr. Brogden, who was mixed up in the case, for the assistance of Her Majesty's Embassy at Paris in certain proceedings with which he also was threatened, your Lordship caused both Mr. Brogden and Mr. Porter's solicitor, Mr. Silverthorne, to be informed that he was unable to furnish Lord Lyons with instructions to take any further steps in this case.

Viscount Enfield also stated that he inclosed, together with the draft of the letter above referred to, a letter from that gentleman in reply, urging a reconsideration of his original application, on the ground that he does not stand in the same position as Mr. Porter, who being engaged in trade in France, he observed, was liable to be dealt with according to French law, and further on the ground of the very limited extent to which he asked for the interposition of Her Majesty's Ambassador.

Viscount Enfield further stated that he was to request that we would take Mr. Brogden's letter into consideration, and favour your Lordship, at our earliest convenience, with our opinion whether the further explanation received from him alters in any way the opinion we expressed on the subject, or would warrant any, and if so what, further instructions to Lord Lyons on Mr. Brogden's behalf. That the previous papers were also transmitted to us for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That the explanation given by Mr. Brogden in his letter to Mr. Hammond does not in any way alter the opinion we have already expressed.

The question whether and to what extent Mr. Brogden may be liable to criminal proceedings is one for the decision of the French Tribunals, and the case is before those Tribunals. If any such proceedings should be taken against him it would then be time to consider whether any representation should be made in his behalf. There is nothing, in our opinion, at present to warrant Her Majesty's Government in giving Lord Lyons any further instructions on behalf of Mr. Brogden, who is in the position of a person against whom legal proceedings are threatened.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 72.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March* 28.)

*Temple, March* 27, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that, with reference to our Report of the 4th October last, he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Embassy at Paris, inclosing a copy of a note from the French Minister for Foreign Affairs, respecting the claim of a Mr. David Jones for compensation for damage sustained by his house and property at Blois, and which the French Government still declined to entertain for the reasons stated therein; and he (Mr. Hammond)

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was to request us to favour your Lordship with our opinion as to the nature of the instruction which should be addressed to Lord Lyons on the subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the answer of M. de Rémusat to Lord Lyons makes it impossible for Her Majesty's Government or for Lord Lyons again to bring forward the claim of Mr. Jones.

Lord Lyons may, therefore, be properly instructed to that effect; but we see no objection to Mr. Jones being informed by Lord Lyons of the chance that he may possibly receive some compensation, if he thinks proper to apply to the competent authorities in the manner pointed out by M. de Rémusat.

We presume if Lord Lyons gives this information to Mr. Jones that Lord Lyons will tell M. de Rémusat that he has so informed Mr. Jones.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 73.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 25.)

*Temple, April* 25, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating on the 12th ultimo Her Majesty's Secretary of State for the Colonial Office communicated to your Lordship a copy of the Report with which we had furnished that Department, dated the 6th March, on the question now under discussion between the British and French Governments of appointing magistrates on the "French shore" of Newfoundland.

That he was to transmit to us the draft of a despatch which was thereupon addressed to Her Majesty's Ambassador at Paris, directing his Excellency to make a representation to the French Government founded upon our Report, and a despatch from him inclosing a draft of the communication which he proposed to address to that Government in consequence, but which he had first submitted for approval, with marginal notes which occurred to His Excellency after the note was framed.

And that he (Mr. Hammond) also inclosed a further letter from the Colonial Office containing some observations and suggestions in regard to the ultimate form in which this representation should be framed; and that he was to request us to favour your Lordship with our opinion as to the precise terms which it would be desirable to adopt in that communication.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully considered the observations of Lord Lyons and the Colonial Office upon our former Report, and upon the form of the representation to be made to the French Government upon the subject of appointing magistrates upon the so-called French coast of Newfoundland.

In reference to the suggestion in the letter from the Colonial Office, that the words "to protect the buildings of the fishermen during their absence" should be omitted, we submit to your Lordship's consideration that as the engagements between the two countries allow these huts or buildings to be erected, they ought to be protected from plunder and wilful destruction during the absence of those who have put them up, and we would suggest the retaining of those words, which do not imply more than protection from wilful damage.

The observations in the letter from the Colonial Office upon the notes of Lord Lyons make it needless for us to trouble your Lordship with any remarks, and we are of opinion that the representation may properly be framed in its present form.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 74.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 29.)

*Temple, May* 28, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us a despatch, with inclosures, from Mr. Kennedy, the British Representative at the Tariff Commission in Paris, requesting instructions on certain points connected with the claims of importers of mineral oils into France, which it is provided in Article 5 of the Protocol to the Anglo-French Treaty of the 5th November should be considered by the Commission; and that he (Lord Tenterden) was to request us to take the same into consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Mr. Kennedy on the various points referred to in his despatch.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion—

1. It is quite possible, in reference to M. Ozenne's proposition, that the questions decided in what is called the "test case" may be all the material questions upon the contracts for mineral oils which can arise; and if so there will be no use in submitting other cases to trial, but that it is impossible, without knowing what the points decided are, to consent beforehand to be bound by any decision, which may turn upon some matter irrelevant to a case similar at first sight.

In reference to propositions 2 and 3, the last clause of Article 5 of the Protocol provides indemnification for actions for breach of contract resulting from the operation of the Law of the 8th July, 1871, in other words, that the person who is prevented by operation of the law from completing his contract, *bona fides* being assumed, shall be indemnified against all losses caused by actions brought for such breach of contract.

But beyond this indemnification for actions for breach of contract, it is to be observed that the last clause of Article 5 of the Protocol says, "the settlement shall include," &c.; something beyond the indemnification is provided, and the first three clauses of Article 5 state in terms sufficiently exact upon what terms mineral oils are to be supplied to persons in France under contracts entered into before the promulgation of the Law of the 8th July, 1871, and how that settlement is to be effected.

The result is that the English party to the contract is indemnified against actions, and may as soon as the Treaty comes into operation introduce his oils subject to the two clauses of Article 5.

And in answer to his first question Mr. Kennedy may properly be instructed that he cannot consent to all the questions being settled by the decision in a test case, and that the contention of M. Ozenne in his propositions 2 and 3 is right, provided the English contractor is indemnified against all liability for breach of contract.

2. The claim under numeral 15 can only be recommended.

3. The claim under numeral 20 is not, in our opinion, admissable.

4. The phrase "promulgation of the Law of the 8th July, 1871" must, in our opinion, have the strict meaning that the law was made and became an act accomplished, and had ceased to be an intention and project.

5. We see no objection to the notice suggested by Mr. Kennedy being issued for the advantage of both classes of persons to whom he refers.

6. The Commissioners may refer any point upon which they may differ to the Arbitrator, and may make that reference at any time, and probably it will be most convenient to make such reference and obtain the Arbitrator's decision at the earliest available opportunity.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 75.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 16.)

*Temple, June* 16, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us an accompanying letter from Mr. Morison, complaining of the fraudulent imitation in France of the British Government stamp affixed to his medicines, and calling for the intervention of Her Majesty's Government; and that he (Lord Tenterden) was to request us to take these papers into consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken this paper into consideration and have the honour to report—

That, in our opinion, the information given by Mr. Morison requires some more precise details, as, for instance, the street number and name of the owner of the shop in which the forged stamps are alleged to be sold.

When this information has been furnished, evidence of the fact that the stamps are forged should be procured.

And if the forgery is established, Her Majesty's Government may properly call the attention of the French Government to that fact, and request that Government to prevent the continuance of the forgeries and to punish the person or persons who may be found guilty.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 76.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 27.)

*Temple, June* 26, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that, with reference to our Report of the 17th December last and to previous correspondence respecting M. de Rotour's Bill on military service in France, the effect of which would be to subject the sons born in France of foreign parents to such service, he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Ambassador at Paris on this subject, reporting a conversation with the French Minister for Foreign Affairs, and calling his Excellency's (the Minister's) attention to this measure, which is about to be considered in the National Assembly, and commenting upon various points in connection therewith.

And that he (Mr. Hammond) was to request us to take Lord Lyons' despatch into consideration, and favour your Lordship, at our earliest convenience, with any observations which we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship should not, in our opinion, instruct Lord Lyons to take any farther steps in this matter than he has already taken, as stated in his despatch of the 12th June, 1873.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 74*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 2.)

*Temple, June* 2, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating that on the 22nd April of last year we favoured your Lordship with our opinion in regard to the claim of Mr. Insley against the French Government on account of the pillage by the Communists, at the Halles Centrales, of a quantity of butter supplied by Mr. Insley to that Government, in regard to his claim which was forwarded upon our Report; but, as we would perceive from his letter now transmitted to us, he renews his application for the intervention of Her Majesty's Government, having failed in his endeavours to obtain satisfaction from that of France through the ordinary channels; and that he (Mr. Hammond) was to request us again to take this case into our consideration, and to favour your Lordship with our opinion as to the course Her Majesty's Government should take in regard to this application.

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That, in our opinion, Her Majesty's Government cannot bring the claim of Mr. Insley to the notice of the French Government.

If the evidence on which Mr. Insley relies to show that he, by his agent, applied for the missing casks of butter before the pillage, was not produced in support of his claim, or was kept back by his own agent, Mr. Insley must suffer for the error of his agent.

If that evidence was brought forward, the French Government has decided upon the effect of the evidence, and is not likely to reconsider the evidence and change its decision.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 77.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 7.)

*Temple, July* 7, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 5th instant, stating that, with reference to his letter of the 4th instant, he was directed by your Lordship to request that, in addition to the questions upon the XIth Article of the Treaty of Frankfort, between France and Germany, upon which our opinion was therein requested, we would be good enough to favour your Lordship with our opinion, at our earliest convenience, upon the following question:—Have the Germans by this Treaty a perpetual most-favoured-nation clause?

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Germans have, by the Treaty of Frankfort, a most-favoured-nation clause for so long only as they and the French may be willing to observe the terms of the Treaty which give no indefeasible rights.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 78.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 7.)

*Temple, July* 7, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that, with reference to the Treaty of Commerce with France, he was directed by your Lordship to transmit to us a copy of the Treaty between France and Germany of the 10th May, 1871, and he was to call our attention to the XIth Article of the Treaty, and to request our opinion upon its effect and the extent to which it might be considered as stipulating for most-favoured-nation treatment unrestricted in point of time.

That the first paragraph of the Article provides that the two Governments "ont pris pour base de leurs relations commerciales le régime du traitement réciproque sur le pied de la nation la plus favorisée." There is no limitation upon this engagement as to time, nor is the Treaty itself limited in duration.

That the third paragraph—"Toutefois, seront exceptées de la règle susdite les faveurs qu'une des Parties Contractantes, par des Traités de Commerce, a accordées ou accordera à des Etats autres que ceux qui suivent: l'Angleterre, la Belgique, les Pays-Bas, la Suisse, l'Autriche, la Russie."

This would seem to mean that the two countries engage to treat each other on the footing of the most favoured nation, with the exception of any advantages accorded by Treaties of Commerce to any country except those specified. That is to say:—

1. That any advantages which have been or shall be accorded to the countries named by Treaties of Commerce or otherwise, shall be extended reciprocally to the Contracting Parties.

2. That any advantages which may be accorded by one of the parties to any third country, by law or by any means other than a Treaty of Commerce, shall be accorded to the other party.

3. That neither party shall be entitled to claim advantages given by a Treaty of Commerce to any nation other than those named, *e.g.*, if France passes a law admitting Spanish wine free of duty, German wine shall also be admitted free of duty; but if France enters into a Treaty of Commerce with Spain, by which Spanish wine is admitted free of duty, then German wine shall not be entitled to be admitted free of duty.

That with regard to navigation the French Government engages, by the fifth paragraph, not to impose any duties on tonnage or flag higher than those which may be imposed on the vessels and cargoes of England, Belgium, Netherlands, Switzerland, Austria, and Russia. All these engagements unrestricted as to time.

And that your Lordship would be glad to be informed, at our earliest convenience, whether we considered the foregoing interpretation of the Article of the Treaty

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correct, and to be favoured with any further observations in addition to those which he (Lord Tenterden) had indicated which might occur to us upon it.

In obedience to your Lordship's commands we have the honour to report—

That we agree with the interpretation put upon Article XI of the Treaty of the 10th May, 1871, between France and Germany, and have no further observation to make upon that Article.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 79.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 7.)

*Temple, July* 7, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that the French Government having intimated to Lord Lyons that they desire to negotiate a new Treaty of Commerce to be substituted for the Treaty of the 5th November last, your Lordship had caused a draft to be prepared showing the provisions which Her Majesty's Government would wish to include in the new Treaty; and he (Lord Tenterden) was directed by your Lordship to transmit this draft to us, and to request us to favour you, at our earliest convenience, with our opinion and any observations we might have to offer thereupon.

That it was not intended to propose this draft, at all events at present, to the French Government, but merely to forward it Lord Lyons for his guidance in the negotiation.

Nearly all the Articles were taken from the Treaty of November last, but your Lordship would, nevertheless, be glad if we would advise whether Parliamentary legislation would be required to execute any of them, as, in that case, the consent of Parliament would have to be reserved.

Lord Tenterden kindly inclosed a copy of the Treaty of November last.

In obedience to your Lordship's commands we have the honour to report—

That referring to the proposed Treaty of the 5th November, 1872, the correspondence and negotiations in relation to that Treaty, and the opinions which were expressed therein, we are of opinion that the draft transmitted to us may properly be forwarded to Lord Lyons for his guidance in the proposed negotiation.

Parliamentary legislation will not in our opinion be required to execute any of the Articles in the draft.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 80.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 11.)

*Temple, July* 11, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th July instant, stating that he was directed by your Lordship to transmit to us a despatch (No. 659) from Her Majesty's Ambassador at Paris, relative to an application made to him by Mr. Maugham, an English solicitor resident at Paris, who stated that he had been appointed Commissioner in Paris to take evidence on behalf of the defendant in a suit which had been brought against the "Times" newspaper, and who accordingly requested Lord Lyons' assistance to procure copies of certain documents at the Prefecture de Police bearing on the case, and to obtain authority for the custodian of the documents to give evidence under the Commission.

Mr. Hammond also stated that he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion on the course which Lord Lyons should be instructed to take in the matter.

In obedience to your Lordship's commands we have the honour to report—

That Lord Lyons should, in our opinion, be instructed to inform Mr. Maugham that he cannot take any steps in the matter.

The attorney of the parties to the suit who wish to obtain the documents or copies and the evidence of the custodian should apply himself to the French authorities for the production and attendance of the documents and witness.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 81.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 12.)

*Temple, July* 12, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 11th July instant, stating that he was directed by your Lordship to transmit to us the accompanying memorandum by Mr. Kennedy, inclosing a draft Treaty of Commerce to be substituted for the Treaty signed with the French Government on the 5th November last. That the draft is drawn up on the basis on which Her Majesty's Government were informed by Her Majesty's Ambassador at Paris that the French Government were prepared at once to negotiate, viz., most-favoured-nation treatment and national treatment of vessels and the settlement of the mineral oil claims. The Treaty to be terminable in 1877, and a Supplementary Convention to be concluded hereafter to contain matters relating to customs expertise and the like.

Lord Enfield further stated that Mr. Kennedy inclosed a draft note to be addressed to the French Government by Her Majesty's Ambassador, prescribing the subjects with which the Mixed Commission to be appointed under the Treaty should deal, and added that as it was of urgent importance that the negotiation should be proceeded with without delay, so as to obtain the ratification of the Assembly before the recess, your Lordship would be glad if we would take the draft Treaty and draft note into our immediate consideration, and favour your Lordship with our opinion, if possible, before the meeting of the Cabinet this day at half-past 2 o'clock, whether they are right and proper.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft Treaty and draft note are right and proper; but we wish to point out to your Lordship in Article III of the Treaty, paragraph 1, that the date "14th September," 1871, is for the first and only time introduced. In the Treaty of the 5th November, 1872, as well as in the present draft, the only law referred to on the subject of "mineral oils" is the 8th July, 1871. Should the "14th September" be an oversight, it should be corrected by inserting "8th July." And in the same Article III, last paragraph, after the word "commenced," the words "or which may be commenced" might be introduced with possible advantage.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 82.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 17.)

*Temple, July* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that upon the receipt of our Report of the 25th ultimo respecting M. de Rotour's Bill on military service in France, as affecting the liability of sons born in France of foreign parents to such service, Lord Lyons was instructed (No. 642 of the 7th July), in conformity with our opinion, that it was not desirable that his Excellency should take any farther steps in the matter than those already taken by him.

That he (Mr. Hammond) inclosed a despatch from Lord Lyons in reply, from which we would see that he is desirous of understanding the exact intentions of Her Majesty's Government in regard to the instruction thus conveyed to him; and that he (Mr. Hammond) was directed by your Lordship to request our consideration of the

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following observations, as the Bill under discussion, if it becomes law, may have serious consequences to British subjects affected by it.

That under the old common law of England every person born in England was, and remained indefeasibly, a British subject. By the 4th section of the Naturalization Act of 1870, however, it is enacted that "any person who by reason of his having been born within the dominions of Her Majesty is a natural-born subject, but who also, at the time of his birth, became under the law of any foreign State a subject of such State, and is still such subject, may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage, such person shall cease to be a British subject," &c.

That under the provisions above quoted, therefore, it is within the power of a French subject born in England to divest himself, at his option, of his English nationality, and this being the case, it appeared to your Lordship that it would not be unreasonable to apply to the French Government in order that a similar option might be accorded to British subjects born in France.

And that he (Mr. Hammond) was to request that we would take the point into consideration, and favour your Lordship with our opinion whether the French Government might not properly be urged to accord the privilege in question to British subjects as a measure of just reciprocity.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to Lord Lyons being instructed to ask that the privilege in question should be formally accorded to British subjects as a measure of just reciprocity.

But we are of opinion that Lord Lyons should, at the same time, be instructed to make the application to the Duc de Broglie unofficially.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 83.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 18.)

*Temple, July* 18, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th July instant, stating that on the receipt of our Report of the 11th instant, stating with reference to the action brought against the "Times" that Her Majesty's Ambassador at Paris should not afford the defendants any assistance in procuring copies of certain documents at the Prefecture de Police bearing on the case, and that the attorney to the parties should himself apply to the French authorities, Lord Lyons was instructed so to inform Mr. Maugham, who had requested his assistance in the matter.

Mr. Hammond also said that he was to transmit to us a letter which your Lordship had received from the solicitor to the "Times," stating that he had in consequence made the application to the French authorities, who had expressed their willingness to produce the documents if a request to that effect be made by Her Majesty's Ambassador, but that without such request it is contrary to their practice to do so; and that your Lordship would be glad to be favoured with our opinion whether, under the circumstances, Lord Lyons might be authorized to comply with the request made by the representative of the defendants in the action.

In obedience to your Lordship's commands we have the honour to report—

That Lord Lyons may, in our opinion, be properly instructed to comply with the request made by the representative of the defendant in this action. Lord Lyons, however, in making the request to the French authorities for the production of the documents and attendance of the witness, should state that he does so on being expressly informed that the French authorities, in accordance with their practice, accede to similar requests when made by the Ambassador of a foreign Power.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 84.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 16.)

*Temple, August* 16, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th August instant, stating that, with reference to our Reports of the 25th June last and 15th ultimo, relative to M. de Rotour's Bill on military service in France, he was directed by your Lordship to transmit to us a despatch which had been received from Her Majesty's Ambassador at Paris (No. 759) in reply to the instructions which were forwarded to him on the second of our Reports above mentioned, and that we would perceive that Lord Lyons had obtained from M. Treitt, the legal adviser of the Embassy, an opinion as to the exact extent to which the children born in France of British subjects would be affected by the Bill if it became law; and that it would appear that the sole result would be that such children, in the first generation, would have to make a declaration of their wish to be considered as foreigners within one year after attaining their majority, in order to be exempt from liability to military service, that step being at present only requisite for children of the second generation, whose parents, though of British extraction, have themselves also been born in France. M. Treitt further expresses considerable doubt whether the Bill will be adopted, and upon his recommendation, and in the absence of complaints from British subjects of the law as it stands, Lord Lyons proposed to defer, for the present, any representations to the French Government.

Mr. Hammond further stated that he was to request that we would take the matter into our consideration, and would inform your Lordship whether we concur in the course suggested.

In obedience to your Lordship's commands we have taken the matter into our consideration and have the honour to report—

That, upon reading the opinion of M. Treitt and the despatch of Lord Lyons, we entirely concur in the propriety of the course which they appear both to recommend.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 85.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 28.)

*Temple, August* 28, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us a correspondence respecting the issuing of two passports from the Consulate at Nantes to two British subjects named Ashton and Collins.

The passports appeared to be obtained in order to enable a Carlist General to pass with safety into Spanish territory; and he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion whether any and what steps should be taken for the punishment of the British subjects in question.

In obedience to your Lordship's commands we have the honour to report—

That whether Consul Clipperton can take any proceedings against Messrs. Collins and Ashton in France depends upon whether they have been guilty of any offence by the French law, as to which question, as far as we are cognizant of French law, the answer must be, we believe, in the negative. If any portion of the transaction had taken place in England it might have been possible to frame an indictment against them for conspiracy, but under the existing circumstances no indictment would lie.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 86.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 15.)

*Temple, September* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to request us to take the inclosed despatch from Her Majesty's Consul at Hâvre into consideration, and favour your Lordship with our opinion as to whether a person who is acting for a Vice-Consul who is the holder of a marriage warrant can legally solemnize marriages.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, a person acting for a Vice-Consul holding a marriage warrant is not a person who can legally solemnize marriages.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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## No. 87.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 20.)

*Temple, October* 20, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th instant, stating that, with reference to Mr. Hammond's letter of the 6th instant, he was directed by your Lordship to transmit to us the accompanying letters, and inclosures, which your Lordship had received from the Colonial Office, together with your reply respecting the proceedings of Mr. Bennett (the Premier of the Colony of Newfoundland), in opening a lead mine at a spot on the "French shore" of Newfoundland; and that he (Lord Tenterden) was to request us to take the papers into consideration, together with those already before us.

In obedience to your Lordship's commands we have the honour to report—

That the opening and working of the lead mine on the "French shore" *close to the beach*, as described by Governor Hill, is against the terms of the Treaties, which provide against permanent occupation.

Your Lordship may therefore, in our opinion, properly concur with Lord Kimberley in the measure which he proposes to take.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 88.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 20.)

*Temple, October* 20, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a correspondence which had taken place since the receipt of our Report of the 27th August last respecting the issuing of two passports from the British Consulate at Nantes to two British subjects, and which appear to have been obtained for Carlist purposes.

That the correspondence included, as we would see, a despatch from Her Majesty's Minister at Paris, containing a legal opinion upon the question whether the offence committed is one punishable under French law; and he (Mr. Hammond) was to request us to take the matter into consideration, and favour your Lordship with our opinion as to the course which should be pursued under the circumstances of the case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government may properly offer to give the French Government such assistance in the way of evidence, either from the British Consul or his archives, as may enable the French Government to try the offenders.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 89.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 23.)

*Temple, October* 22, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us four letters which had been received from the Admiralty and Colonial Office, relative to a voyage which had recently been made by Captain Miller, of Her Majesty's ship "Sirius," round the Newfoundland fisheries, to his proceedings during the voyage, and to the correspondence with the French naval authorities which had resulted therefrom.

That the circumstances to which, at that moment, most importance was attached, were those connected with the occupation by a Frenchman of a salmon fishery on the Ponds River, on the north-west coast of Newfoundland, within the limits where the French enjoyed Treaty rights to the fisheries.

That the facts connected with the question, as stated in the various papers forwarded therewith for our information, would be found to be as follows :—

That by the Royal Instructions to Governors of Newfoundland in 1789 and 1792, permission was given to the French at that time to fish in rivers to the extent of half a mile above their mouths, but no further. That in the Confidential Instructions to the Commissioners appointed on behalf of Her Majesty's Government in 1859, Sir E. Lytton, then Colonial Secretary, stated that "this permission was in excess of the privileges guaranteed to the French by the Treaties, and Her Majesty's Government are not aware whether it was renewed with peace in 1815."

That the Reports made in 1821 by a French Commission charged with an examination of the French fisheries spoke in several places of the advantages offered by the salmon fisheries in terms implying that, up to that time, they had been pursued only by British settlers.

That an extract from Hautefeuille's "Codes des Grandes Pêches," spoke of the manner in which those salmon fisheries were distributed in 1832, 1837, and 1842, and also of the mode in which they were to be conducted according to the French Regulations of 1842, viz., by "barrages" (raells or weirs) made across the rivers or streams. That the same provision was repeated in the French Decree of 1852 (Article 42).

That complaints having been made in 1842 by British settlers at Cod Roy that the French had interfered with them while fishing for salmon, the question whether the French had the right to fish for all kinds of fish or for codfish only was referred to the then Queen's Advocate, who reported on the 7th July, 1843, "that with respect to the description of fish which the subjects of France were entitled to take, he did not find, either in the Treaties or Declaration referred to, any limitation whatever."

That the actual salmon fishery now in question would seem to have been in the possession of an English subject named Gauge or George from the year 1771 or thereabouts, and to have been taken from him by the French in 1848 (see Captain Lock's Report, 2nd October, 1848, and inclosures in Colonial Office letter of the 10th April, 1852, where it was also stated that the French exacted from the British settlers half the produce of all the river fisheries from Cape Ray to Cape Norman).

That in reply to an inquiry made by the Admiral on the station in 1853, the Lords Commissioners of the Admiralty were informed in a letter from that Office, dated the 22nd August, 1853, that "it was clearly Lord Clarendon's opinion that the French had no rights under Treaty to fish in any of the rivers or mouths of rivers in Newfoundland, and that their right was restricted to the sea fisheries alone, but without reference to any particular species of fish."

That this opinion was subsequently confirmed by the Law Officers of the Crown in their Report of the 24th March, 1859, which stated: "With reference to all fisheries in rivers, and especially to salmon fisheries therein, we entirely concur with the view taken by the Earl of Clarendon that they are not within the scope of the Treaties and Declarations, and that the French have no right thereto, their fishery rights being limited to fishing in the sea for all kinds of fish. They have certainly no right to interrupt or molest any British subjects fishing for salmon in rivers, or to fish either for salmon or any other fish whatever in any river in Newfoundland."

That no steps, however, appear to have been taken to enforce the view taken by Lord Clarendon. The Governor of Newfoundland, in a despatch dated the 9th June, 1856, stated that "the French have practically excluded the English from the salmon fisheries."

That in the French "Tableau de Répartition" of fisheries drawn for in 1852, there were enumerated eight salmon fisheries on the west and six on the east coast. Of those, however, only one would appear to have been fished by the French at the time of Mr. Perley's tour round the fisheries in 1857, that one being the River of Ponds now in question; and only two at the time of the Mixed Commission in 1859, one of those, again, being the River of Ponds fishery. That both Mr. Perley and the Commissioners gave, in their Reports, a minute description of the manner of conducting the fishery by raells or weirs placed entirely across the river, in exactly the manner now described by Captain Miller.

That in 1863 the question of the salmon fisheries in rivers was again raised by Sir A. Bannerman, then Governor of Newfoundland, in consequence of a report received from Captain Hamilton, of Her Majesty's ship "Vesuvius," who stated that he had been informed by the French naval officer that they claimed the right of salmon fishery in rivers, and that otherwise "they would be unable to fish the River of Ponds in that bay, the best river on the west coast, as from the heavy sea that sets into that bay, and the strong currents at the mouth of the river, they were obliged to set their nets some distance up the fresh water."

That on that occasion Lord Russell, while concurring in the view taken by the Duke of Newcastle that the French rights of fishery were limited to the sea, was of opinion that if British fishermen generally remained undisturbed by the French, it was unnecessary that the question should be mooted.

That a complaint made by a British subject in 1868 that he had been interrupted by the master of a French merchant-vessel while fishing in the River Castor, and half of his fish taken from him, fell to the ground for want of evidence, though the French naval officer seemed disposed to admit that such interference was unjustifiable.

That since that year the question of the right of the French to the salmon fisheries in rivers had, on several occasions, been raised by the British naval officers of the station, but without any definite result.

That in 1859 the French Captain at Basset was reported to have agreed with Captain Pasley, of Her Majesty's ship "Niobe," that the French had no right to the fresh-water fishing, but in the case of the Rivers of Ponds and Castors, he seemed to have imagined the French originally fished those rivers by mutual agreement with the English.

That the replies given in 1872 by the Governor of Newfoundland to certain questions put by Captain Brown, of Her Majesty's ship "Danae," which were submitted to the Law Officers for their approval, stated that the question of the right of the French to the salmon fishing in rivers, and of the distance up the rivers to which such right extends, was in dispute.

That, under those circumstances, the questions which suggested themselves, and on which your Lordship would be glad to have our opinion, were the following:—

1. Whether and to what extent the salmon fishery on the Ponds River, having regard to the place where it is carried on and the means employed, was in excess of the rights of fishery which the French could properly claim under the several engagements entered into by this country.

2. Considering the length of time for which it has been carried on undisturbed, and to all appearance in the same manner as at present, how far Her Majesty's Government would now be justified in making it the subject of a special remonstrance to the French Government, or whether it must not more properly be classed among the questions in dispute between the two Governments, to be discussed by the Mixed Commission to which it was intended that the general question should shortly be referred.

3. What notice could properly be taken of the act of Captain de Boissondey in informing the French occupant of the fishery that he not obey the notice to quit served on him by Captain Miller's orders.

That Mr. Hammond was further to state that your Lordship would be glad to have our opinion generally on Captain Miller's proceedings and correspondence, and to learn whether we concurred in the opinion expressed by the Colonial Law Officer on the several questions involved.

That, in addition to the papers specially connected with the points at issue, copies were inclosed of printed memoranda drawn up at that Office, giving a history of the general question from its origin to the present date, with so much of the recent correspondence as might be useful to us for purposes of reference.

We are also honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that, with reference to his letter to us of that day's date relative to the Newfoundland Fisheries question, he was directed by your Lordship to point out to us that, in the event of the appointment of magistrates for that part of the island on the coast of which the French had fishery rights, a very serious conflict of jurisdiction would be likely to occur from the contradictory provisions of the Colonial Acts and of the French Fishery Regulations with regard to salmon fisheries.

That Mr. Hammond inclosed copies of the Acts in question, and we would perceive that section 2 of the Act 23 Vict., cap. 8, positively forbade the construction of weirs or similar contrivances across any rivers for the purpose of salmon fishing, and that the Act contained no provision such as inserted in the later measure of 1862 (25 Vict., cap. 2), reserving "the rights and privileges granted by Treaty to the subjects or citizens of any State or Power in amity with Her Majesty."

That it might be contended that the former Act, although no special reservation clause was inserted in it, must be taken to have been made subject to any rights which were secured to the French by Treaty; but it might be apprehended that the British magistrates would consider themselves bound to enforce the Colonial Law against French fishermen, while the French naval officers would undoubtedly maintain that such fishermen were entitled to follow the course prescribed by Article 42 of the French Regulations, to the effect that the salmon fishery might be conducted by means of weirs or nets in the streams or rivers.

That Mr. Hammond was to request that we would take that matter into our consideration, and would favour your Lordship with our opinion: (1) whether the Colonial Act, 23 Vict., cap. 8, should be construed as if there had been a special reservation of Treaty rights in it; and (2) as to the best mode of avoiding the difficulty above indicated.

In obedience to your Lordship's commands we have the honour to report—

1. That we concur in the opinion given by the Law Officers on the 24th March, 1859, "that the fisheries in rivers are not within the scope of the Treaties or Declarations made with or to the French Government by the Government of Great Britain, and that the French have no right to the fishery in rivers, their rights being limited to fishing in the sea, and on the coast, for all kinds of fish. And that the French have certainly no right to interrupt or molest any British subjects fishing for salmon, or any other fish whatever in any river in Newfoundland."

At the same time we are of opinion that British fishermen have not the right to interfere with the French fishermen by running their salmon nets out from the shore into the sea, so catching the fish as they pass along the shore—a practice which, from the papers transmitted to us, seems to prevail, and which interferes with the French sea fishery.

As we understand the facts, the concession said to have been contemplated, by which the French were to be allowed to fish a certain distance up the rivers, was never actually made. But if it had been or were made, we should be of opinion that the concession was but a licence to the French to fish as the British fishermen do, and would not warrant the French in claiming an exclusive fishery in those river waters, or the right to use their own means for catching fish in the rivers.

Apart from this concession—and it seems to us that since the French claims are made to rest on Treaty rights they cannot rely upon the concession—the French pretensions, if good to any extent at all, go to the exclusive right of salmon fishing, however far the rivers may run into the heart of the country.

The words of the Treaties, and of the engagements made by this country, seem to us to give the French a right of uninterrupted fishery of all kinds of fish along the sea coast, but do not give them any right of fishing in any of the rivers.

In answer, therefore, to the first question, we are of opinion that the salmon fishery on the Ponds River, having regard to the place where it is carried on, is in excess of the rights of fishery which the French can properly claim under the several engagements entered into by this country.

And with respect to the means employed by the French, we are of opinion that

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the French, having no right to fish at all, must, if they obtain any leave or licence to fish, employ only those means which are allowed by the laws of Newfoundland.

2. The second question is rather a matter of policy than of legal rights; but since your Lordship has called our attention to and desired our opinion upon the subject, we submit for your Lordship's consideration the following reasons why a special remonstrance should at once be made by Her Majesty's Government to the French Government:—

(*a.*) Her Majesty's Government should not, we humbly conceive, suffer without immediate remonstrance the rights of Her Majesty's subjects and a part of Her Majesty's dominions to be violently disturbed, and forcibly occupied by the subjects of a foreign Power.

(*b.*) If, however, the disturbance of the rights and the occupation of the soil has been from any motive submitted to for some time, a special remonstrance is the more urgently required that the mischief may be put an end to, and at least not extended further.

(*c.*) Supposing no remonstrance to be made, other rivers may be occupied by the same means and in the same manner as the Ponds River. The French will thus have their title, such as it is, strengthened both by lapse of time and extended possessions.

(*d.*) The French Government has a right to know in the clearest manner, before any question is raised at the Mixed Commission, that Her Majesty's Government denies the assumed rights of the French in the rivers of Newfoundland, and a special remonstrance seems to us the most direct and proper manner of informing the French Government to that effect.

(*e.*) If a remonstrance is not made, the French Government may not unfairly urge before the Mixed Commission the acquiescence of the British Government.

(*f.*) The conduct of Captain de Boissondey is a further reason why the remonstrance should not be delayed.

3. That we are of opinion that although some notice may properly be taken of Captain de Boissondey's conduct, that notice should be very moderate and guarded, and possibly confined to an expression that Her Majesty's Government does not press that subject further owing to the instructions which have been sent to the French naval officers. The difficulty which we have in answering the question with precision and definitely is that it goes to the root of the whole matter. If the French had no right, then Captain Miller acted quite properly, and the conduct of the French officer was altogether wrong. But if the French had the right contended for, then Captain Miller gave a notice which Captain de Boissondey was justified in telling the French occupant to disregard. We think, therefore, that such a notice as we have suggested above will be sufficient.

In answering these questions we have not lost sight of a point raised by Admiral Seymour in his letter of June 1853, namely, the inconvenience and anomaly of allowing French officers to exercise a jurisdiction over British subjects within Her Majesty's dominions at sea or on land. But this anomaly is the necessary consequence of the Treaties, and your Lordship may think it a matter fit for the consideration of the Mixed Commission.

4. We think Captain Miller's proceedings and correspondence show considerable ability and discretion. And we agree generally in the opinions expressed by the Colonial Law Officer on the several questions involved. In one respect, however, we differ from him, since we are of opinion that the French have no right of fishing in the rivers whether above or below high-water mark.

Referring to Mr. Hammond's second letter of the 6th October, the difficulty suggested will not arise if we are right in our opinion that the French have no fishery rights in the rivers. The 25 Vict., cap. 2, being limited to fisheries on the coast, properly has the section 10 relating to Treaty rights, whilst 23 Vict., cap. 8 regulates the river fisheries, as to which there are no Treaty rights.

But if we are mistaken in our opinion upon the French Treaty rights, and these extend to the rivers in Newfoundland, the French may, notwithstanding the 23 Vict., cap. 8, exercise their rights in any manner which they may deem fit, and the Colonial Act may properly be repeated.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 90.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October 27.*)

*Temple, October 25, 1873.*

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th instant, stating that he was directed by your Lordship to state to us that your Lordship was desirous of obtaining our advice on the following points in connection with commercial negotiations and questions between this country and France:—

1. As to applications made to Her Majesty's Government on the subject of Expertise and Customs Regulations in France, and the opinions of Sir L. Mallet and the Board of Customs, as were set forth in the papers marked in the margin.

2. As to whether the French Government would be justified, under the Treaties of 1860 and 1873, in the event of an excise duty on mineral oils of French production being imposed in France, with an equivalent compensatory duty on similar oils of foreign origin, in assessing such excise and compensatory duties according to the illuminating power of the oil.

That a representation on that subject from Young's Paraffin Light and Mineral Oil Company was therewith inclosed.

And (3) as to whether, in the proceedings for the settlement of mixed oil claims, it would be proper or allowable when the Mixed Commission at Paris, appointed under Article IV of the Treaty of 1873, resumed its sittings, that a notice limiting the time within which such claims should be entertained should be issued by the Commission, and published in the official "Gazettes" in this country and in France. That a draft of a notice to that effect was therewith submitted, and that Lord Tenterden was to request that, if we approved of any such notice being issued, we would report whether the inclosed draft was right and proper in its terms, and if not, that we would amend it as we might deem expedient.

That Lord Tenterden was to request that we would take those matters into consideration, and that, if possible, we would be so good as to favour your Lordship with our Report thereupon by the end of this week.

We are also honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us, with reference to his letter of the 20th instant, the letters marked in the margin from the Bradford Chamber of Commerce, containing representations on the subject of expertise in France; and that Lord Tenterden was to request that those representations might be taken into consideration, together with those contained in the papers inclosed in the letter of the 20th instant above referred to.

We are also honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us, for consideration together with the papers inclosed in his letters of the 20th and 21st instant, on the subject of expertise in France, the accompanying letter, and its inclosure, from Messrs. Hall, Udall, and Dale.

In obedience to your Lordship's commands we have the honour to report—

1. That we have carefully considered the several documents referred to in the three letters which we have had the honour of receiving from Lord Tenterden on the subject of Expertise and Customs Regulations in France.

So long as the principle of *ad valorem* duties is maintained, and we are of opinion that this principle is in its general application the most practical and the best, some form of expertise seems requisite.

Assuming that the importer and the Customs in the first instance each appoints a valuer, the difficulty arises in the choice of an umpire.

We believe that some branch of the Government in France, as a matter of fact, always supplies this umpire, and we see that great difficulties may be found in endeavouring to bring the French Government to alter its practice in this respect.

The object should be the obtaining in each case, whether of value or classification, an umpire well acquainted with the nature and history and manufacture of the imported article, and we suggest to your Lordship that, with this view, Her Majesty's Government may properly bring to the consideration of the French Government the necessity of appointing from the Board in Paris as umpire, the person, a member of that Board, who may best be qualified by his knowledge, and to place upon any individual article its real denomination, be it of value or class.

We think that, having regard to the Law of 1822, any attempt beyond this to interfere with the French practice of expertise would fail.

In reference to the French Customs Regulations, we are of opinion that Her Majesty's Government may properly press upon the French Government that no delay should take place beyond what is absolutely necessary in obtaining the decision of the valuers or umpire upon the questions raised.

The delay is a cost, or at the least a loss of profit to the importer, can be of no benefit to the French Customs, and may in some cases open a door to partiality and injustice.

We entirely agree with Sir L. Mallet that "it cannot be demanded that the French Custom-house should hold itself bound to accept the invoice value in exceptional cases" (we should say in any cases), "and that the fair rule to observe is to take the correct value of goods at the place of production at the time of importation, with the addition of costs of transport, assurance, and commission."*

We are of opinion that the French Government would not be justified in assessing a compensation duty according to the illuminating power of the oil. Two kinds of oil only are named, "brutes ou raffinées" (crude or refined), upon which, without reference to their illuminating power, a duty of 5 fr. or 8 fr. per 100 kilog. is imposed, and there the duty must stop.

3. The draft notice is, in our opinion, right and proper in its terms.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 91.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October* 30.)

*Temple, October* 29, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 27th October instant, stating that, with reference to that part of our Report of the 25th instant which related to the question of a duty in France assessed according to the illuminating power of mineral oils, he was directed by your Lordship to transmit to us a paper which shows, probably correctly, the course which the French Government proposes to pursue in the matter; and with reference to our observation that the duty must stop at the (present) rate of 5 fr. or 8 fr. the 100 kilog., he was to call our attention to the first paragraph of Article IV of the Treaty of the 23rd July last, therewith inclosed, which provides that British mineral oils are to pay the duty of 5 fr. or 8 fr. above stated, established by the law of the 16th September, 1871, *or that which may be hereafter levied on the like oils manufactured in France.*

That a Report of the debate in the National Assembly, relative to the Treaty of the 23rd July, 1873, was also inclosed, and that there did not, however, appear to be in it any definite statement on that subject on the part of the French Government.

Lord Enfield was pleased further to say that the points to which he was more especially to call our attention in this matter are (1) the grounds on which Her Majesty's Government could object to the new excise and compensatory duty, if there are any tenable grounds; and (2) the extent to which Her Majesty's Government would be justified in urging those objections.

That as it was necessary that the instructions to Lord Lyons on this subject should be sent as soon as possible, Lord Enfield added that he was therefore to request that we would favour your Lordship with our Report thereupon at our earliest convenience.

In obedience to your Lordship's commands we have the honour to report—

That supposing the French Government were to levy an excise on oils manufactured in France higher than the duty of 5 fr. or 8 fr. per 100 kilog., Her Majesty's Government could not, we think, object to such new excise and the compensatory duty on the like oils imported from England, and therefore would not be justified in urging any objection.

But unless such new excise be levied in France, we are of opinion that the duties of 5 fr. and 8 fr. the 100 kilog. should remain, and cannot be affected by the greater lighting qualities contained in one oil as compared with another oil, and to this point our previous Report was more particularly directed.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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* See Article IV of Treaty of 1860.

## No. 92.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 5.)

*Temple, November* 5, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 31st ultimo, stating that on the 22nd instant we favoured your Lordship with our Report on various points submitted to us in Mr. Hammond's letters of the 6th instant, respecting the Newfoundland fisheries and the questions in dispute between this country and France.

That after recapitulation of the letters above referred to, our Report states at the fifth paragraph, "The words of the Treaties, and of the engagements made by this country, seem to us to give the French a right of *uninterrupted* fishery of all kinds of fish along the sea coast, but do not give them any right of fishing in any of the rivers."

That we were aware, from the correspondence so recently before us, that the French Government claim not only the *uninterrupted*, but the *exclusive* right of fishing on the so-called "French shore" of Newfoundland, which claim is based to a great extent upon the wording of the British Declaration, signed on the same day as the Definitive Treaty between Great Britain and France, the 3rd September, 1873, and which states: "His Britannic Majesty will take the most positive measures for preventing his subjects from *interrupting* in any manner by their competition the fishery of the French during the temporary exercise of it which is granted to them upon the coasts of the Island of Newfoundland," &c.

That we were also aware that the question of the right of French subjects to *exclusive* fishery upon the so-called "French shore," irrespective of the question whether concurrent fishery might not be carried on as long as it did not interrupt the operations of the French fishermen, has been more than once before the Law Advisers of the Crown.

That on the 30th May, 1835, in answer to a reference of a Board of Trade letter of the 12th July, 1834, on this question, the Law Officers reported that, "having taken into consideration the above-mentioned letter from the Board of Trade, together with the Treaties to which it refers, we are of opinion that the subjects of France '*have the exclusive right of fishery* on the part of the coast of Newfoundland specified in the Vth Article of the Definitive Treaty signed at Versailles on the 3rd September, 1783.'"

That we should find in the accompanying volume the Report *in extenso*, as well as the Board of Trade letter to which it refers, which papers had not then been before us, although the Report was alluded to at p. 8 of the printed memorandum drawn up in the Foreign Office, which was again inclosed; that a later Report of the Law Officers, however (also alluded to in the same place, and printed in full at p. 60), as we should see, somewhat modified the previous one.

That your Lordship is desirous of ascertaining the precise meaning which you may attach to the opinion contained in our Report above referred to, that the words of the Treaties and of the engagements made by this country seem to give the French "a right of *uninterrupted* fishery" of all kinds of fish along the sea coast, &c.; whether, in fact, we consider that the French and English fishermen have a concurrent right of fishing on the coast in question as long as the English fishermen do not in any way interfere with or interrupt the French fishing operations, or whether we are of opinion that the French fishermen can properly claim the right of *exclusive* fishing, to the exclusion of the British and without regard to the above conditions.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the French have not the right of exclusive fishing in the full sense of those words, which would make every act of fishing on the part of the British illegal, as contrary to the Treaty and Declaration.

But the French have the right of exclusive fishery in the sense that their fishing operations are not to be interfered with or interrupted by the English. For instance, supposing the French for any reason were to abandon the coast, or any part of the coast, for a time, so that there were no French boats in the waters, we apprehend the British would have a right in such a case to fish the unused parts. And we think this is the meaning of the words "competition" or "concurrence" in the Treaty of 1783, showing that the same waters are not to be fished at one and the same time by French and British, but that the latter are in all cases to give up fishing in waters which the French are in fact occupying.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 92*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 6.)

*Temple, November* 5, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Enfield's letter of the 1st November instant, stating that, with reference to our Report of the 25th ultimo, he was directed by your Lordship to transmit to us the drafts of letters which your Lordship proposed to cause to be addressed to the Bradford Chamber of Commerce, and to Mr. K. B. Murray, of Paris, in reply to their letters on the subject of expertise and other customs matters which had been submitted to our consideration, and which were also therewith inclosed for convenience of reference.

Lord Enfield was also pleased to say that he was to request that we would take these drafts into consideration, and favour your Lordship with our opinion whether they are right and proper to be sent.

In obedience to your Lordship's commands we have the honour to report—

That the draft letters to the Bradford Chamber of Commerce and to Mr. K. B. Murray, of Paris, are, in our opinion, right and proper to be sent, but we take the liberty of suggesting the omission in each draft of the words "as well as to the working generally of the system of expertise."

This passage, if retained, may open a very wide question, and is not, as it seems to us, consistent altogether with the statement which immediately follows to the effect that Her Majesty's Government would not be justified in pressing the French Government to alter their own legislation.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 93.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 8.)

*Temple, November* 7, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 3rd instant, stating that Her Majesty's Government and that of France having agreed by the IIIrd Article of the Treaty of Commerce and Navigation of the 23rd July last that a Convention, supplementary to that Treaty, should be concluded and ratified before the 31st January next, he was directed by your Lordship to transmit to us the draft of a Convention which your Lordship had caused to be prepared with the view to carry out this arrangement, and the draft of an instruction to Lord Lyons in regard to this draft Convention.

That we should observe remarks made by Lord Lyons on both these documents; and that he was to request that we would take them into consideration, and report to your Lordship, at our earliest convenience, such observations as we might have to offer upon them.

In obedience to your Lordship's commands we have the honour to report—

That the paragraphs marked A and B in Article III, which to some extent are amplifications of Article II of the Treaty, may be useful, and cannot lead, so far as we can see, to any bad result. We therefore think they should remain, but we entirely agree that the beginning suggested by Lord Lyons is desirable.

Article IV seems to us unnecessary.

Article V. The last paragraph in this Article should, if possible, find a place in the Convention. This Article, however, depends upon considerations of policy, and if any difficulty is apprehended the Articles in the Treaties of 1860 may suffice.

Article VI goes, in our opinion, beyond paragraph 3 of Article I, and may be retained.

Article VII. We concur entirely with the remark of Lord Lyons.

Article VIII. We are not aware of the reasons which influenced the Commissioners of Customs in 1872, but in the absence of strong reasons to the contrary we are of opinion that all the Articles should be reciprocal.

Article XIV. We beg leave to suggest, for your Lordship's consideration, that the words "in the same manner as disputes as to the value of goods" be added at the end of this Article.

Article XV. Appears to us unnecessary, since it is to a like effect with Article XVI.

In reference to the note of Lord Lyons in paragraph 4 on p. 3 of the draft despatch, the substitution of the paragraph proposed by him may, in our opinion, properly be adopted.

We presume that Lord Lyons would, without specific instructions, furnish your Lordship with suggestions which the course of the negotiation might give rise to, and on any Articles which were likely to lead to discussion or delay.

The words "in regard to invoices and in the" should, in our opinion, be added at the beginning of line 6, paragraph 2, p. 3 of the draft despatch, and the word "in" be omitted in the same place, if the addition meets with your Lordship's approval.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 94.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 11.)

*Temple, November* 10, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us the accompanying memorandum and correspondence relative to the Fishery Convention with France of 1867 (copy inclosed), and to request our attention to the question therein controverted in letters from the French Embassy in London and the Board of Trade, as to whether the legal proceedings to be taken under, and the penalties imposed by, the Act 31 and 32 Vict., cap. 45 (inclosed), were or were not in conformity with the Convention. There was likewise the farther question whether the alterations which the Board of Trade had proposed to make in that Act should be made by a fresh Act or by Order in Council.

That he (Lord Tenterden) was therefore to request us to take the several matters into consideration at our early convenience, and that in reporting upon them we would state farther our views as to the course which it would be right to take with respect to the representations made by the French Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the penalties imposed by the Act 31 and 32 Vict., cap. 43, are in conformity with the Convention.

We doubt whether Her Majesty, by Order in Council, could make the alterations proposed by the Board of Trade, the power in the 7th section of the Act referred to being to impose penalties for the breach of such regulations as Her Majesty may make, and not a power to alter the penalties imposed in breach of the regulations in the Act.

So far as the Board of Trade has approved of any alteration in the penalties in accordance with the wishes of the French Government, we are of opinion that the wishes of the French Government may be complied with, and a new Act applied for.

But we see great difficulty in giving up the power of enforcing the penalty by seizure and sale of the ship.

And we submit to your Lordship that before any changes are agreed to on the part of Her Majesty's Government, the French Government should engage to give full effect to Article XXXI of the Convention, and that such engagement on the part of the French Government should be a condition precedent to negotiation on any other point arising out of or in reference to the Convention or the Act 31 and 32 Vict., cap. 43.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 95.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 13.)

*Temple, November* 12, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us the accompanying copy of the Treaty of Commerce and Navigation concluded between this country and France on the 23rd July last, to request our early opinion as to the course which should properly be taken by the Commission appointed under the IVth Article of the Treaty in regard to mineral oil claims preferred on any of the following grounds, namely :—

1. Warehousing or storage.
2. Deterioration of stock, whether by detention, leakage, or from other causes.
3. Expenses of agents in France of the British companies.
4. Disputes or actions between agents or other persons in their employment and the companies.
5. Losses or other claims in respect of oils imported to and then re-exported from France without payment of duty.
6. Interest on moneys awarded by the Commission, whether in repayment of duties, law expenses, &c.

That he (Mr. Lister) was to request that we would consider the four first-mentioned claims, whether preferred as separate and independent claims or in connection with claims for repayment of duty or for indemnification for actions for breaches of contracts.

And that he was also to request our advice as to how claims in regard to contracts which have not as yet formed the subject of any legal action should be dealt with by the Commission.

In obedience to your Lordship's commands we have the honour to report—

That Article IV provides for two cases :—

1. Reimbursement of duties levied in excess.
2. Indemnification for breaches of contract.

In our opinion, none of the four first-mentioned claims, whether preferred as separate or as independent claims, come within the Article.

Claim No. 5 is also, in our opinion, without the Article.

Claim No. 6 is also, we think, without the Article, and interest cannot be claimed as part of indemnification for actions for breaches of contract or in addition to a reimbursement of duties levied in excess.

The indemnification, in our opinion, extends to all cases in which actions may be brought for the breaches of contract specified, and the Commission should endeavour so to provide against claims in regard to contracts which have not yet formed the subject of any legal action, that the defendants may avail themselves of the indemnification in the Treaty.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 96.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 17.)

*Temple, November* 17, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 13th instant, stating that, with reference to our Report of the 12th instant, he was directed to request our opinion whether claims on the grounds of (1) warehousing or storage; (2) deterioration of stock by detention, leakage, or other causes; and (3) expenses of agents in France of the British Companies or claimants; are to any and to what extent admissible in connection with claims for reimbursement of duties levied in excess, or for indemnification for actions for breaches of contract, under the provisions of Article IV of the Treaty of the 23rd July, 1873.

That in order to place the matter more clearly before us, though our opinion was requested on the general question, two instances might be cited: (1) where oils have been imported, and claims are preferred for storage and deterioration of stock, pending discussions with the French Customs, the duty in excess having been paid finally, in some cases with, and in others without, any formal protest against that excessive rate of duty; (2) expenses of agents of Companies or claimants in France, who are represented to have been, either entirely or chiefly, engaged in business connected with discussions relative to excessive rates of duty, or in defending the interests of the parties in this country in regard to actions for breaches of contract.

Mr. Lister also stated that he was to add that your Lordship would be glad to receive our Report on these points at our early convenience.

In obedience to your Lordship's commands we have the honour to report—

That the claims on the grounds (1) warehousing or storage; (2) deterioration of stock by detention, leakage, or other causes; (3) expenses of agents of British claimants in France—are not, in our opinion, admissible to any extent under the provisions of Article IV of the Treaty of July 1873, those provisions being limited to reimbursement of duties levied in excess, and to indemnification for actions for breaches of contract.

The two instances cited by Mr. Lister fall within the general principle of construction which we have above stated, and claims preferred on the grounds suggested in those instances would not be admissible.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 97.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 17.)

*Temple, November* 17, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the copy of the draft of the Supplementary Convention to be concluded with France, as it had been revised on consideration of our Report of the 7th instant.

That the draft previously referred to was also inclosed.

That we would perceive that Article IV had been omitted, and that, inasmuch as inconvenience might result from rendering the Articles respecting expertise and Customs Regulations reciprocal, the intention of recasting the Articles on those matters in the Treaty and Conventions of 1860 had been given up, and the new provisions which it was sought to introduce had been formed into one Article, the VIIth of the revised draft.

That Mr. Lister was now to request that we would take that revised draft into consideration, and favour your Lordship, at our earliest opportunity, with our opinion in regard to it.

In obedience to your Lordship's commands we have the honour to report—

That, in stating our opinion upon the questions put to us in Mr. Lister's letter, we can only submit to your Lordship's suggestions, which, being founded on information and knowledge necessarily imperfect, may be either wrong or impracticable or both.

The important Article in the revised Convention appears to be the VIIth, and on that Article we submit for your Lordship's consideration the following remarks :—

The first paragraph provides for security for the payment of "fines," but the revised Convention does not, as the former Convention did (Article XIII), contain any provision on the subject of these "fines," nor upon the costs of the valuation.

It seems to us desirable that an Article similar to Article XIII of the former Convention should be added to the revised Convention, and might conveniently follow directly after Article VII.

We also think that an Article similar to Article XVIII of the former Convention might frequently be of practical use, and might, therefore, with advantage be added to the revised Convention.

These are the only points in the revised Convention upon which we have to make any observations to your Lordship in answer to Mr. Lister's letter.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 98.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 25.)

*Temple, November* 25, 1873.

My Lord,

WE are favoured with your Lordship's commands signified in Lord Enfield's letter of the 17th instant, stating that, with reference to our Report of the 15th September, relative to the question of the legal power of a person acting for a British Vice-Consul in possession of a marriage warrant to solemnize marriages under the Act 12 and 13 Vict., cap 68, he was directed by your Lordship to point out to us that the Annex to the General Consular Instructions referred to by Her Majesty's Consul at Havre in his despatch which was before us when our Report was written, is not an Act of Parliament relating to the subject, but a Circular to Her Majesty's Consuls abroad from the Foreign Office.

Lord Enfield further stated that he was therefore to return to us Mr. Bernal's despatch, and at the same time to transmit to us a copy of the Consular Marriage Act, and to request us again to consider the subject, with more especial reference to the 19th clause of the Act, and report to your Lordship whether the wording of that clause causes us to change our previous opinion.

In obedience to your Lordship's commands we have the honour to report—

That when this matter was before the Law Officers on the 15th September last the Act of Parliament, as well as the Circular to Her Majesty's Consuls abroad, was considered by them.

Having now considered the Act of Parliament, and particularly the 19th section, we are of opinion that a person acting for a Vice-Consul is not a person who can legally solemnize marriages under the Consular Marriage Act, though the Vice-Consul in whose place he is acting may hold a warrant authorizing such Vice-Consul to solemnize marriages.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 99.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 12.)

*Temple, December* 12, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Kennedy, reporting the proceedings of the Commission at Paris with regard to the consideration of the claims of the importers of mineral oils into France.

That Mr. Lister also inclosed a letter on that subject from Young's Paraffin and Mineral Oils Company; and that he had to request that we would take the same into our consideration, and favour your Lordship, at our earliest convenience, with our opinion as to the further instructions which should be addressed to Mr. Kennedy with regard to that matter.

That a copy of the Treaty of the 23rd July, 1873, was also annexed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That the questions raised in the letter from Young's Paraffin and Mineral Oil Company have been specifically answered by the late Law Officers and Dr. Deane, and Mr. Kennedy has, we believe, been fully instructed on those points.

In reference to Mr. Kennedy's despatch, we are of opinion that the French Government have no claim for duties, whether payable as excise or other duties, over 5 per cent., and the 5 fr. or 8 fr. tax per 100 kilog.

The Commission may, in our opinion, examine, and if necessary correct, in accordance with Article IV of the Treaty of the 23rd July, 1873, the Judgment given by the Tribunals.

We consider that claims which are not preferred in due time, or not supported by proper evidence, should not be insisted upon.

We see no objection to the money awarded being paid in to the Minister of Finance, and paid out by that Department to the claimants entitled to receive the amount.

Mr. Kennedy may, in our opinion, be instructed accordingly on the points to which we have referred, and he does not, as we think, need instructions on the other matters mentioned in his despatch.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 100.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 15.)

*Temple, December* 13, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 6th instant, stating, with reference to his letter of the 4th instant, he was directed by your Lordship to transmit to us a further despatch, with its inclosures, from Mr. Kennedy (No. 137), relative to the steps which he proposed should be taken by the Anglo-French Commission with a view to settle the claims of the exporters of mineral oils to France; and he was to request that we would take the same into our consideration, together with the previous despatches on this subject now before us, and favour your Lordship, at our earliest convenience, with our opinion as to the instructions which should be addressed to Mr. Kennedy thereupon.

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report—

That the steps which Mr. Kennedy proposes should be taken by the Anglo-French Commission with a view to settle the claims of the exporters of mineral oils to France are expedient and proper, and that Mr. Kennedy may be instructed accordingly.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 101.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 16.)

*Temple, December* 13, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 4th instant, stating that, with reference to his letter of the 29th ultimo, he was directed by your Lordship to transmit to us further despatches from Mr. Kennedy (Nos. 133, 134, 135, and 136) relative to the consideration by the Paris Commission of the claims of exporters of mineral oils; and he was to request that we would take the same into our consideration, together with the papers on this subject already before us, and favour your Lordship, at our early convenience, with our opinion as to the instructions which should be addressed to Mr. Kennedy in regard to this matter.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That the French principle, it appears from M. Treitt's opinion, differs from the English principle as to counsel's fees, and we are of opinion that if the amount were considerable Her Majesty's Government might properly insist upon these fees being included under the indemnity provided for by the IVth Article of the Treaty of July 1873. But since the amount is inconsiderable, and it is desirable for the interests of the British manufacturers that the whole subject should be settled with the least delay, Mr. Kennedy may be instructed to waive this point.

The duties of 5 per cent. and 8 per cent. respectively may be, in our opinion, properly deducted from the "dommages-intérêts" awarded, but not any higher duties.

The suggested compromise is at an end, and we think rightly so.

We are still of opinion that the 8th July, 1871, must be taken as the date from which the *bona fides* is to be reckoned. Any other date would lead to much complication in different cases, arising from the means of knowledge professed by different

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persons, the uncertainty previous to the passing of the law, and other circumstances, and that contracts of the 6th, 7th, and 8th July should consequently be admitted.

On most if not on all the points in dispute we think Mr. Kennedy may properly claim a reference to the Umpire as the means provided by the Treaty itself for a decision.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 102.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received January* 2, 1874.)

*Temple, December* 31, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Paris, inclosing a memorandum by Mr. Kennedy relative to certain statements which had been made before the Mixed Commission by members of the Sheffield and Derby Chambers of Commerce with regard to the questions of fines, expertise, and value; and that Mr. Lister was to request that we would take the same into our consideration, with especial reference to the bearing of the IVth Article of the Treaty of the 23rd January, 1860, therewith inclosed, upon the argument that the value of goods supplied under contracts was to be governed by the manufacturer's price, and not the current market price at the time of importation, and that we would favour your Lordship, at our earliest convenience, with our opinion as to the instructions which should be addressed to Mr. Kennedy upon that subject.

In obedience to your Lordship's commands we have the honour to report—

That we think your Lordship should instruct Mr. Kennedy that the true construction to be put upon Article IV of the Treaty of the 23rd January, 1860, is that "the value" means the price which the article cost the importer at the time he purchased it from the manufacturer or wholesale merchant. There is little in the Article itself which throws any light upon the meaning to be attached to the word "value" as there used. But Articles IV and V in the Treaty of the 12th October, 1860, tend to declare the meaning of the word.

Under Article IV of the latter Treaty an invoice must be produced showing what the goods imported have cost the importer; and by Article V, if goods have been warehoused, the duty shall be levied according to the value of the goods at the time of importation.

This express regulation seems to exclude the price being estimated at the time of importation in any other case than where goods have been warehoused.

We see no hardship to the interests of the French Government if this view be carried out.

It certainly is necessary to the interests of the English importer that the value of English goods should not be frequently left to the judgment of experts, which will be the case if the value be not regulated by the cost.

It is true that if the price be taken at the time of manufacture or sale, and an interval elapses before importation, the value may rise, but it may equally fall, in which case the importer will pay a higher *ad valorem* duty than the price of the goods would justify. In most cases goods will be warehoused during the interval, if a long one, between the purchase and importation, in which case the actual value at time of importation will be ascertained.

We think Mr. Kennedy may be instructed to obtain, if he can, a clear declaration that the above construction is the one to be placed upon the Articles IV of the Treaties of January and October 1860.

We are not aware that our opinion is required upon any other point in relation to fines or expertise.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 103.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received January* 1, 1874.)

*Temple, December* 31, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 27th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatches, relating to the case of eight British seamen, part of the crew of the French ship "Mongol," now in custody at Bordeaux, on a charge of conspiracy and mutiny at sea, and he was to request that we would favour your Lordship with our opinion as to whether any steps should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands we have the honour to report—

That we think that this is a case in which your Lordship, relying upon the Report of Mr. Hunt, should direct that the accused seamen should be defended by an Avocat. As it seems that the trial will probably take place at Havre, and not at Bordeaux, your Lordship may instruct Mr. Hunt to do all that lies in his power to expedite the trial, and also to communicate to the British Consul at Havre all the information he at present possesses in relation to the charge.

If the men be removed to Havre, probably your Lordship will deem it right to instruct the Consul there to protect the interests of the men in the sense we have indicated.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## General.

### No. 104.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February* 1.)

*Temple, February* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that, in accordance with the opinion given in our letter of the 22nd October last, a Circular had been addressed to Her Majesty's Consuls abroad (copy inclosed) cancelling the former Circular of the 18th March, and furnishing them with fresh instructions on the subject of the celebration of marriages under the Act 12 and 13 Vict., cap. 68, in cases where only one of the parties is a British subject.

That according to that Circular no distinction was made between cases in which the man only, and those in which the woman only, is a British subject.

That by the Circular, however, to Her Majesty's Ministers abroad of the 18th March last, approved in our letter of the 28th February, and which still remains in force, the solemnization of marriages at Her Majesty's Missions, under the Act 4 Geo. IV, cap. 91, was prohibited in cases where the woman only is a British subject. (See copy inclosed.)

That it appeared to your Lordship that the practice in regard to the celebration of marriages at Her Majesty's Missions and Consulates abroad should be made as uniform as the existing state of legislation would admit.

That he (Lord Tenterden) was therefore directed by your Lordship to transmit to us a draft of an amended Circular to Her Majesty's Ministers abroad, intended to replace that of the 8th March last, and in which the regulations as to the celebration of marriages between British subjects and foreigners were assimilated to those laid down in the Circular to Consuls of the 28th November last.

That he was to request that we would take the draft into consideration, and inform your Lordship whether we concurred in its terms.

That we would perceive from an opinion given by the Queen's Advocate in 1849 that Sir J. Dodson, though of opinion that a marriage contracted between two British subjects, according to British law, in the house of a British Minister or Ambassador abroad would be generally admitted as valid by the Tribunals of other civilized States, expressed himself unable to lay that down as a fixed and universal rule or principle.

That the Circular farther advised that parties presenting themselves to be married should, even when both are British subjects, be warned to ascertain and conform to the requirements of the laws of any country, not in the Queen's dominions, in which it might be of importance that the marriage should be recognized as valid. Your Lordship would be glad to know if that proceeding was, in our opinion, desirable.

That our opinions of the 17th and 28th February and 22nd October last, with a letter from the Registrar-General, were inclosed, &c.

In obedience to your Lordship's commands we have the honour to report—

That we concur in the terms of the draft Circular.

And that we are of opinion that it is most important, in cases where both the parties to the marriage are British subjects, and necessary in cases where only one of the parties to the marriage is a British subject, that both parties should be warned to ascertain and conform to the requirements of the law of the country in which the marriage is to be had.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 105.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 7.)

*Temple, February* 6, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 3rd instant, stating that he was directed to transmit to us the accompanying correspondence arising out of a question submitted by Her Majesty's Ambassador at Berlin, as to whether he should allow the births of children of naturalized British subjects residing in Germany, whether naturalized in Great Britain or in the Colonies, to be registered in the Registers of the British Embassy at that place.

That the Registrar-General, who was referred to in this matter, having expressed his opinion that such registrations should be made, Lord Odo Russell was, as we should perceive, instructed accordingly, and the Home Office having been consulted as to whether an instruction in a similar sense should be addressed to Her Majesty's Missions abroad generally, and having answered in the affirmative, a draft instruction was accordingly prepared.

That Lord Tenterden, however, whose attention had been called to this matter, had, in the memorandum therein inclosed, stated his reasons for considering inexpedient the instructions which had been sent to Lord Odo Russell on this matter, and that it would be advisable to suspend any further action in this matter until the Regulations for the registration of births and deaths in foreign countries, which the Naturalization Act empowers the Secretary of State to make, are drawn up, and which is deferred until the new Registration Act, to be introduced in the coming Session of Parliament, is passed.

Viscount Enfield also stated that he was to request that we would take this matter into consideration, together with Lord Tenterden's suggestion as to the instruction which, in the present state of the question, might be addressed to Lord Odo Russell, and that we would favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we agree with the suggestions of Lord Tenterden, and are of opinion that no instructions similar to those sent to Lord Odo Russell on the registration in the British Embassy of the births of the children of naturalized British subjects, whether naturalized in Great Britain or in the Colonies, should be now sent to Her Majesty's Missions abroad.

We are also of opinion that the instructions which Lord Tenterden suggests should, in the present state of the question, be addressed to Lord Odo Russell, should be sent to Lord Odo Russell.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 106.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 17.)

*Temple, March* 17, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 11th instant, stating that he was directeded by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Paris, forwarding one from Her Majesty's Consul at Brest, referring to a marriage between Count Kergonët, a French citizen, and Miss Macpherson Aberbain, a British subject.

That the parties, it appeared, having been already married by the civil authorities, according to French law, and subsequently, it would seem, at a French Roman Catholic Church, presented themselves before the British Consul at Brest, to be married again under the Act 12 & 13 Vict., cap, 68, but Mr. Rainals considered that the marriage could not be celebrated afresh at the Consulate, on the ground that by the previous marriage the wife had ceased to be a British subject, which opinion he based upon the Marriage Act above referred to, and secondly upon the Naturalization Act of 1870, which stated that "a married woman shall be deemed to be a subject of the State of which her husband is for the time being a subject."

That the Count de Kergonët accordingly expressed his intention of proceeding to Paris and being married at the British Embassy; and under these circumstances both Her Majesty's Ambassador at Paris and Her Majesty's Consul at Brest were desirous of receiving instructions as to the light in which this and similar cases should be viewed, the difficulty raised by Mr. Rainals, which Lord Lyons referred to as a "technical" one, not having hitherto stood in the way of the celebration of such marriages at the British Embassy at Paris or at British Consulates. That he was accordingly to request that we would take the case into consideration, and favour your Lordship with any observations which we might have to offer thereupon, as well as with our opinion as to the instructions with which Her Majesty's Ambassador and the British Consulates should be furnished.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the British Ambassador or Consul is not under any obligation to refuse the solemnization of a marriage between a British subject and a foreigner where the parties to that marriage have been previously married according to the *lex loci.*

The second marriage, whilst it may satisfy the wishes of both or either of the parties, can give no additional validity to and does not throw any doubt upon the validity of the first marriage.

And Lord Lyons says that the ordinary practice in Paris is to have the marriage performed in the Embassy after the civil and binding marriage according to the *lex loci.*

Your Lordship may, in our opinion, properly give instructions that similar marriages may be performed either at Embassies or Consulates.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 107.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 10.)

*Temple, July* 9, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relative to the desire of the Marquise de Seraville, a natural-born British subject, and now widow of a foreigner, to recover her British nationality; and your Lordship would be glad if we would take the case into consideration, and inform you whether we concurred in the interpretation placed in the Home Office letter of the 26th May on the 10th section of the Act 33 Vict., cap. 14 (copy inclosed), viz., that a woman being a natural-born British subject, retains her status as a British subject if, after having been married to an alien, she becomes a widow before the passing of the Act, but is to be deemed a "statutory alien" if she becomes a widow after the passing of the Act.

In obedience to your Lordship's commands we have the honour to report—

That we are unable to concur in the interpretation placed in the Home Office letter of the 26th May on the 10th section of 33 Vict., cap. 14.

In our opinion, every woman being a natural-born British subject, who had become an alien in consequence of her marriage, and had become a widow, but done no act to recover her British nationality at the time of the passing of the 33 Vict., cap. 14, must be deemed a statutory alien, and no distinction can be made from the circumstance of her husband dying before or since the passing of 33 Vict., cap. 14.

We have, &c.

(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 108.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 7.

*Temple, August* 7, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that, with reference to our Reports of the 14th October and the 13th November, and that of December last, respecting the rights of officers of Her Majesty's navy to search ships, both British and foreign, for naval deserters, copies of which Reports had been communicated to the Board of Admiralty, he (Mr. Hammond) was directed by your Lordship to transmit to us a letter from that Department dated the 11th June, inclosing a memorandum showing the result of an examination of the Records of the Admiralty and of the Admiralty Registry in regard to the question, accompanied by a letter from the Registrar of the Court of Admiralty, and an extract from the China and Japan Order in Council of the 9th March, 1865.

That the subject is one to which the Board of Admiralty attach much importance, and they are desirous that the papers which accompany their letter should be submitted to us, and that we should be invited to state our opinion whether any customary right of search, such as is mentioned in the memorandum, could be considered still to exist; and he (Mr. Hammond) was accordingly to request us to favour your Lordship with our Report upon that point, accompanied by any farther observations which we might have to offer.

In obedience to your Lordship's commands we have the honour to report—

That no customary right of search such as is mentioned in the memorandum can be considered now to exist.

In the Report which we had the honour to make to your Lordship on the 14th October, 1872, we stated our opinion on the extent and limits of the right of search which a naval officer might by law exercise; to that opinion we still adhere.

We have, &c.

(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 109.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 16.)

*Temple, August* 16, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us, together with the previous papers, the accompanying letter from the Home Office, inclosing a memorandum commenting on our Report of the 9th ultimo respecting the case of the Marquise de Seraville, a natural-born British subject who, having married an alien previously to the passing of the Naturalization Act of 1870 and became a widow, now seeks readmission to British nationality; and he (Mr. Hammond) was to request us to take the same into consideration, and favour your Lordship with our opinion thereupon.

And that he was to add that it appeared to your Lordship that, in considering this case, regard should be had to the 6th as well as to the 10th section of the Act.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully considered the memorandum from the Home Office, and are unable to agree with the conclusion there reached.

The 7 & 8 Vict., cap. 66, sec. 16, enacted that a foreign woman by marrying a British subject acquired the nationality of her husband. (See Mr. Manning's case, 19 L. J. N. S. M. C., 1.)

By the laws of most foreign countries a woman by marriage acquired not only the domicile, but the nationality of her husband, became, as we think, "voluntarily naturalized" in the State of which her husband was a subject, and in the words of of 33 Vict., cap. 14, sec. 6, ceased to be a British subject, and was to be regarded as an alien.

This change of condition might by the same section be effected by an act, in the case before us, by marriage, before or after the passing of the Act.

The Act had in this sense a retrospective effect.

The married woman became (see section 8) a statutory alien.

Sub-section 1 of section 10 must be construed in connection with section 6, and not as a separate and independent section.

We are therefore still of opinion that a woman, a British subject, who married an alien before the Naturalization Act, 1870, lost her British nationality and became an alien according to British law.

We have, &c.

(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 110.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 30.)

*Temple, August* 29, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us the Consular Act of 1825, and to call our attention to the 10th clause, empowering the Secretary of State to authorize Her Majesty's Consuls to issue grants to British Church establishments, and to request our opinion whether the clause conferred a legal obligation on Her Majesty's Government to continue indefinitely a grant which had once been authorized.

That your Lordship presumed that, as grants had from time to time been withdrawn from various Church establishments (all the grants were withdrawn from those in China in 1869), there can be no such legal obligation, but that your Lordship would be glad nevertheless to be favoured with our opinion on the question with reference to the inclosed instruction which is about to be addressed to Her Majesty's Consuls at certain places where, in your Lordship's judgment, the grants could no longer be justified.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion the 6 Geo. IV., cap. 87, sec. 10, does not throw upon

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Her Majesty's Government a legal obligation to continue indefinitely grants which have once been authorized.

We have, &c.
(Signed) J. D. COLERIDGE.
G JESSEL.
J. PARKER DEANE.

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## Greece

### No. 111.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 21.)

*Temple, February* 19, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us papers relating to a proposed grant by Her Majesty's Government towards the expenses of building a British church at Patras on a site given by the Hellenic Government, and to a difference of opinion between the chaplain and the members of the Protestant community as to allowing a clergyman, other than one belonging to the Church of England, to officiate in the church in question.

That he (Lord Enfield) was to request us to take the papers into consideration, and favour your Lordship with our opinion whether the proof of the intended appropriation of the building to Divine worship of the prescribed kind is at present such as to warrant a grant being made by Her Majesty's Government under section 11 of the Act 6 Geo. IV, cap. 87, and whether the acceptance of such a grant by the subscribers would render them less free than they would otherwise have been to do whatever they thought right with their church and its services so long as they observed the terms on which the Greek Government gave the land.

That the 11th section of the Act in question would be found at p. 51 of the accompanying volume of Consular Instructions.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that there is not sufficient proof that the building will be appropriated for the celebration of Divine service, in accordance with the provisions of 6 Geo. IV, cap 87, sec. 11, to warrant a grant being made by Her Majesty's Government under that section.

If, however, such a grant were made, we do not see how the future action of the subscribers, in respect to their church and the services in it, could be controlled.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 112.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 26.)

*Temple, February* 26, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us two despatches from Her Majesty's Minister at Athens relative to a claim which had been preferred by the agent at Zante of a line of steamers belonging to Messrs. Papayanni and Mussabini, of Liverpool, to exemption from certain port dues.

That he also inclosed the papers noted in the margin relative to similar claims to exemption which had been preferred by certain Steam-ship Companies at the port of Syra; and he was to request us to take the same into consideration, and favour your Lordship with our opinion as to the instruction which should be addressed to Her Majesty's Ambassador at Athens with regard to this matter.

In obedience to your Lordship's commands we have the honour to report—

That, since the several agreements were made with the Greek Government by private firms, and without any intervention of a communication with Her Majesty's Government, we are of opinion that Her Majesty's Ambassador at Athens may properly be instructed not to bring the matter in dispute officially to the notice of the Greek Government, and not to take any steps which may bring Her Majesty's Government into a diplomatic conflict with the Greek Government on the subject.

The farther despatch transmitted to us by your Lordship's directions does not alter our views, but no doubt nothing would be more desirable than that the Ministers of the different Powers concerned should act together, provided that the Queen's Government is kept free from the quarrels of a private Company with the Greek Government on a question of construction of a commercial contract.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Hayti.

### No. 113.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 24.)

*Temple, February* 24, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us two despatches from Her Majesty's Chargé d'Affaires in Hayti, together with the letters of Mr. Jenkins and the previous correspondence respecting the second Anglo-Haytian Commission on British claims.

That Mr. Jenkins, who represents a certain number of the British claimants, wished, as we would perceive from the correspondence, to press for conditions not insisted on by the majority of the claimants, and to question the decisions of the Commission.

That he (Mr. Hammond) was therefore to request us to take the papers into consideration, and favour your Lordship with our opinion as to the course which Her Majesty's Government should pursue in supporting wholly or partially either the views represented by Mr. Jenkins or the decisions of the Anglo-Haytian Commission.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government should support the decisions of the Anglo-Haytian Commission, and not, either wholly or partially, the views represented by Mr. Jenkins.

The grounds of exemption to certain British claims, which are stated in Mr. St. John's despatch of the 23rd January last (No. 33), are, in our opinion, sound, and the decision of the Commission should be considered final, and the more so since it has been accepted by the majority of claimants.

We are also of opinion that, as to the mode and time of paying the claims, the arrangement made by the Haytian Government is, if not the only yet the best practical arrangement which that Government may, in the circumstances, be able to carry out.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 114.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 7.)

*Temple, April* 7, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Port-au-Prince,* reporting the forcible seizure by the Dominican authorities of three Dominicans who had taken refuge in the British Vice-Consulate at Porto Plata; and he (Lord Tenterden) was to request us to favour your Lordship with our opinion as to the instructions that should be addressed to Mr. St. John upon the subject.

Lord Tenterden was pleased to inclose memoranda relative to grant of asylum to refugees in Her Majesty's Legations and Consulates.

In obedience to your Lordship's commands we have the honour to report—

That Governor Gonzales, in his letter (Inclosure 2 in Mr. St. John's despatch), admits the inviolability of the Vice-Consulate, and says that the seizure of the refugees was effected in the private house of the Vice-Consul.

This distinction between the Consulate and the private house in which the Consul may happen to be residing, possibly at a distance from his official residence, is in our opinion very material.

From Mr. Hamburgher's and Mr. St. John's letters we infer that the place of seizure was in fact the private residence, not connected with the Consulate, and if so we are of opinion that Her Majesty's Government cannot properly instruct Mr. St. John to insist on the surrender of the refugees, or on any reparation to the British flag, which last was not insulted.

Mr. St. John, however, says that he has intimated to the Dominican Government that the affair has been referred to your Lordship and to the naval authorities, and that the Consular Body are in favour of the right of asylum in the residence of a Consul.

In these circumstances your Lordship may, from considerations of policy, judge it advisable to instruct Mr. St. John to represent to the Dominican authorities the expediency on their part of a conciliatory course, and that they should surrender the three prisoners, and salute the flag when again hoisted.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 115.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 26.)

*Temple, May* 24, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that, with reference to our Report of the 7th ultimo, relative to the forcible seizure by the Dominican authorities of three Dominicans who had taken refuge in the British Vice-Consulate at Porto Plata, he (Mr. Hammond) was directed by your Lordship to transmit to us the accompanying correspondence, from which we would see that the refugees in question had been given up to the Captain of Her Majesty's ship "Niobe," and the British flag rehoisted over the Vice-Consulate by a Dominican officer, under a salute from the Dominican batteries.

That we would farther see, from Mr. John's despatch No. 46 of the 21st ultimo, that General Miezi had applied to him (Mr. St. John) to obtain for him a pecuniary indemnity for the brutalities from which he and his sons suffered after being taken out of the British Consulate; and he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to the answer that Mr. St. John should be instructed to return to General Miezi's application.

In obedience to your Lordship's commands we have the honour to report—

That Mr. St. John may be properly instructed to tell General Miezi, in answer to his application that Mr. St. John should apply to the Dominican Government for a pecuniary indemnity for the brutalities exercised upon him (General Miezi) and his sons after they were taken out of the British Consulate, that no such application can be made, neither General Miezi nor his sons being British subjects, and satisfaction for the insult to the British flag and Consulate having been obtained.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No 116.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 26.)

*Temple, May* 26, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us a letter, and its inclosures, from the Admiralty relative to the extent to which British naval officers should support British Consular authorities in affording asylum to political offenders.

That he (Viscount Enfield) was to inclose two memoranda and the draft of a note addressed to M. Cadorna bearing on the subject, and to request us to take these papers into consideration, and favour your Lordship with our opinion as to the nature of instructions which should be given to naval officers on the subject.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That unless in cases where there may be a recognized practice or a Treaty under either of which British Consular authorities are entitled to afford asylum to political offenders, naval officers should be instructed not to interfere in support of the British Consular authorities.

It is, however, in our opinion, very difficult, if not impossible, to lay down general instructions for the guidance of naval officers in such cases, because they may properly be instructed to protect the British flag and Consulate, and cannot be expected, when suddenly called upon to afford that protection, to distinguish when, where, and how far they may not.

It seems to us that in this state of things the only instruction which can be given to naval officers is that they shall afford protection to the British Consulate, leaving the responsibility of acting not with the naval officer, unless he is clearly wrong, but with the Consular officer who asks for support.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 117.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 10.)

*Temple, June* 9, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that, with reference to our Report of the 24th February upon the subject of the British claims on Hayti which have twice been submitted to a joint Anglo-Haytian Commission, he was directed by your Lordship to transmit to us a further letter from Mr. Jenkins and correspondence relative to certain of those claims which were placed by the second Commission in Class III marked "reserved." He (Mr. Hammond) was to request us to take the correspondence into consideration, and favour your Lordship with our opinion as to the course which should be pursued with regard to the claims to which they related.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship may properly decline to comply with the request of Mr. Jenkins.

It appears that, although the cases in Class III and "reserved" were not actually the subject of a decision by the Commission, yet that the fact that in all the cases in that reserved class the property was in the hands of Haytian subjects was considered,

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* No. 39, March 8, 1873.

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and the principle that no compensation could be awarded for the destruction or pillage of goods or property so held was the ground of reservation.

It is to be regretted that no decision was actually given, but if the principle were well grounded, and the facts of any particular case brought that case within the principle, it would appear useless to move in support of a claim which would be rejected.

Mr. Jenkins does not deny that the property for the loss of which he claims compensation was in the hands of a Haytian subject.

In our opinion, no compensation for the loss of property so held can be claimed by Her Majesty's Government on behalf of a British subject, and the reference of such a case to the Commission would be useless.

We therefore advise your Lordship to take no farther steps in the matter beyond informing Mr. Jenkins of the reasons why Her Majesty's Government decline to accede to his application.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 118.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June* 30.)

*Temple, June* 30, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that, on receipt of our Report of the 9th instant, your Lordship caused a letter (draft inclosed) to be addressed to Mr. Jenkins informing him of the reasons why Her Majesty's Government were unable to accede to his request for a farther reference of the claims placed by the second Anglo-Haytian Commission in Class III, marked "reserved," and that he was now to transmit to us a farther letter from Mr. Jenkins asking for explanations on certain points connected with the decision of Her Majesty's Government respecting these claims; and he was to request us to favour your Lordship with our opinion as to the answer that should be returned to Mr. Jenkins.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Jenkins may, in our opinion, properly be answered that your Lordship, having on the 13th instant directed him to be informed of the grounds upon which your Lordship declined to accede to his request for a farther reference of the cases of Messrs. Gerdis and Co.'s claim on the Haytian Government, must leave Mr. Jenkins to report to Messrs. Gerdis the decision of your Lordship in the words which he may think best express the result.

And that the decision in the case of the claim of Messrs. Gerdis applies to the cases of Messrs. Brown and Co. and Messrs. Jackson.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 119.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July* 3.)

*Temple, July* 3, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that, with reference to our Report of the 29th November last, respecting the claim of Her Majesty's Government upon that of San Domingo for repayment of the expenses connected with the detention at Tortola of the steamer "Telegrafo," he was directed by your Lordship to transmit to us the accompanying letter from the Dominican Minister at this Court, in which, after stating the grounds upon which his Government disputed their liability for the sum claimed by Her Majesty's Government (viz., 13,913*l.* 8*s.* 2½*d.*), he proceeded to say that the Dominican Government adhered to their voluntary offer to repay to Her Majesty's Government the sum of 1,864*l.* 3*s.* 2½*d.*, but that they could go no farther, and he concluded by proposing, on behalf of his Government, that the question should be submitted to the arbitration of a friendly Power to be chosen by Her Majesty's Government.

That the sum of 1,864*l.* 3*s.* 2½*d.* was the amount of the expense incurred in the trial of the "Telegrafo," and the appeal to the Privy Council; the much larger sum claimed by Her Majesty's Government being made up by the expenses connected with the action for damages brought against the colonial authorities for improper detention of the "Telegrafo," which action was compromised for 11,500*l.*

That in speaking of the offer to pay this sum Colonel Mendes probably alluded to the promises made to Mr. St. John, reported in his despatches No. 7 of the 24th October, 1871, No. 16 of the 19th June, 1872, and No. 23 of the 23rd August, 1872 (see accompanying volume).

That the previous correspondence relating to the claim was inclosed; and that he (Mr. Hammond) was to request us to take the matter into consideration, and favour your Lordship with our opinion as to the answer that should be returned to Colonel Mendes.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason to change the opinion which, on the 29th November last, we had the honour of submitting to your Lordship, that the Dominican Government is answerable for the acts of M. Victoria.

Colonel Mendes may therefore, we consider, properly be answered that Her Majesty's Government, notwithstanding his letter, deems the Dominican Government responsible for the whole claim already made.

Your Lordship will best judge whether the difference between the two Governments should be referred to the arbitration of a friendly Power, as suggested by Colonel Mendes.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Italy.

### No. 120.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February* 1.)

*Temple, February* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Rome, inclosing copy of a letter from Dr. Grant, the Rector of the Scot's College at Rome, relative to the apprehensions entertained as to an expropriation of the Roman College by virtue of the provisions of a Bill now before the Italian Legislature.

That in Dr. Grant's letter, as we would perceive, he had raised the following question:—"Under actual circumstances, would not the laws which regulate the comity of nations afford a solid ground for the British and other Ministers in Rome to ask for the inviolability of our right of education at the Roman College?"

That various questions regarding the possible expropriation of educational and conventual establishments in Rome had from time to time been referred to us from the Foreign Office, but as the particular question now put by Dr. Grant has been raised for the first time in connection with the present position and privileges of those institutions, your Lordship would be glad to be favoured with our opinion upon it.

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In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there is no ground upon which Her Majesty's Government could officially ask the Italian Government to secure the inviolability of the right of education at the Scot's College in Rome.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 121.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 12.)

*Temple, February* 12, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us a despatch (and inclosure) from Her Majesty's Consul at Genoa in regard to the liability to military service of certain persons who, although British subjects according to British law, were considered by Italian law to be Italian subjects; and he (Lord Enfield) was to request us to take the matter into consideration, and favour your Lordship with our opinion thereon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the son born in Genoa of Mr. Schiaffino, who was himself born at Gibraltar and the son of an Italian subject, no step towards denationalization having been taken in either case, is not exempt from the Italian law applicable to persons resident in Italy and Italian by the law of Italy.

In the case of Mr. Fernando, the father's nationality by origin is not stated, but it is said that he was born at Gibraltar and that he has resided in Italy for forty-six years. That Mr. Fernando was born in Genoa, and has taken no formal act of election of British nationality as required by Italian law.

In these circumstances Mr. Fernando is not, in our opinion, exempt from the application of Italian law in Italy.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 122.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 11.)

*Temple, March* 10, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at Genoa asking for instructions relative to an application which had been made to him to solemnize the marriage of a British subject to an Italian woman, in consequence of the refusal of the municipal authorities to allow the marriage by the *lex loci* on account of the Englishman not having his father's consent to the marriage, and being still of an age which, by Italian law, rendered that consent indispensable.

And that he was to request us to take the despatch into consideration, and favour your Lordship with our opinion as to what answer should be returned to Mr. Brown.

In obedience to your Lordship's commands we have the honour to report—

That, as the marriage would not be legal in Italy, the country of which the woman is a subject, and in which the marriage would be had, if at all, we are of opinion that Mr. Brown should be instructed not to solemnize the marriage.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 123.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 21.)

My Lord, *Temple, March* 20, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 17th instant, stating that we had at various times had before us questions connected with the position of certain religious and educational establishments in Rome, in which parties in this country were interested, in regard to the effect upon those establishments of the Bill which has for some time been under the consideration of the Italian Legislature for the expropriation of certain Roman Catholic religious institutions; and we were aware that Her Majesty's Minister at Rome had repeatedly urged the interests of the British establishments upon the Italian Minister for Foreign Affairs, from whom he (the British Minister) had received assurances which there appeared reason to believe were satisfactory.

That in consequence of more recent representations made to your Lordship respecting the danger which was supposed to threaten certain of the establishments in question, and specifically those of the Colleges of St. Clemente, Ste. Isidore, Sta. Maria in Porterula, and the English, Scotch, and Irish Colleges in Rome, Sir A. Paget had been instructed to furnish an explicit Report in regard to the exact position and prospects of the establishments above referred to with reference to the application to them of the Bill in question, and to take all proper steps that might appear necessary in the interests of the various establishments.

That the correspondence on the subject was annexed, and in Sir A. Paget's despatch No. 31 of the 5th ultimo, and its inclosures, were contained the latest assurances and explanations of the Italian Government in regard to the question.

That the purport of those explanations was communicated in the letter of the 22nd ultimo to Lord Granard and the other parties who had recently urged the case of the Colleges upon your Lordship's attention, and Sir A. Paget's despatch No. 31 of the 5th February, upon which that letter was founded, was communicated by your Lordship to the Duke of Norfolk as President of the deputation of the Catholic Union of Great Britain; and their observations upon it were contained in the memorandum laid by the deputation before your Lordship on the subject (inclosed).

And that we would take that paper into our consideration, and favour your Lordship with any observations which we might have to offer upon the memorandum submitted to your Lordship by the deputation.

Lord Enfield annexed a translation of the Bill now under consideration, and stated that it would be found in Sir A. Paget's despatch No. 303 of the 3rd December last.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the explanations of the Bill, and the assurance with respect to its operation, at least in its present shape, given by Sir A. Paget in his despatch to your Lordship of the 5th February, 1873, and the inclosures in reference to the English, Scotch, and Irish Colleges and St. Clemente, Ste. Isidore, and Sta. Maria in Porterula, are so full that your Lordship cannot properly instruct Sir A. Paget to bring the objections in the memorandum from the Catholic Union of Great Britain, received by you on the 1st March, 1873, to the notice of the Italian Government.

Especially as we are of opinion: first, that the subject matter of the Bill, namely, the law on educational and religious establishments in Italy, is a Constitutional question for the Italian Legislature, and with which foreign countries have in strictness no right to interfere in favour of their own subjects, whose status and real property in Italy are under the same law as the status and real property of Italian subjects, and Article 23 provides a means by which other than real property and the proceeds of real property must be dealt with by the two Governments. Secondly, because, in our opinion, the construction put upon the Bill in the inclosures and despatch of Sir A. Paget of the 5th February is the right construction, and that put upon the Bill and memorandum is wrong. At the same time, we see no objection to Sir A. Paget being instructed to watch the progress of the Bill and report to your Lordship, or himself, in case of urgency, address Chevalier Visconti Venosta, if there is reason to believe the assurances given in reference to the establishments in question, whether educational or religious, may not be strictly kept.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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## No. 124.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 16.)

*Temple, April* 16, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a correspondence, as marked in the margin, on the subject of a representation made to the Foreign Office by the Italian Minister at this Court, referring to the circumstances under which an Italian vessel, the "Helene," having on board two criminals who were being taken to Girgenti, was forced by stress of weather to put into Malta, where, by orders of the local authorities, the prisoners were released, in accordance, as it was stated, with the laws in force in the island.

That the Italian Government having represented the serious consequences which might result from such an occurrence becoming a precedent, and having urged that some understanding should be come to whereby the release of convicts, under the circumstances in question, might be guarded against, the matter had been referred to the Governor of Malta, who had now sent home a Report on the case by the Crown Advocate of the island, inclosing a draft Ordinance drawn up by that officer with the object of meeting the objections raised by the Italian Government in the case of criminals arriving at Malta under arrest, such arrest having been made under a warrant issued by a competent authority in the place where the offence was committed, or otherwise that there was sufficient evidence to support the arrest, if the offence had been committed in the island.

And that he was to request that we would take the papers into consideration, and favour your Lordship with our opinion, first, as to whether the persons on board the "Helene" were, under the circumstances stated, properly released; and, secondly, whether the draft Order in Council prepared by the Crown Advocate at Malta is such as might be passed by the Colonial Legislature.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the release of the two men on board the Italian merchant-ship "Helene" in Malta Harbour was proper.

This state of the law, however, may give rise to so much inconvenience and mischief that, in our opinion, it ought not, at least in Malta, be suffered to continue; and, with that view, we consider that the draft Order in Council prepared by the Crown Advocate in Malta may properly be passed by the Colonial Legislature there.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 125.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 23.)

*Temple, April* 22, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us a despatch, and its inclosure, from Her Majesty's Consul at Naples, relative to the proposed marriage there, under the Consular Marriage Act, of Mr. Sutcliffe, a British subject, to a native of Switzerland. That we would perceive that the Swiss Consul-General did not feel justified in giving his consent to the marriage without an authoritative statement on the bearing of the English law on the case, but that he would be satisfied by a statement from Mr. Calvert that Mr. Sutcliffe's declaration was in accordance with the law of this country.

And that he (Mr. Hammond) was to request us to take these papers into consideration, and favour your Lordship with our opinion as to whether Mr. Calvert would be justified in giving such a statement, and, if not, what course should be pursued in the matter.

In obedience to your Lordship's commands we have taken these papers into our consideration and have the honour to report—

That Mr. Calvert will be justified in stating that the proposed marriage will be in English a valid marriage, and that the woman will follow during his life the nationality of her husband.

But on the death of the husband the wife surviving may by the law of England recover, if she pleases, her original nationality, and that notwithstanding any undertaking of her husband.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 126.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 26.)

*Temple, April* 25, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that, with reference to our Report of the 20th ultimo on the subject of the Bill for the suppression of religious Corporations in Rome, now under consideration by the Italian Legislature, the substance of which Report has been communicated to Her Majesty's Minister at Rome, he (Mr. Hammond) was directed by your Lordship to transmit to us the accompanying despatch from Sir A. Paget, inclosing a copy and translation of the article affecting foreign Corporations, as published in the "Opinione" newspaper, proposed by the Commission whose Report had not however yet been made public; and he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to whether the solution proposed sufficiently provides for the interests of British ecclesiastical establishments, supposing the recommendations of the Commission in that respect to be adopted by the Italian Government.

And that the instruction to Sir A. Paget, to which his present despatch is in answer, and his despatches inclosing a translation of the proposed Bill and copies of his late communications with the Italian Government on the subject, were annexed.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the recommendations of the Commission, supposing the Report of that Commission to agree with the article published in the "Opinione" newspaper, provides for the interests of British ecclesiastical establishments so far sufficiently that Her Majesty's Government ought not to instruct Sir A. Paget to bring the subject before the Italian Government with the view of protesting against or preventing the adoption of the Report.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 127.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 2.)

*Temple, May* 2, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to us a correspondence respecting a complaint made by Mr. Arthur Vansittart to Her Majesty's Minister at Rome in regard to an assault committed upon him on leaving the Church of the "Gésu" at Rome on the 30th ultimo in the company of some friends, which, as we would see, had formed the subject of a representation by Sir A. Paget to the Italian Minister for Foreign Affairs, who had assured Sir A. Paget that the circumstances on which Mr. Vansittart's complaint was founded were the subject of proceedings before the judicial authorities.

And that he (Mr. Hammond) was to request us to take the case into consideration, and favour your Lordship, at our earliest convenience, with any observations which we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That it appears from Chevalier Visconti Venosta's note of the 19th instant to Sir A. Paget that Mr. Vansittart's case is the subject of judicial proceedings before the Italian authorities.

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There is, we presume, no reason to assume at present that those proceedings will not be fairly conducted, and a right conclusion reached.

We are therefore of opinion that no farther steps can at present be taken by Her Majesty's Government or by Sir A. Paget in the matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 128.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 29.)

*Temple, May* 28, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that the two memorials inclosed, Miss D. Nicholson, Mr. A. Nicholson, and Miss G. Nicholson stated that by the will of Jonathan Hatfield they were entitled to certain Italian stock, and that the Italian Government refused to pay more than eighteen months' arrears which are due to them, and they requested the intervention of Her Majesty's Government in order to obtain satisfaction for their claims.

And that he (Mr. Hammond) was directed by your Lordship to request us to inform your Lordship whether Her Majesty's Government could properly be called upon to interfere in such a matter, and, if so, what instructions should be sent to Her Majesty's Minister at Rome.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government may not improperly instruct Her Majesty's Minister at Rome to bring the facts stated in both memorials to the favourable consideration of the Italian Government, and to represent to that Government that some arrears beyond the interest due on the last three half-years should be paid to the memorialists, who seem to have pressed their claim with due diligence, and ought not, now that the Italian Government admits their right to the principal sum, be prevented by a Statute of Limitations from receiving the interest, hitherto withheld by the Italian Government and not forfeited by the *laches* of the memorialists.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 129.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 10.)

*Temple, July* 9, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us a correspondence which had taken place between the Foreign Office, Her Majesty's Mission at Rome, the British Consulate at Naples, and Mr. Mercer, in regard to a complaint made by the latter against two carabinieri, by whom he had been arrested in the neighbourhood of Castellamare, in consequence of a dispute with some boatmen, and subjected to the application of thumb-screws and detention in the common gaol.

That Mr. Mercer, as we would perceive, had in the first instance instituted legal proceedings against the carabinieri, which, however, for the reasons stated in his letter of the 18th December last, he had abandoned, in consequence of which Her Majesty's Minister at Rome had taken up the case officially, as stated in his despatches.

That from the letter just received from Mr. Mercer, dated the 30th ultimo, it would appear that he had received an intimation that some sort of trial had, unknown to him or to Sir A. Paget, taken place, the result of which had been that the carabinieri had been acquitted, whilst Mr. Mercer had been cited to appear before the Tribunals, and had actually attended in the character of the accused party, the trial being adjourned till the 15th instant. Under these circumstances, Mr. Mercer was anxious to know, before that date if possible, what course he should take in the matter, and what was his real position; and he (Mr. Hammond) was to request us to take the case into our immediate consideration, and favour your Lordship with our opinion, at our earliest convenience, as to the answer which should be returned to Mr. Mercer, and the instructions, if any, with which Sir A. Paget should be furnished in this matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Mercer may properly be told, in answer to his letter, that he should attend, with his witnesses, the trial on the 15th instant, but that Her Majesty's Government cannot undertake to pay the legal expenses which he may incur in the trial, or give him any advice whether he should obtain legal assistance.

We think the case is one in which Her Majesty's Consul should be present, and that Sir A. Paget should be instructed to direct Mr. Calvert to attend and see that the inquiry is fairly conducted.

Mr. Mercer may be told that your Lordship has issued that instruction.

Mr. Mercer appears to have been treated with great severity, far exceeding, so far as we can discover, any offence which he can have committed, or had the opportunity of committing, and Sir A. Paget may be instructed to state (not officially at present) that Her Majesty's Government looks upon the case as one of importance, and hopes that all the facts will be fairly brought out, so that the punishment may reach the real offenders.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 130.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 5.)

*Temple, August* 4, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us a correspondence which had taken place between the Foreign Office, Her Majesty's Minister at Rome, and Mr. Mercer since the receipt of our Report of the 9th ultimo, with reference to the complaint preferred by him against certain carabinieri by whom he had been arrested in consequence of a dispute between some boatmen.

That from Sir A. Paget's despatch No. 266, and also from Mr. Mercer's letter of the 21st ultimo, we would see that the legal proceedings in this case had resulted in the acquittal of Mr. Mercer of the acts alleged against him in justification of the proceedings of the carabinieri, and that Mr. Mercer now puts the question whether he is entitled, or not, to the payment by the Italian Government of his expenses in the matter, and to the payment of a money indemnity for the treatment to which he has been subjected, to be claimed on his behalf by Her Majesty's Government.

And that he (Mr. Hammond) was to request us to take into consideration all the circumstances connected with the case, with which object the previous papers were inclosed, and favour your Lordship with our opinion as to the course which should be pursued by Her Majesty's Government in regard to the points now put forward by Mr. Mercer.

In obedience to your Lordship's commands we have the honour to report that—

1. The result of the trial being the full acquittal of Mr. Mercer, we are of opinion that he is entitled to the payment by the Italian Government of his expenses in the matter, and that Her Majesty's Government may support his claim.

2. It appears from Inclosure 4 in Sir A. Paget's despatch No. 266 that no prosecution of the carabinieri could by Italian law have been successful. That apparently Mr. Mercer could have taken civil proceedings against the carabinieri, and that he did not do so, and consequently the Italian Government, in answer to any claim for indemnity to Mr. Mercer, may urge that he has not exhausted the remedies open to him by the Italian law.

The reply to such answer, if made, may probably be that a civil action for compensation from the carabinieri for the treatment received by Mr. Mercer at their hands would be an idle ceremony.

And, in our opinion, Her Majesty's Government may properly represent to the

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Italian Government that the treatment of Mr. Mercer by officials of the Italian Government is looked upon as a grave matter affecting the person and liberty of a British subject found by an Italian Court of Justice to have been entirely innocent of all offence, and that Her Majesty's Government requires an indemnity to be paid to Mr. Mercer as an acknowledgment of the wrongs done to him, and some compensation for the unmerited sufferings which he has undergone.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 131.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 5.)

*Temple, August* 4, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that, with reference to our Report of the 2nd May last respecting a complaint made by Mr. Vansittart in regard to an assault committed upon him on leaving the church of "Gésu" at Rome in the month of March last, he was directed by your Lordship to transmit to us the correspondence which has since passed on the subject, and in requesting our attention to the specific complaint made by Mr. Vansittart that on the occasion of his trial the Court pronounced a decision adverse to him on certain points without hearing any of his witnesses, and also to the explanation received by Sir A. Paget from the Italian Government in reply to his representation on the subject; and he (Mr. Hammond) was to request us to favour your Lordship with any observations we might have to offer upon the subject, and with our opinion whether it was desirable that any farther representation should be made to the Italian Government thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, it is not desirable that any farther representation should be made to the Italian Government on the case of Mr. Vansittart.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 132.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received August* 15.)

*Temple, August* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a letter which had been received from Messrs. Payne and Nelson requesting the intervention of Her Majesty's Government for the protection of the interests of Mrs. Stevens, which are involved in a suit pending before the Italian Courts in regard to the succession to the estate of her deceased father, M. Giuseppe Scolaro.

That Mrs. Stevens was stated to be the widow of a British subject, and to have been the issue of a marriage contracted by M. Scolaro in England, though it did not absolutely appear whether she was born in this country or not, and the course suggested would seem to be that Her Majesty's Minister at Rome should make application to have the proceeds of the estate to which Mrs. Stevens lays claim deposited with the Legation until the final decision of the Court of Appeal, so as to prevent the adverse parties to the suit having the use of the property in the meanwhile.

And that he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion whether the case is one in which Her Majesty's Government can properly interfere.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that this case is not one in which Her Majesty's Government can properly interfere.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 133.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 15.)

*Temple, September* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th September instant, stating that he was directed by your Lordship to transmit to us herewitth a despatch (No. 279) which had been received from Her Majesty's Minister in Italy, forwarding a Report drawn up by Mr. Herries, Secretary to the Legation, on the origin, character, and possessions of the English, Scots, and Irish Colleges at Rome.

That the position of those establishments and of others claiming a British character under the law now passed by the Italian Legislature with regard to the disposal of ecclesiastical property in Rome, had, as we were aware, and under our advice, formed the subject of frequent representations to the Italian Government by the British Minister; that Mr. Herries, in his Report, raised two questions:—

1. As to the expediency of any action with a view to the restoration of the property now held by the English College to the uses for which it was originally intended, and from which it was diverted by a Papal Bull 300 years ago.

2. As to how far the circumstances of the foundation and endowment of the English, Scots, and Irish Colleges can be considered as vitiating the right of any or all of them to lay claim to the character of British institutions and to the protection or good offices of Her Majesty's Government.

That on both these points Her Majesty's Minister asked for instructions in the despatch which accompanied the Report, and your Lordship would be obliged if we would favour you with our opinion as to the answer to be returned to Sir A. Paget on the subject, and with any further observations on the question which might occur to us.

Mr. Hammond also stated that he forwarded to us, for purposes of reference, the original application addressed to Lord Palmerston, in 1848, on behalf of those establishments by Dr. Wiseman, together with the Law Officers' opinion thereon, and the instructions which were founded upon it, and a similar application from Archbishop Manning in 1866, and an instruction founded thereon; and also the whole of the correspondence which had taken place on the matter since the occupation of Rome in 1870.*

That it was obvious that any decision which might be arrived at in regard to the British character of the three Colleges might also affect the three other institutions claiming British protection, viz., Ste. Isidore, St. Clement, and Sta. Maria in Porterula; that some details respecting the foundation of those institutions would be found in the memorial from the Catholic Union of Ireland inclosed in Lord Granard's letter of the 27th January last, and in the inclosures to Sir Augustus Paget's despatch No. 12 of the 14th of that month, both of which would be found among the accompanying papers; and that a copy of the new Italian Law as passed would be found inclosed in Sir A. Paget's despatch No. 238 of the 25th June last.

In a postscript Mr. Hammond added that the circumstances of the foundation of the English College and its claim to foreign nationality would be found argued at considerable length in the sentence of the Court of Appeal at Rome inclosed in Sir A. Paget's despatch No. 60 of the 4th March, 1872, and the latter question was resolved in the negative; that the statement made in the despatch to the contrary is apparently an error.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, it would be useless, and therefore inexpedient, after the laqse of so many years, for Her Majesty's Government to take any direct action for the

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* December 4 and December 30, 1848; to Sir G. Hamilton, No. 1, January 1, 1849; Archbishop Manning, November 14; to Mr. Elliot, No. 53, November 19, 1866; List; Printed Papers, Affairs of Rome.

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restoration of any part of the property now held by the English College to the uses for which that property was, according to Mr. Herries (and we see no reason to doubt the accuracy of the facts stated by him) originally intended.

Sir A. Paget might, however, be not improperly instructed to call the attention of the Italian Government to those facts, and to suggest to that Government that some provision might equitably be made for the original charitable purposes out of some part of the property.

2. The circumstances stated by Mr. Herries do, in our opinion, vitiate the right of the several Colleges to a claim, under the character of British institutions, to the protection or good offices of Her Majesty's Government, and Sir A. Paget may consequently be properly instructed to urge the matter no further in that direction with the Italian Government.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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### No. 134.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 20.)

My Lord,
*Temple, November* 18, 1873.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 14th November, stating—

That towards the end of last year an Italian vessel, the "Helene," having on board two criminals who were being taken to Girgenti, was forced by stress of weather to put into Malta, where, by orders of the local authorities, the prisoners were released in accordance with the laws in force in the island.

That the Italian Minister at this Court represented to your Lordship the serious consequences which might result from such an occurrence becoming a precedent, and urged that some understanding should be come to to prevent the release of convicts under similar circumstances in the future.

That, to meet the objections raised by the Italian Government, a draft Ordinance was prepared by direction of the Governor of Malta, and was concurred in by the Law Officers of the Crown in their Report of the 16th April last; that in that draft Ordinance the Italian Minister wished certain amendments to be inserted, but in the meantime it had been passed by the Colonial Legislature. The Earl of Kimberley therefore instructed the Governor of Malta to submit the observations made by the Italian Minister to the Crown Advocate of the island; and Lord Tenterden further stated that he was directed by your Lordship to transmit to us the letter from the Colonial Office, inclosing a copy of his Excellency's reply, forwarding the Report of the Crown Advocate, together with copies of the Ordinance as it now stands, and the draft of a proposed amending Ordinance.

That the correspondence which had passed on this subject since the date of the Law Officers' Report of the 16th April and the previous papers were transmitted therewith, and he was to request that we would take them into our consideration, together with the Report of the Crown Advocate, and favour your Lordship with any remarks we might have to offer on the recommendations of that Report, and the general question on which it bears, especially with regard to extending the provisions of the Ordinance to political or military offences.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully considered the Report of the Crown Advocate, the Ordinance, and draft of a proposed amending Ordinance, together with the other papers transmitted to us.

With your Lordship's permission, we propose to deal first with the general question, which underlies the whole subject, whether, in a place situated geographically as Malta is, it is expedient that Her Majesty's Government should insist upon the right of interfering with persons who may be brought as prisoners by a foreign merchant-ship into Maltese waters—Italian prisoners, for instance, on their way as transports to Pantellaria; French prisoners from Algiers to Toulon; or, for such a case is possible, an American on board an American merchant-ship given up under an Extradition Treaty by France or Italy, or some other country, to the United States, and on his way to America.

If it be said that the ship having such prisoners on board need not have come to Malta, and being there must take the law as it exists, the difficulty, as in the case of the "Helene," which gave rise to the present controversy, exists, in a more complicated form, where the ship has come in not willingly but by stress of weather or other casualty.

But your Lordship, without our taking up more of your time by enlarging on this matter, will at once see how many untoward discussions may arise between Her Majesty's Government and foreign Governments if the right to visit foreign ships for the purpose of inquiring into the cases of prisoners on board those ships is exercised at Malta.

We submit to your Lordship's consideration that which we believe is the rule of the French law in similar cases might with advantage be adopted in Malta, namely, that except for the purposes of customs, and the health, peace, and good order of the port, the ship, though in Maltese waters, should be considered as a part of the territory under whose flag she sails, and should not in other respects be subject to Maltese law.

Passing from the general question to the Report of the Crown Advocate, we agree with the greater part of it, both in the reasons and the conclusions.

There is, in our view, a great difference between persons who have made their way to a foreign country and taken refuge there and those who are brought into the waters and within the territorial jurisdiction of that foreign country on board, and remaining on board, a ship on their way to trial or punishment after trial.

We consider that no analogy exists between the two cases which will admit of any sound argument from or true reference to the principles of extradition.

In our opinion the ship should be, as we have already remarked, taken as part of the territory of the country whose flag she carries, and no distinction should in principle be made in the classes of offences.

We are therefore obliged to differ from Lord Kimberley in respect to political and military offences, and, in our opinion, the Ordinance as it now stands is right in not excluding them.

Your Lordship will allow us further to observe that few things more inconvenient or mischievous in a social, public, or political sense could happen than the release at Malta of every political or military offender who might happen to be brought there as a prisoner.

The Report of the Crown Advocate is so very able that we have great diffidence in disagreeing with him, particularly as he must be acquainted with the state of things at Malta, an advantage which we have not. But, as at present advised, we consider the 2nd and 3rd paragraphs printed in *italics* on p. 4 of the draft Ordinance open to objections, and would advise their being struck out.

In all other respects, but subject to our observations on the general principle, we agree with the draft Ordinance.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## Japan.

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### No. 135.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 30.)

My Lord, *Temple, May* 30, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires in Japan forwarding correspondence relating to the Regulations issued by the Japanese Government in regard to the railway between Yokohama and Yedo; and that he (Mr. Hammond) was to request us to take the papers into consideration, and report to your Lordship our opinion as to the propriety of sanctioning the notification issued by Mr. Watson making the Regulations binding on British subjects.

He (Mr. Hammond) was pleased to inclose for our information two former despatches on the subject.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That the notification issued by Mr. Watson making the Regulations of the Japanese Government in regard to the railway between Yokohama and Yedo binding on British subjects may properly be sanctioned.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 136.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 17.)

My Lord, *Temple, July* 16, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Wilde, Barber, and Co., inquiring whether a judgment given at common law in England against a British subject residing at Yokohama could be enforced there; and he (Mr. Hammond) was to request us to report to your Lordship our opinion as to the answer that should be returned to the applicants.

In obedience to your Lordship's commands we have the honour to report—

That Messrs. Wilde, Barber, and Brown may, in our opinion, properly be answered that a judgment at common law given in England against a British subject residing at Yokohama can be enforced there only through the process of the Court in that place when and where the judgment can be given in evidence.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Japan.

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### No. 135*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 10.)

My Lord, *Temple, July* 10, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that with reference to our Report of the 29th November last relative to the case of the "Maria Luz," he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in Japan,* inclosing a translation of a communication which had been addressed to the Japanese Government by the Peruvian Envoy, claiming compensation on account of their proceedings in regard to the vessel, and criticizing the action of Her Majesty's Chargé d'Affaires; and he (Mr. Hammond) was to request us to take the document into consideration, and report to your Lordship our opinion as to the merits of the case.

In obedience to your Lordship's commands we have the honour to report—

That we can only repeat that which we had the honour to report to your Lordship on the 29th November last, that, in our opinion, the action of the Japanese Government in the matter of the "Maria Luz" was perfectly justifiable.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* Sir H. Parkes, No. 7, April 7, 1873.

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## No. 137.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 28.)

*Temple, August* 28, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch, with its inclosures, from Her Majesty's Minister in Japan, respecting a Marriage Law which had been recently published by the Japanese Government, and containing clauses with regard to marriages contracted between foreigners and Japanese subjects; and he was to request us to take the papers into consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, with the exception of the last point noticed by Mr. Hannen, and subject to a general exception to be stated hereafter, we do not concur in Mr. Hannen's objections to the Marriage Law proposed or enacted by the Japanese Government. Indeed, even the last point made by Mr. Hannen is very far from clear. For it was held by Sir C. Cresswell, in "Simonin *v.* Mallac," that a marriage was good and binding in this country between two French subjects because well celebrated according to English law, although the French Courts, including the highest Court of Appeal, had set it aside as null and void according to French law; a case, indeed, not precisely in point in the present instance, but a case founded on the assertion of a right in England very analogous to that which Mr. Hannen conceives to be untenable when claimed by Japan, a right to make a foreign subject with a foreign domicile amenable to our law of marriage with all its consequences. It is, therefore, at the least doubtful whether even upon this last point we have on English principles any right to object to the Japanese legislation.

On all the other points we do not think that the Japanese law, if confined (as it ought to be) to residents in Japan, is at all beyond the competency of a civilized country to enact, subject only to the exception we have above referred to. That exception is the asserted existence of certain Treaty rights on English subjects resident in Japan. These rights must depend upon the words of the Treaty, to which your Lordship has not referred us, but we may observe in general that the reservation of exclusive jurisdiction to English Tribunals over English subjects in Japan would not be necessarily inconsistent with the right of the Japanese to enact what laws they thought fit as to the marriages of their own subjects with foreigners, foreigners having notice of the laws and knowing what they are about when they contract such marriages.

The character of such marriages, if they come to be adjudicated upon in England by an English Court of Divorce, does not seem to us to have any bearing on the question of the right of the Japanese Government to enact this law.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 138.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received September* 15.)

*Temple, September* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us a letter from Her Majesty's Minister in Japan relative to certain negotiations which have recently taken place between the Japanese Government and some of the Treaty Powers in regard to the admission of foreigners to the interior of Japan.

That under the existing Treaty Regulations foreigners are admitted by right only to the districts under Consular jurisdiction, and the Japanese Government object to relaxing this rule unless foreign Powers agree that their subjects visiting the interior should be subject to Japanese jurisdiction.

That Her Majesty's Government were not prepared to make such a concession, as they did not consider that the administration of the law in Japan afforded sufficient securities for the safety of foreigners, but that Sir Harry Parkes was apprehensive that

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one or other of the minor Treaty Powers might be induced to give up extra-territorial privileges for the sake of obtaining the admission of their subjects to the interior, and that he inquires whether, if this should take place, and if Swiss, Italians, or any other foreigners were admitted into the interior subject to Japanese jurisdiction, he would be justified in insisting that British subjects should, under the most-favoured-nation clause in our Treaty, be also allowed to go into the interior, but without being bound by the condition as to Japanese jurisdiction.

That a copy of the Treaty between Great Britain and Japan was sent for our information; and that Mr. Hammond was to request that he would take the subject into our consideration, and report to your Lordship our opinion as to the instruction that should be sent to Sir Harry Parkes.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the most-favoured-nation clause in the Treaty with Japan will not have the operation suggested by Sir H. Parkes.

British subjects could, under that clause, go into the interior only on the same conditions with the subjects of other Powers, and if these latter go into the interior without the extra-territorial protection, the British subject could not avail himself of that protection.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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### No. 139.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received September 15.)*

My Lord, *Temple, September* 15, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us two despatches from Sir H. Parkes relative to the administration of the intestate estate of Mr. William Milne, a British merchant, who died in Japan in the year 1871. Your Lordship had called for a Report on the subject, in consequence of receiving the accompanying letter from Mr. Baber; and he (Mr. Hammond) was to request us to take the papers into consideration, and report to your Lordship our opinion as to the steps that should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Gower, as stated in Sir E. Hornby's letter to that gentleman of the 10th June, 1873, was the simple custodian of the estate. That, as such, he is not called upon nor ought he to mix himself up in any discussions or legal proceedings arising on the administration of Mr. Milne's estate.

And we are of opinion that Her Majesty's Government may properly direct that Mr. Gower act merely as the stake-holder, leaving the persons interested, whether creditors or next-of-kin, to ascertain and have their rights decided by legal decision, or among themselves. That Mr. Baber should be informed of this determination taken by Her Majesty's Government, and that he may have copies of any of the documents relating to the estate which may be in the possession of the Foreign Office.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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### No. 140.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December 9.)*

My Lord, *Temple, December* 8, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 26th November ultimo, stating that he was directed by your Lordship to transmit to us a despatch (No. 84) from Sir Harry Parkes, forwarding a draft of Regulations which, in concert with his colleagues, he had proposed for the concurrence of the Japanese Government in regard to foreigners travelling in Japan beyond the limits of the Treaty ports; and he was to request that we would report to your Lordship our opinion as to the power of Her Majesty's Legation to make and enforce these Regulations, especially those numbered 3, 5, and 10; and that we would at the same time favour your Lordship with any observations that might occur to us on them.

A copy of the Order in Council for China and Japan was inclosed therewith for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Legation has indirectly, if not directly, the power to make and enforce the proposed Regulations, since the power of granting and refusing passports, and the conditions upon which the passports shall be granted, rest with Her Majesty's Legation, and Regulations 3, 5, and 10 do not form any exception to this principle.

In Regulation 1, line 8 of the draft, we think some changes may be made by substituting for the words written there the following words, "granted to seamen or to any." We have no other observation to make upon these Regulations, which Sir H. Parkes and his colleagues have approved of.

We beg, however, to call attention to section 92 of Order in Council, and to suggest whether it may not be necessary to modify or repeal that section, having regard to the objects of the proposed Regulations.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 141.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December 9.)*

My Lord, *Temple, December* 8, 1873.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 27th November ultimo, stating that he was directed by your Lordship to transmit to us a despatch (No. 76) from Sir H. Parkes, raising a question as to the liability of certain officers and men of the British navy, who, by the permission of the Admiralty, were acting as Naval Instructors in the pay of the Japanese Government, to register themselves in the manner prescribed for British subjects resident in Japan by the 114th, 115th, and 116th clauses of the Order in Council for China and Japan; and that he (Lord Tenterden) was to request that we would report to your Lordship our opinion as to the instructions that should be sent to Sir H. Parkes on the subject.

Lord Tenterden was also pleased to say that a copy of the Order in Council was annexed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That assuming the officers and men in question to be resident in Japan, and not to be borne on the muster-roll of a British vessel there arriving, we are of opinion that they are to be registered in the manner prescribed by the Order in Council (clauses 114, 115, and 116), though they are acting as Naval Instructors in the pay of the Japanese Government. We would, however, point out that a special reduced scale of fees under section 115 may be made if thought expedient in this particular class of cases.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## Mexico.

### No. 142.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 1, 1874.)

My Lord, *Temple, December* 31, 1873.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 26th December instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Uhthoff and Co. (dated the 19th December), requesting to be informed whether they can, without infringing the laws of this country, supply a number of armed steam-vessels to the Mexican Government to be used for revenue purposes; and that he (Lord Tenterden) was to request that we would take that paper into our consideration, and favour your Lordship with our opinion as to what answer should be returned to Messrs. Uhthoff.

In obedience to your Lordship's commands we have taken the paper into our consideration and have the honour to report—

That unless there is any reason for believing that the vessels referred to in Messrs. Uhthoff's letter are intended to be employed in the military or naval service of some foreign State at war with some friendly State within the meaning of the 33rd and 34th Vict., cap. 90, sec. 8, there is nothing to prevent General Foster or any one else from arming such vessels and taking them to Mexico (which we assume to be at peace), as an ordinary commercial transaction. There is no reason why they should be placed under the English flag, nor do we think it desirable that they should be so.

We have, &c.

(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## Monte Video.

### No. 143.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 22.)

My Lord, *Temple, January* 21, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence with Major Munro in regard to a suit brought against him by the Government of Uruguay, in his capacity of Her Majesty's Consul at Monte Video, to obtain possession of a piece of ground forming a part of the English cemetery at that place, and belonging to Her Majesty's Government; and he (Lord Enfield) was to request us to take the matter into consideration, and favour your Lordship with our opinion as to the instructions which should be sent to Major Munro.

In obedience to your Lordship's commands we have the honour to report—

That we find considerable difficulty in advising your Lordship upon this case. We have no information as to the size, value, or need of the land in question, which may

### No. 142*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 20.)

My Lord, *Temple, November* 18, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th instant, stating that, on receipt of our Report of the 15th November of last year, relative to the attack on Orange Walk in British Honduras by Yraiche Indians, your Lordship addressed a note to the Mexican Minister for Foreign Affairs (draft of which was inclosed), calling upon the Mexican Government to compensate the sufferers, and to take adequate measures to prevent such inroads in future.

Lord Tenterden also stated that he was to transmit to us the answer of the Mexican Government, together with the subsequent correspondence that had passed upon the subject between the Foreign Office, the Colonial Office, and firms interested in British Honduras; and that he was to request that we would take these papers into consideration, and favour your Lordship with our opinion as to the steps that should now be taken in the matter.

Lord Tenterden further stated that he was to request that we should direct our special attention to the statements in Governor Cairns' despatches Nos. 89 and 128 (inclosed in the Colonial Office letters of the 26th July, 1873, and the 30th September, 1873), in which Mr. Blockley's letter of the 14th May (inclosed in the Colonial Office letter of the 4th July), and in the letter from Messrs. Young and Co. of June 1873, which tend to show that the offending Indians and their Leader were under the control of the Mexican authorities; and that he was to request that we would be good enough to state whether we were satisfied that those statements bring home the responsibility to the Mexican Government, or whether we considered that any further information was required.

That the papers previously transmitted to us were also sent.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully read the note of Señor Lafranquerie of the 14th February last, to your Lordship, and also the other documents transmitted to us.

We are of opinion that the statements made by Señor Lafranquerie are extremely vague and general as to the facts, and that the information communicated by Governor Cairns, Mr. Blockley, and Messrs. Young, shows that the Mexican Government if they have not connived at, certainly have taken no sufficient measure to prevent or stop, the planning and execution of the raids complained of or to arrest and punish the raiders when they got back to Mexican territory. And we, therefore, consider that no further information is required on that point.

But Lord Tenterden is pleased to request us to state to your Lordship our opinion as to the steps that should now be taken in the matter.

Your Lordship would, in our opinion, be fully justified in demanding and exacting by the employment of force a compensation from the Mexican Government. Yet we submit for your Lordship's consideration whether it may not be sufficient for the present to inform Señor Lafranquerie that Her Majesty's Government is in possession of evidence which proves the neglect of the Mexican authorities with respect to these raids, both before and after their perpetration, that out of consideration for the Mexican Government, the compensation which is rightly due will for the present not be insisted upon, but that in the event of any future raid Her Majesty's Government will be bound and will not hesitate to demand and exact the fullest compensation for losses incurred by British subjects, and the complete satisfaction for the outrages committed on British territory.

We have, &c.

(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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not be wanted at all for burial purposes, and if wanted may not be worth the expense which Major Munro says he must incur to protect and hold it.

We see, however, no objection to Major Munro's being instructed to lay the papers before and take the advice of a competent lawyer at Monte Video upon the right which he, as Consul and as Agent for the English in that country, may have in the circumstances to the land itself, or to a compensation for the land.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 144.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 8.)

My Lord, *Temple, February* 7, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying papers respecting infractions by the Government of Uruguay of a Postal Agreement with Her Majesty's Government, signed on the 28th November, 1853. (See "Hertslet," vol. 12, p. 955.)

That the Uruguayan Government, as we would perceive from the correspondence, maintained that the Agreement, although acted upon for many years, was not binding upon them, as it had never been sanctioned by the Legislature of the Republic, and that they were justified in summarily terminating its most important Articles by the discovery of various abuses.

That Her Majesty's Government, on the other hand, had held that the Uruguayan Government were bound, before altering or terminating the Agreement, to give the notice of one year as required by Article 6. But, as it now appears that Her Majesty's Government have no means, except by the use of force, for securing the continued adherence of the Uruguayan Government to the Agreement, and as it appears from the last Report from the Postmaster-General that the important provisions of Article 2 have now been set aside, there appears to be no longer any use in maintaining an Agreement which the Uruguayan Government refuse to respect; and he (Lord Enfield) was to request that we would favour your Lordship with our opinion as to whether Her Majesty's Government would not be justified in summarily terminating the said Agreement of the 28th November, 1853.

In obedience to your Lordship's commands we have the honour to report—

That the Government of Uruguay having, by a recent Decree, pronounced the Postal Convention of 1853 to have had and to have no binding effect, and having infringed the spirit of that Convention by recent acts, Her Majesty's Government will, in our opinion, be justified in summarily terminating that Agreement or Convention.

We would, however, submit, for your Lordship's consideration, whether that summary termination of the Agreement may not affect contracts which may have been made for the conveyance of mails, and also may not put British interests in Uruguay to a serious inconvenience.

On these points we have no information, and your Lordship will be able to judge whether they are entitled to any weight in laying down the course of action which Her Majesty's Government may take.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# Morocco.

## No. 145.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 3.)

My Lord, *Temple, April* 3, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us three despatches, with their inclosures, from Her Majesty's Minister at Tangier, relative to the difficulties which were alleged to be thrown in the way of British subjects obtaining justice when prosecuting their claims upon certain Moorish authorities before the local Tribunals in Morocco.

Lord Tenterden was pleased to inclose a Report furnished by the Advocate-General on the subject, together with the previous papers, and stated that he was to request us to take the same into consideration, in connection with the Treaties between Great Britain, France, and Morocco, referred to by Sir J. D. Hay, and favour your Lordship with our opinion whether the representations already made by Her Majesty's Minister to the Moorish Government in the matter should be approved, and also as to the instructions which should be addressed to him for his future guidance.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the representation made by Her Majesty's Minister to the Moorish Government inclosed in the despatch of the 14th February, 1873, may properly be approved of, and Her Majesty's Minister may be instructed to act as he has hitherto done, and in concert with his colleagues, in the matter to which that despatch of the 14th February, 1873, relates.

In regard to the despatch of the 20th February, 1873, the instructions to the native notaries is, in our opinion, directly at variance with the Article IX of the Treaty of the 9th October, 1856, and to the Article IV of the Convention of the same date, and the representations made by Her Majesty's Minister in his letter to Seyed Mohammed Barghash, Inclosure No. 4, may properly be approved.

But we are of opinion that Her Majesty's Minister cannot properly be instructed, as he suggests in his despatch of the 21st February, 1873, not to allow a British subject to appear before a Cadi, nor can he be instructed to resent it or in any way make use of Article XII of the French Treaty. Provision for the adjustment of all cases or causes of litigation is made by Article IX of the Treaty of 1856, and Her Majesty's Minister should be instructed to take that Article for his guidance.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 146.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 9.)

My Lord, *Temple, April* 7, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 31st March last, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister and Consul-General in Morocco in regard to a marriage celebrated there under the Consular Marriage Act between an English lady and a Moorish Shereef, and to request that we would take that despatch into our consideration, and favour your Lordship with our opinion as to the validity of that marriage by English law, and as to the propriety of Sir John Hay's proceedings in performing it.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the marriage is by English law valid, and Sir John Hay's proceedings in performing it quite in accordance with his duty.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 147.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 2.)

My Lord, *Temple, September* 2, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Tangier relative to a gate tax imposed by the Moorish Government on camels bringing produce from the interior of Morocco.

A copy of the Treaty of the 9th December, 1856, referred to in the above despatch, and of a previous despatch from Sir J. D. Hay, the concluding paragraphs of which relate to the matter, were inclosed; and he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the legality of the tax in question.

In obedience to your Lordship's commands we have the honour to report—

That the effect of the gate tax may be indirectly to impose a toll or charge in respect of goods or produce purchased by British subjects and conveyed from some place in Morocco to a port therein in the shape of an increased rate for carriage is obvious, and so far the gate tax is contrary to the spirit of Article III of the Convention of 1856.

We cannot, however, advise your Lordship that the gate tax is illegal, and we are of opinion that the course suggested by Sir J. D. Hay, and his notes to the Moorish Minister and British Vice-Consuls, may properly be adopted.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 148.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 10.)

My Lord, *Temple, October* 9, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us a despatch (No. 65, Consular, September 15, 1873), and its inclosures, from Her Majesty's Minister and Consul-General in Morocco, asking for instructions as to the quarter to which should be forwarded a notice of appeal from a decision of the British Vice-Consul at Mogador in a suit brought by an Italian firm against a British company; and that Mr. Hammond was to request that we would take Sir John D. Hay's despatch into our consideration, and favour your Lordship with our opinion as to what instructions should be sent.

That a copy of the Order in Council of the 27th August, 1857, was also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That the Order in Council provides for the trial in the Consular Court of civil cases between British subjects and between British and Moorish subjects, but does not provide for the trial of such cases between British and foreign other than Moorish subjects.

The silence of the Order, therefore, as to the course of appeals in these latter cases is consistent; and as the Consular Court has no jurisdiction, no appeal is provided for to correct the sentences of the Court.

We are therefore of opinion that Sir John D. Hay should be instructed to inform

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the British Vice-Consul at Mogador that he had no jurisdiction in the matter, and that he must cancel his Decree informing the parties to the suit of the error.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## Netherlands.

### No. 149.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March* 25.)

My Lord, *Temple, March* 24, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 18th instant, stating that in referring us to the previous Reports of the Law Officers of the Crown, marked in the margin, on the subject of Messrs. Swanzy's claims against the Netherlands Government, arising out of the plunder of their property at Dixcove, he was directed by your Lordship to transmit to us, with all the former papers, a farther despatch, and inclosures, from Her Majesty's Minister at the Hague, containing the reply of the Netherlands Government to the last representation he addressed to them on this case, founded on the affidavit of the Dutch Serjeant Kwater Kwassie.

That in our Report of the 1st July last we were good enough to advise your Lordship that that deposition alone, from its detailed recapitulation and straightforward recital of facts, caused us to modify the opinion we had otherwise formed that Her Majesty's Government would not be justified in lending an official support to those claims, and to recommend that the Netherlands Government should be called upon to give a satisfactory answer to the affidavit.

That he (Lord Enfield) was to request us to take the whole case, and the last reply of the Netherlands Government, into consideration, and favour your Lordship with our opinion whether or not Her Majesty's Government should continue to support Messrs. Swanzy's claims, and if so, upon what grounds.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the deposition of Serjeant Kwater Kwassie is fully answered by the evidence forwarded to your Lordship by Sir E. Harris, with the answer of the Netherlands Government.

And your Lordship cannot, in our opinion, continue to support the claim of Messrs. Swanzy.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 150.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May* 12.)

My Lord, *Temple, May* 12, 1873.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 7th instant, stating that, with reference to our Report of the 24th March last, on the subject of Messrs. Swanzy's claim on the Netherlands Government for property destroyed at Dixcove, he was directed by your Lordship to transmit to us the further correspondence which had taken place with Messrs. Swanzy in regard to the matter, from which we would perceive that that firm had been instructed, in accordance with the recommendations of our Report, that their claim could not be further supported by Her Majesty's Government, applied for and were supplied with copies of the declarations of the Netherlands officials, in contravention of the evidence produced on their side. Messrs. Swanzy had now written impugning the value of the Dutch evidence, and complained of the decision taken by Her Majesty's Government with regard to their claim, which they announced their determination to persist in.

And that he (Viscount Enfield) was to request us to take these papers into our consideration, and favour your Lordship with any observations which might occur to us on the last letter from Messrs. Swanzy, and with our opinion as to the course to be taken.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That we retain the opinion that Messrs. Swanzy's claim cannot be further supported by Her Majesty's Government, and we are of opinion that Messrs. Swanzy may properly be informed of that resolve on the part of Her Majesty's Government, and that they are left to take whatever course they may think right in their own interest.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 151.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July* 12.)

My Lord, *Temple, July* 11, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us the accompanying papers:—

1. A letter from the Colonial Office, in which is inclosed a translation of a letter from the Sultan of Acheen to the Governor of the Straits Settlements, in which he appeals, under an ancient Treaty between this country and Acheen, for a British Protectorate to save him from danger from the Dutch invasion.
2. A copy of the Treaty to which His Majesty refers, which was dated 22nd April, 1819.
3. A copy of the Treaty between Great Britain and the Netherlands of the 17th March, 1824, with annexed notes.
4. A copy of the Treaty between the Netherlands and Acheen, ratified by the former on the 9th May, 1857.
5. A copy of the Convention between Great Britain and the Netherlands of the 2nd November, 1871.

That, in addition to these papers, he was to transmit to us a draft of an answer which your Lordship proposed to return to the Colonial Office, suggesting the nature of a reply to be made to the Sultan's appeal; and he (Mr. Hammond) was to request our opinion as to whether the suggestions contained in the draft were reasonable, and specially as to whether it could be justly said that Great Britain is free from the obligations which she contracted towards Acheen by the Treaty of 1819.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the terms suggested in the draft are reasonable, and Great Britain can justly be said to be freed from the obligations which she contracted towards Acheen by the Treaty of 1819.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 152.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 23.)

My Lord, *Temple, July* 22, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 14th instant, stating that, in the month of April last, a collision took place in Bordeaux Harbour between the Netherlands vessel "Termonde" and the British steamer "Gogo," in which the former suffered certain injuries. The "Gogo," which is said to belong to Greenock, to be the property of Messrs. Scott and Co. of that town, and to have been chartered for the voyage during which the collision took place by Messrs. Moss and Co., of Liverpool, left Bordeaux shortly afterwards, and was condemned in default in costs and damages by the Tribunal at Bordeaux to which the captain of the "Termonde" appealed. As, however, she was then, and has been since, out of the jurisdiction of the Tribunal, the Netherlands Minister had made an application in which he requested that Her Majesty's Government would give their assistance to farther the ends of justice, and to secure reparation to the captain of the "Termonde."

And that your Lordship would be glad to learn our opinion as to the course that should be pursued under the circumstances.

In obedience to your Lordship's commands we have the honour to report—

That Count Bylandt may, in our opinion, properly be informed that, by the law of England, Her Majesty's Government cannot take any measures for enforcing the Judgment of the Court at Bordeaux or the payment of the losses incurred by the collision between the Netherlands vessel "Termonde" and the English steamer "Gogo," and that redress can be obtained only through the ordinary Tribunals.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 153.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 10.)

My Lord, *Temple, September* 10, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relative to certain alleged fraudulent proceedings in the case of the British vessel "Florence;" that he was also to transmit to us a copy of the Treaty between Great Britain and the Netherlands of the 6th March, 1856, to which Mr. Vice-Consul Cohen referred, together with a copy of the Merchant Shipping Act; and he was to request us to take the papers into consideration, and favour your Lordship with our opinion: first, as to the proceedings of Mr. Acting Vice-Consul Mackintosh and Mr. Vice-Consul Cohen; and, secondly, as to the conduct of the Dutch authorities of which Mr. Cohen complained; and whether a representation should be made to the Netherlands Government on the subject.

In obedience to your Lordship's commands we have the honour to report—

That the proceedings of Mr. Acting Vice-Consul Mackintosh and Mr. Vice-Consul Cohen were irregular and beyond the scope of their authority.

There is not before us sufficient evidence to show what was the conduct of the masters of the two British vessels, except the facts, so far as they are disclosed, offered in excuse for the over-zealous conduct of Mr. Mackintosh and Mr. Cohen.

No representation can, in our opinion, properly be made to the Netherlands Government on the subject.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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## No. 154.

[This opinion was cancelled, and the case on which it was given withdrawn, in consequence of the impossibility of an agreement about it.]

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 23.)

My Lord, *Temple, September* 23, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that on the breaking out of hostilities between the Netherlands and Acheen at the commencement of this year, the Governor of the Straits Settlements, at the request of Governor-General of Netherlands India, issued, with the concurrence of his Council, a Proclamation prohibiting the export of arms, munitions of war, &c., to certain parts of the Island of Sumatra.

That this Proclamation has given rise to the accompanying correspondence between the Foreign Office and the Colonial Office, which he was directed by your Lordship to transmit to us, with the view of enabling us the more clearly to understand the questions which had been submitted for your Lordship's consideration in the letter from the Colonial Office of the 11th instant, to which, and to the correspondence referred to in it, he was more particularly requested to call our attention, although your Lordship would, at the same time, be glad to have an opinion as to whether the view taken of Sir H. Ord's proceedings generally, as expressed in the letter to the Colonial Office of the 9th instant, is a just one.

That we would observe, from the Colonial Office letter of the 11th instant, that the point raised by the correspondence from the Governor of the Straits Settlements is whether *provisions* could be considered as included in naval and military stores, and as thus coming under the prohibitory order of the 31st March last, if exported by private individuals from the British Settlements for the use of the Dutch troops either to Deli or any other place within the limits prescribed by that order, and on that particular point also your Lordship would be glad to receive our opinion.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the view taken of Sir H. Ord's proceedings generally, as expressed in the letter to the Colonial Office of the 9th instant, is just.

The words of the prohibitory order are "arms, ammunition, gunpowder, military or naval stores." We are of opinion these words must imply all articles which are required for keeping in efficiency a military or naval force, and that "provisions" consequently come under the order.

But in submitting our opinion on these two points to your Lordship, we have to express our great doubts whether the practice of issuing similar prohibitory orders should not be placed under some restriction.

In the instance of the present war between the Sultan of Acheen and the Dutch, the Governor of the Straits Settlements has issued an order which we believe could not have been properly issued by the Queen or the Imperial Government.

Possibly the prohibition may be rather in the nature of a warning than a positive restriction, of which latter the infraction is attended with penalties, and in this case the practice at home and in the Straits Settlements would be consistent.

If, however, the prohibition be absolute, the practice of the Straits Settlements should, in our opinion, be altered and brought into conformity with the practice of Her Majesty's Government at home.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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## No. 155.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 27.)

My Lord, *Temple, September* 27, 1873.

We are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us therewith the accompanying correspondence which had taken place between the Foreign Office and the Netherlands Legation in London respecting the nationality of

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a person named John Uren, who, according to Count Bylandt's statement, was born in England in 1845, but had with his parents resided in Holland since 1849.

The question raised has reference to military service, and the Netherlands Government request to be informed whether at a certain date Uren still retained his British nationality.

That in reply to your Lordship's application for further information on the subject, the Netherlands Chargé d'Affaires stated in his note of the 12th instant—

1. That Uren's parents are of English origin.
2. That British subjects are exempt from service in the Dutch militia.

That there does not appear to be any indication of either the parents or son having been naturalized in Holland; and therefore the only point to be decided would seem to be whether or not, under the conditions specified in Count Bylandt's note, Uren can still claim to be considered a British subject.

And that he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion upon them.

In obedience to your Lordship's commands we have the honour to report—

That John Uren, born in England of British parents, is still a British subject, notwithstanding his residence in Holland.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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## No. 156.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received October* 1.)

*Temple, September* 30, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed by your Lordship to request that we would take the inclosed despatch from Mr. Vice-Consul Cohen, of Surinam, into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in remonstrating against the ruling of the local authorities in Surinam, who refused to admit the validity of marriages of British subjects solemnized by the British Vice-Consul in that Colony.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government would not be justified in remonstrating against the ruling of the local authorities in Surinam, who refuse to admit in that Colony the validity of marriages of British subjects solemnized by the British Vice-Consul, and not in accordance with the *lex loci*.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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## No. 157.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 18.)

*Temple, October* 17, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th October instant, stating that he was directed by your Lordship to transmit to us copy of a telegram received from Her Majesty's Consul at Batavia, stating that English steamers were being temporarily transferred under the Dutch flag, in order that they might be used as transports in the war with Acheen, and requesting instructions as to how he should act. Mr. Hammond further said he was to request that we would favour your Lordship with our opinion as to the nature of the instructions which should be given to the Consul, and which should be sent without delay by telegraph.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the chartering of a British steamer, or the temporary transfer of a British steamer to the Dutch Government for the purpose of being used as a transport in the Acheen expedition, is a breach of the Foreign Enlistment Act,

and the use of the Dutch flag will be no protection or defence against proceedings under that Statute.

The Consul may therefore properly be instructed to take proceedings under the Foreign Enlistment Act in the cases to which he refers.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 158.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 20.)

*Temple, October* 20, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th October instant, stating that, with reference to the Report of the Law Officers of the 10th ultimo, he was directed by your Lordship to transmit to us a further letter from the Board of Trade respecting the case of the "Florence" and "Kohinoor;" and in accordance with the suggestions therein contained, he was to request that we would favour your Lordship with a further opinion, as to the manner in and the extent to which the acting and permanent Vice-Consuls at Surinam exceeded their power.

Mr. Hammond was also pleased to say that the previous papers connected with the case were inclosed.

In obedience to your Lordship's commands we have to report—

That, in our opinion, the acting and permanent Vice-Consuls at Surinam exceeded their power in exercising, or attempting to exercise, a criminal jurisdiction over the masters of the "Florence" and "Kohinoor," and in applying for the assistance of one of Her Majesty's ships to support them.

In reference to the inquiry in the Board of Trade letter, we think that Consular officers, in the face of such circumstances as those at Surinam, should apply immediately for the direct action of the law of the place, and not, in the absence of any Convention to that effect, ask the assistance of the foreign Executive to enforce their orders or sentences.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 159.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 25.)

*Temple, October* 24, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st instant, stating that, with reference to our Report of the 17th instant, he was directed by your Lordship to request us to favour your Lordship with our opinion as to the particular provisions of the Foreign Enlistment Act, 1870, under which Her Majesty's Consul at Batavia should be instructed to take proceedings, the form of those proceedings, and the Court in which they should be taken.

In obedience to your Lordship's commands we have the honour to report—

That the provisions of the 8th section, sub-section 4, of the Foreign Enlistment Act, 1870, 33 & 34 Vict., cap. 90, are the provisions under which Her Majesty's Consul at Batavia should be instructed to take proceedings.

A double penalty is imposed by the same Statute: (1) a personal penalty of fine and imprisonment, and the other the forfeiture of the ship to Her Majesty (section 8).

In respect to the personal penalty, proceedings against the offender should be by indictment in the Court which, having criminal jurisdiction, is nearest to the place where the offence is committed (section 20).

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The forfeiture of the ship can only be procured through the Court of Admiralty (section 20).

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 160.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 19.)

My Lord, *Temple, November* 18, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 3rd November instant, stating that he was directed by your Lordship to acknowledge the receipt of our letter of the 24th ultimo, expressing our opinion as to the nature of the instructions which should be sent to Her Majesty's Consul at Batavia as to the course which he should pursue respecting the employment of British vessels as transports for the use of the Dutch forces in their operations against Acheen, and that he was to observe that as the question raised is important, and the course now pursued may be quoted as a precedent in the future, your Lordship was anxious that the instructions should be clear and precise, and therefore wished our further opinion upon certain points which seem at present obscure.

That the Consul reported that British steamers were being chartered by the Dutch Government, with temporary transfer of the Dutch flag, in order that they might be used as transports, and requested instructions as to the course which he should take. That we advised your Lordship in our letter of the 17th ultimo that the chartering or temporary transfer of British vessels in the manner and for the object mentioned by the Consul would be a breach of the Foreign Enlistment Act, and you recommended that he should be instructed to take proceedings under that Act. That in our subsequent letter of the 24th ultimo we pointed out that the proceedings should be taken by him under section 8 and sub-section 4 of the Act; that we showed that the offenders incurred the double penalty, first, of personal fine and imprisonment, secondly, of forfeiture of their ships to Her Majesty, and we added that, in respect to the personal penalty, proceedings should be by indictment in the Court which, having criminal jurisdiction, should be nearest to the place where the offence was committed, whereas the forfeiture of the ship could only be procured through the Court of Admiralty.

That in the endeavour to frame instructions in accordance with our recommendation, the following difficulties were encountered, upon the mode of obviating which our opinion was requested:—

That the first paragraph of section 8 of the Foreign Enlistment Act appears to show that the section itself, and consequently the sub-sections, refer only to acts committed within Her Majesty's dominions; that in what terms, then, should the Consul be instructed to apply it to transactions taking place in Dutch ports?

And how could sub-section 4 be applied except to the case of owners who despatched a vessel from England with the intent or knowledge, or having reasonable cause to believe, that it would be employed in the military or naval service of Holland, and who in that case would be open to prosecution in England?

That in case of those points being cleared up, and of the Consul being instructed to take proceedings under the Act, how could he follow the offending ship, whose destination would possibly not be an English port?

That the nearest British Courts to the place at which the offence would be committed would in this case be Singapore; in what mode, then, should the Consul take proceedings in the ordinary Courts and Courts of Admiralty at that place? Would those Courts have jurisdiction under the Act to deal with an offence committed in Dutch waters? Or, supposing that the offending vessel should not enter Singapore, should the Consul endeavour to follow her and institute proceedings against her in any other British port at which she might touch, possessing the requisite Courts?

That your Lordship feels that it would be unfair to throw upon the Consul the responsibility of interpreting, under a general instruction, points involving no ordinary difficulties, and that you would therefore be glad if we would enable you to answer by anticipation questions which he might raise upon doubts in his mind as to the proper solution of the points above mooted.

Lord Enfield was pleased to inclose our former Reports, a copy of the Foreign Enlistment Act, and the telegram from the Consul upon which the question was originally raised.

In obedience to your Lordship's commands we have the honour to report—

That no power is by the Act given to Consuls by virtue of which they can take proceedings in any Court against either persons or ships offending.

All, therefore, which the Consul at Batavia or elsewhere can be instructed to do is to communicate or represent to the authorities empowered to act against persons and ships offending information upon which they may take legal proceedings against either or both the offenders (section 24).

In the case of the ships offending, the representation should be made to the Secretary of State, or chief executive authority, under section 26, or to the officers authorized to seize offending ships (section 21).

And all proceedings against the ship require the sanction of the Secretary of State or executive authority, and must be had in the Court of Admiralty (section 19) as that Court is described in the interpretation clause, section 30.

The persons offending, whether principals or accessories (section 12), should be proceeded against if possible for the purpose of convenience in the nearest Court having jurisdiction over the offence. The Act, however, says *any* Court having jurisdiction over the offence (section 20), and sections 16, 17, and 18 provide for the legal procedure, and give power to remove offenders for trial, where such removal may be conducive to the ends of justice.

With respect to the offences, we would state that the Reports which we have made to your Lordship in this matter were drawn on the supposition that the ships in question had been chartered or engaged within Her Majesty's dominions, and were at Batavia for the purpose of carrying out such charter party or engagements.

In that case the offence and consequent punishment would come within section 8 of the Foreign Enlistment Act.

And sub-section 4 might be applied to the case of owners who dispatched a vessel from any part of Her Majesty's dominions, and not from England alone, with the intent or knowledge, or having reasonable cause to believe that she would be employed in the naval or military service of Holland, and the owners might be brought to trial either in the place in which the offence was wholly or partly committed, or in any place within Her Majesty's dominions in which the offender might be.

There is, however, a class of offenders which are subject to punishment though committed wholly without Her Majesty's dominions.

For instance, the accepting or agreeing to accept an engagement in the naval service of a foreign Power; and we are of opinion that the engagement made in Batavia to serve on board a British ship there chartered as a transport by the Dutch Government would be an offence against this section of the Act.

The powers of the Consul being thus limited to a representation of the facts, we are of opinion that he can only be instructed to report to the nearest and most convenient executive or local authorities the facts which lead him to believe that there has been an offence committed under the Foreign Enlistment Act, and he should give the fullest details of the circumstances which he can.

Supposing an offence to have been committed, we are of opinion that the offender, whether ship, in the Admiralty Court, or person, in the Court having jurisdiction, should be proceeded against at the first place she or they may reach in Her Majesty's dominions after the offence is known to have been committed.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## New Granada.

### No. 161.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 8.)

*Temple, July* 7, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us an accompanying despatch, and its inclosures, from the Acting British Consul-General at Bogotá, upon the subject of a complaint brought against the Colombian Government by two British subjects, Messrs. Dudley and Davoren, sleeping partners in the firm of Thorschmidt and Co., a commercial association established at Bogotá in 1864, under the management of Mr. Hugo Thorschmidt, a German, and wound up in 1869.

And that he (Mr. Hammond) was to request us to take the inclosed papers into consideration, and favour your Lordship with our opinion as to the instructions that should be given to Mr. O'Leary relative to the case of Messrs. Dudley and Davoren.

In obedience to your Lordship's commands we have taken the papers into consideration and have the honour to report—

That, in our opinion, Mr. O'Leary has most excusably been misled by Messrs. Dudley and Davoren, and so far as the proceedings relating to the property are concerned, missed his way.

Mr. O'Leary may now be instructed to put himself in communication with the Representative of the German Government in Colombia, submit all the documents and transactions of the Company, Thorschmidt and Co., to that gentleman, and concur with him in joint action against the Colombian Government in order to defeat the evasions of the latter Government, who, taking advantage of the technical difficulties arising out of the legal incidents of the partnership and the pecuniary interests of Mr. Thorschmidt and Messrs. Dudley and Davoren, are playing off the one against the other.

Your Lordship will best judge whether any application should be made to the Representative of the German Empire in this country, but if there be no objection to that course being adopted, and instructions to Mr. O'Leary and the German Representative in Colombia to instantly press the case upon the Colombian Government would be sent out at the same time, or farther evasion would become impossible.

Mr. Thorschmidt would probably not refuse, or might be compelled to join in the application.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 162.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 2.)

*Temple, September* 2, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd August last, stating that, with reference to our Report of the 2nd July last, relative to the complaint of Messrs. Dudley and Davoren against the Government of Colombia, he was directed by your Lordship to transmit to us a despatch from the Acting British Consul-General at Bogotá,* from which it appeared that Mr. Davoren had been given possession of the estate which he claimed.

That Mr. O'Leary's previous despatches upon the subject were inclosed therewith, together with a correspondence with Her Majesty's Chargé d'Affaires at Berlin, which had taken place since the date of our above-mentioned Report.* Mr. Hammond further stated that he was to request that we would take the papers into consideration, and favour your Lordship with our opinion as to the steps which should now be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, as a mere matter of abstract right, Messrs. Dudley and Davoren are entitled to damages.

But we are of opinion that your Lordship, accepting the reasons given by Mr. O'Leary, may in this case proceed no further, and with advantage to British interests generally, and without serious injury to Messrs. Dudley and Davoren, instruct Mr. O'Leary to express to the Colombian Government the satisfaction with which Her Majesty's Government has heard that justice has at length been extended to those British subjects, and the hope that for the future the local authorities will not be allowed to pervert or interfere with the due administration of justice.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* Mr. O'Leary, No. 29, June 28, 1873.

* Mr. O'Leary, No. 20, May 15; to Mr. Adams, No. 6, July 15; Mr. Adams, No. 22, July 23; to Mr. Adams, No. 18, July 28, 1873.

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### No. 163.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 15.)

*Temple, September* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us a correspondence which sets forth the circumstances under which a box of specie confided to the care of the Colombian Post Office was lost or stolen; and he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to how far the Colombian Government was justified in the position it assumed when disclaiming any responsibility in the matter, and whether Her Majesty's Government would be justified in pressing for indemnification to the sufferers by the loss in question.

In obedience to your Lordships commands we have the honour to report—

That in the absence of proof or even suggestion that the judicial proceedings either in the Court below or in the Court of Appeal were unfairly conducted, or the decision contrary to the evidence adduced, we are of opinion that Her Majesty's Government will not be justified in pressing for indemnification to the sufferers by the loss of the specie.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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## Pacific Islands.

### No. 164.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 11.)

*Temple, February* 10, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 4th instant, stating that, with reference to our Reports of the 23rd November and 9th December, he was directed by your Lordship to transmit to us a

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despatch from Her Majesty's Consul at Fiji relative to the Act of the so-called Fijian Legislature, denominated the "Consul March Immunity Act," he was also to inclose a letter addressed to your Lordship by Mr. Thurston in the name of the Fijian Government, on the same subject, making a claim on Her Majesty's Government under the Act in question.

That other despatches, &c., bearing on the subject were inclosed; and he was to request us to take the matter into consideration, and favour your Lordship with our opinion as to the answer which should be given to the Fijian authorities in regard to the claim preferred on Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That the Fijian authorities may, in our opinion, properly be informed that Her Majesty's Government does not admit the claim preferred by them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 165.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February* 18.)

My Lord, *Temple, February* 15, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us two despatches from Her Majesty's Consul at Fiji, reporting on the proceedings of the Fijian authorities in regard to the estates of deceased British subjects; and he (Lord Enfield) was to request us to take the matter into consideration, and favour your Lordship with our opinion as to the steps which should be taken therein, and also as to any instructions which it might be proper to give to Her Majesty's Consul for his guidance for the future, in the event of circumstances again arising of a similar nature.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the state of affairs at Fiji, and the conduct of the Fijian *de facto* Government in reference to British interests as described by Mr. Consul March, have reached a point at which, for the protection of British interests, your Lordship may properly instruct Her Majesty's Consul to claim the assistance of a man-of-war, and to obtain redress by the threat, and, if necessary, by the use of force.

In our opinion, strong measures of a similar kind may properly be adopted by Her Majesty's Consul in the event of circumstances again arising of a like kind.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 166.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March* 11.)

My Lord, *Temple, March* 10, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a despatch, and its inclosures, from Her Majesty's Consul at Fiji relative to the case of the seizure by the local authorities of the "Volunteer," and the treatment of her supercargo, Mr. Blair.

That he was to inclose a letter from the Board of Trade, stating the views of that Department on the subject; and he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the proceedings of the Fijian authorities in that matter, and as to the steps, if any, which it might be proper for Her Majesty's Government to take therein.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the conduct of the authorities at Fiji in respect to the seizure of the "Volunteer" and the treatment of Mr. Blair was opposed to the rules which are received by, and govern, civilized nations.

Her Majesty's Government has admitted the existence of a *de facto* Government in Fiji, and the actual presence of Mr. March as Her Majesty's Consul in Fiji is an acknowledgment of that *de facto* Government.

We are of opinion, subject to your Lordship's consideration, that the time has now come in which strong measures must be resorted to at Fiji, and that full redress should be demanded of the Fijian authorities for the seizure of the "Volunteer" and the treatment of Mr. Blair, and that demand supported at the time, and on the spot, by a force sufficient to compel the satisfaction and redress if refused.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 167.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March* 15.)

My Lord, *Temple, March* 14, 1873.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 8th instant, stating that he was directed to transmit to us the accompanying copy of instructions which the Lords of the Admiralty propose to issue to the commanding officers of Her Majesty's ships employed in the suppression of the Slave Trade among the islands in the South Pacific Ocean; and to request that we would favour your Lordship, at our early convenience, with our opinion whether those instructions were right and proper, and such as might be approved by your Lordship.

In obedience to your Lordship's commands we have the honour to report—

That the instructions (leaving out the pencilled suggestion in No. 11) are, in our opinion, such that your Lordship may approve of them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 168.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March* 22.)

My Lord, *Temple, March* 20, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 15th instant, stating that, with reference to our Report of the 14th instant, he was directed by your Lordship to transmit to us the two accompanying letters from the Admiralty, referring for consideration some embarrassing questions which it was suggested might occur to naval officers engaged in the suppression of the kidnapping trade; and he was to request that we would take the papers into consideration, and favour your Lordship, at our early convenience, with our opinion whether it would be advisable to make any modifications, and, if so, what changes should be introduced in the proposed instructions for the guidance of naval officers employed in the suppression of kidnapping, with the view to meet the difficulties pointed out in the inclosed letters.

In obedience to your Lordship's commands we have the honour to report—

That the instructions are framed with reference to "British subjects" and "British vessels," and upon the principle that neither "British subjects" nor "British vessels" lose their nationality or their responsibility to Britsh law by assuming to be Fijian subjects, or carrying the Fijian flag.

That, in our opinion, the Act passed by the Fiji Legislative Assembly of the 14th December, 1871, will not relieve British subjects from any liability which they may be under by British law.

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And consequently—

1. That any officer commanding one of Her Majesty's ships who meets a vessel on the high seas under the Fiji flag carrying native labourers without a licence, or with a Fiji license only—

(*a.*) Will, if, on his boarding her, the owners and crew appear to be foreigners or Fijies, immediately quit her. (See Instruction No. 26.)

(*b.*) Where the owners appear to be foreigners or Fijis, but some of the crew appear to be British subjects, and the officer has reasonable grounds for suspecting such British subject or subjects to have committed any offence enumerated in the 9th or 10th sections of the Kidnapping Act, or any other felony described in Instruction 82, he may, with the consent of the person commanding the vessel, but not by force, arrest such British subject or subjects.

(*c.*) Where the owners and crew appear to be British subjects, the ship and crew may be detained.

2. By Instruction 9, territorial waters are said to be the waters of any duly recognized State. And by Instruction 8, the powers to be exercised are over British vessels only.

Therefore—

(*a.*) In the first two cases, where the vessel in Fiji waters is under Fiji colours, and the owners are foreigners or Fijis, the naval officer will not interfere.

(*b.*) Where the vessel in Fiji waters is under British colours, or is reasonably suspected of being a British vessel (see Instruction 4), the naval officer will apply for permission of the local authorities to detain, and will detain her.

We are of opinion, in answering this second branch or head of questions from the Admiralty, that Fiji is a duly recognized State within the meaning of that expression in the Instructions.

3. The naval officer is bound to protect British subjects resident at Fiji when requested to do so by Her Majesty's Consul, or if the case requires his immediate intervention he must do so on his own responsibility. And he must be careful not to offer his protection to any British subject who has committed wrongs in Fiji, unless the conduct of the authorities or people in Fiji with respect to the treatment of the British subject be so excessive or violent that the intervention of force be absolutely necessary for the sake and in the interests of humanity and ordinary justice.

In the state of things now existing in and in the neighbourhood of Fiji, it seems to us obvious that very much must be left to the discretion of the naval officers who are employed, and that no set of instructions can be drawn which will meet every case.

We have answered the questions put by the Admiralty to Mr. Hammond. The points raised in these questions, no doubt, will call for the exercise of great discretion and forbearance on some occasions, and for as much discretion and prompt and vigorous action on other occasions from naval officers; but we are not able to make any suggestion to your Lordship showing that it would be advisable to introduce any changes or make any modification in the Instructions.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 169.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 23.)

*Temple, April* 22, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th April instant, stating that, with reference to our Reports, as noted in the margin,* upon questions relating to the liability of British subjects claiming Fijian nationality to British jurisdiction, both within and beyond the limits of the Fijian State, he was directed by your Lordship to transmit to us the accompanying letter, and its inclosures, from the Colonial Office,† and to request that we would take the same into our consideration, and report to your Lordship whether there is anything stated in the letter addressed to your Lordship by the Fijian Attorney-General which is inclosed in the Colonial Office letter to alter the opinions already expressed by us on the subject.

In obedience to your Lordship's commands we have the honour to report—

That there is nothing stated in the letter of the Fijian Attorney-General which induces us to alter the opinion which we have already expressed upon the law connected with and bearing upon the state of things in Fiji.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* July 18 and August 9, 1872.

† Colonial Office, April 4, 1873, and inclosures.

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## No. 170.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 6.)

*Temple, May* 6, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 30th ultimo, stating that, in our Report of the 10th March, we stated that "Her Majesty's Government has admitted the existance of a *de facto* Government in Fiji, *and the actual presence of Mr. March as Her Majesty's Consul in Fiji is an acknowledgment of that* de facto *Government*."

Viscount Enfield also stated that your Lordship had caused a memorandum to be prepared showing the practice observed by this country and by the United States in cases of the withdrawal of diplomatic relations, and other instances in which Consuls have continued to reside at their posts, without any recognition of the persons there claiming authority as a Government being thereby accorded; and that he was to request that we would take the same into consideration, and favour your Lordship with any further observations which we might have to offer upon the subject.

In obedience to your Lordship's commands we have the honour to report—

That the position of Mr. Consul March at Fiji is quite anomalous. In the memorandum prepared in the Foreign Office, and inclosed in Lord Enfield's letter, it is stated that Mr. March has received no exequatur from the Government of Fiji.

We are not inclined to think that this is of much importance in considering the effect of the relations between Mr. March and that Government.

Our opinion, to which we adhere, that the actual presence of Mr. March as Her Majesty's Consul at Fiji was an acknowledgment of that *de facto* Government, was formed on the ground that Mr. March had for a considerable time carried on official intercourse with members of the *de facto* Fijian Government, and that his authority so to act had not been repudiated by Her Majesty's Government, but, on the contrary, Mr. March had been supported by Her Majesty's Government.

We entirely agree with the observations in the memorandum generally; but, as your Lordship will have seen, we are of opinion that none of the cases cited by Mr. Hertslet are really in point, and whatever may have been the nature and terms of Mr. Consul March's original appointment at Fiji, his official acts subsequently have gone far to invest him with a political as well as a commercial character.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 171.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 30.)

*Temple, June* 27, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us a letter, and its inclosures, from the Admiralty, relative to the steps taken by Captain Chapman, of Her Majesty's ship "Dido," towards preventing a collision between certain planters and the *de facto* Government of Fiji; and he was to request us to take the papers into consideration, and favour your Lordship with our opinion on Captain Chapman's proceedings.

In obedience to your Lordship's commands we have the honour to report—

That the circumstances in which Captain Chapman, of Her Majesty's ship "Dido" found himself, and his object in preventing bloodshed, make it difficult to blame the conduct of that officer. But we are of opinion that your Lordship cannot properly approve of Captain Chapman's conduct, and that the Lords of the Admiralty should be informed that, in your Lordship's opinion, Her Majesty's officers should be instructed not to interfere except for the protection of British interests.

We submit to your Lordship's consideration, in support of the view which we take of the conduct of Captain Chapman, and the consequences to which similar conduct on the part of a British officer might lead in the present state of affairs in Spain or in Cuba, and indeed in any country where there was an armed insurrection against a *de facto* Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 172.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 21.)

*Temple, July* 18, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Layard, who has been recently appointed Her Majesty's Consul in the Fiji Islands; and that he was to request us to favour your Lordship with any suggestions which we might have to offer in regard to the instructions which it might be proper to give to Mr. Layard upon the points raised in his letter.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Layard may properly be instructed to conduct himself in his office of Consul in the Fiji Islands as he would do in a country of which Her Majesty's Government had recognized the *de facto* Government.

That his duties will be to protect all British interests and British subjects, requesting where the need may occur the assistance of any of Her Majesty's ships for the protection of such persons and interests.

That he should keep himself entirely aloof from all political disputes and matters of government, and in no way interfere with the persons constituting the Government, whether those persons be British subjects or not.

And that so far as concerns vessels sailing under the British flag, or which ought by law to sail under the British flag, he should act exactly as he would do if he were a British Consul in any other foreign port.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 173.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 5.)

*Temple, August* 1, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Enfield's letter of the 25th July last, stating that he was directed by your Lordship to request that we would favour your Lordship with our opinion whether Her Majesty's Government would be justified in approving the Treaty* which had been recently entered into between Captain Simpson, of Her Majesty's ship "Blanche," and certain Chiefs of the Rubiana Islands, for the execution of another native Chief who had destroyed the English schooner "Marian Rennie" and murdered her crew.

In obedience to your Lordship's commands we have the honour to report—

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* From Admiralty, July 11, 1873, and inclosures.

That, in our opinion, Her Majesty's Government would not be justified in approving the Treaty made between Captain Simpson and two Chiefs of Rubiana Islands, for the execution of another native Chief who had destroyed the English schooner "Marian Rennie" and murdered her crew.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 174.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 19.)

*Temple, September* 19, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th September instant, stating that he was directed by your Lordship to transmit to us the accompanying draft of an instruction which your Lordship proposed to address to Mr. Layard, Her Majesty's Consul in the Fiji Islands; and to request that we would take the same into our consideration, and inform your Lordship whether we consider that these instructions may properly be given to Mr. Layard.

Mr. Hammond further stated that a letter from the Colonial Office, containing Lord Kimberley's approval of the draft instructions, subject to alteration as therein specified, was also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft instructions cannot properly be given to Mr. Layard, since, if he carried them out, Her Majesty's Government would find it difficult to justify some acts which Mr. Layard might do in exact compliance with the instructions. But we submit to your Lordship's consideration that the draft instructions, with the alterations which we take the liberty of suggesting, might properly be given to Mr. Layard.

The paragraphs in pp. 4, 5, and 6, beginning "Should it come to," and ending "these natives to their homes," may be read as follows:—

"Should it come to your knowledge that British subjects are engaged in this traffic, you will make known the fact to the nearest British naval authority, and furnish them with all the information which you may be able to obtain, in order that they may watch for and apprehend on the high seas, or outside Fijian and other territorial waters and jurisdiction, the guilty parties, and send them to the nearest British Colony for trial.

"You will request the Fijian authorities, using your best endeavours that the request may be effective, to make over to you or to the commander of the nearest British ship, any British subjects whom you have good and sufficient grounds for believing to have rendered themselves amenable to the provisions of the recent Kidnapping Act.

"In making this request you will, if necessary, communicate to the Fijian authorities the information upon which you ground the request; and you will be careful to avoid the use of irritating or threatening language, and abstain altogether from the use of forcible means to arrest any British subject within Fijian territory.

In every case in which it may come to your knowledge that kidnapped natives have been brought within Fijian jurisdiction by British subjects, you will in the same manner, and by using the same means as above pointed out for obtaining the surrender of British subjects, request the Fijian authorities to deliver such natives over to you, in order that they may be restored to their homes.

"And if required by the Fijian authorities, you will give those authorities an acknowledgment in writing of the surrender to you of such natives, and some guarantee that they shall be restored to their homes."

In paragraph on p. 7 beginning "You will clearly understand," the words "whether he may have assumed Fijian nationality or not" may be omitted, and the word "acknowledged" in the same paragraph in p. 8.

We concur in the propriety of making the alterations suggested by Lord Kimberley at the end of the draft instructions.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

1873

## Paraguay.

### No. 175.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received August* 16.)

*Temple, August* 16, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th August instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Ambassador at Paris, and a translation of a letter from the Paraguayan Minister at this Court,* relative to certain documents found among the papers of a Frenchman, M. Berchon des Essarts, who died at Asuncion, in Paraguay, on the 26th June, 1872, and that we would see that those documents were claimed by Mrs. Eliza Lynch, an Irish lady, who, after marrying a French subject, became the mistress of the late President Lopez. That the Brazilian and Paraguayan Governments, however, objected to the documents being handed over to Mrs. Lynch, on the ground that they are of a political nature.

Mr. Hammond was further pleased to say that he was to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to the course that should be pursued with regard to the documents in dispute, and was further pleased to say that Mrs. Lynch had already been engaged in legal proceedings with the Government of Paraguay and with a Dr. Stewart respecting the property left by the late President Lopez.

We were also honoured with a further letter from Mr. Hammond, dated the 9th of August instant, stating that with reference to his letter of the 8th August instant, relative to certain papers found among the property of the late M. Berchon des Essarts, which were said to belong to Mrs. Lynch, he was directed by your Lordship to transmit to us a copy of a further despatch from Her Majesty's Ambassador at Paris, inclosing a note which he had received from the Brazilian Chargé d'Affaires, and in which the latter requested that the papers in question might not be handed over to Mrs. Lynch until he had received instructions from his Government on the subject; and to request that we would take these papers into our consideration, together with those already forwarded to us, and would favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That it seems clear that the documents in question have been handed over by the French Government in ignorance of the fact of the marriage of Mrs. Lynch to a Frenchman, and under the mistaken belief that she is a British subject. We think the proper course is to inform the Duc de Broglie of the true state of the case, and to return the documents to him.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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* Lord Lyons, No. 771, August 5; Señor Beceites, August 4, 1873.

## Persia.

### No. 176.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 19.)

*Temple, February* 18, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 11th instant, stating that he transmitted to us a letter from Messrs. Finch, Jennings, and Finch, the solicitors employed by the executors of the late Mr. Alison, Her Majesty's Minister in Persia, requesting that the notice which accompanied their letter might be inserted in the "Iran" newspaper at Tehran by Her Majesty's Chargé d'Affaires. The object of that notice was to ascertain if there were any creditors claiming payment from the executors.

That your Lordship had, however, some doubt as to the propriety of acceding to that request, for whilst living Mr. Alison was privileged in Persia as Her Majesty's Minister against molestation from creditors, and the appearance of such a notice in the Persian papers might imply an admission to the contrary.

That whilst seeking our opinion on that point your Lordship would be glad to be informed whether we considered that Persian creditors might take action in England against the executors of Mr. Alison when dead, which they could not take against him in Persia when alive.

In obedience to your Lordship's commands we have the honour to report—

That as to the insertion of the advertisement in the Persian papers we concur in the doubt expressed by your Lordship, which appears to us to be well founded. As to the question whether we consider that Persian creditors can take action in England against the executors of Mr. Alison which they could not take against Mr. Alison himself in Persia, we have to reply that we think they can.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 177.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 29.)

*Temple, May* 28, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us papers respecting the estate of the late Mr. H. V. Walton, deceased, in Persia, and the claim put forward by his executors for substantial redress on account of an alleged violation of the estate, which was under the protection of the British Legation; and he (Mr. Hammond) was to request our opinion as to whether Her Majesty's Legation could take any, and, if so, what steps in the matter.

That there is no Order in Council conferring jurisdiction in Persia; and whatever jurisdiction is exercised derives solely from the favoured-nation clause in the Treaty with Persia, which enabled us to claim that right as conceded to Russia by their Treaty of February $\frac{10}{22}$, 1828.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That, in our opinion, Her Majesty's Legation cannot take any steps in the matter of Mr. H. V. Walton's estate.

The estate was never under the control of or intrusted in any way to Her Majesty's Legation, but passed into the hands of the telegraph officials with the knowledge and consent, and by the direction of a brother of the deceased, at Kurrachee.

1873

With the exception of 961*l.* 1*s.* 3*d.*, the proceeds of the sale, and the value of articles unsold, are in the hands of the Committee of Adjustment so called, and Mr. Walton's executors must, if they think fit, proceed against the members of the Committee.

As to the 961*l.* 1*s.* 3*d.*, the claim is against a department of the Government entirely distinct from the Foreign Office, and the executors should apply to that Department.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 178.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October* 25.)

*Temple, October* 24, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 16th October instant, stating that he was directed by your Lordship to transmit to us a copy of a telegram from Her Majesty's Minister at Tehran, reporting that the ex-Grand Vizier had appealed to him for British protection, being in fear of his life.

That Mr. Thomson had been instructed by telegraph to decline to accord the protection thus requested unless he received further instructions from the Foreign Office; but your Lordship would be glad to be favoured with our opinion as to the bearing of Article XII of the Treaty of the 4th March, 1857, between Great Britain and Persia, in this case. That for facility of reference, Lord Tenterden was further pleased to say that he was to inclose a copy of the Treaty above quoted, together with a memorandum drawn up in the Foreign Office, and he was to refer us to a Report furnished by the Queen's Advocate on the 21st April, 1858, on the question of the protection of Persian subjects. We were also favoured with a further letter from Lord Tenterden, dated 17th October, 1873, stating that he was directed by your Lordship to transmit to us the accompanying (further) paper on the subject of the protection of Persian subjects in Persia, and requesting that it might be considered with the papers already before us.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the British Government cannot protect Persian subjects unless they are actually in the employment of the British Mission, or of the Consular officers named in Article XII* of the Treaty of the 4th March, 1857.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 179.

*Viscount Enfield to the Law Officers of the Crown and Dr. Deane.*

*Foreign Office, October* 31, 1873.

Gentlemen,

I AM directed by Earl Granville to transmit to you papers as marked in the list respecting the murder of Serjeant Collins near Shring in July 1872.

You will perceive that the Persian Government took effective measures to punish the guilty persons; and it appears that the Ludr Azem also promised to exact a sum of money from the Chief of the Kashkai tribe for the benefit of the relatives of the murdered man. This sum, stated as not likely to exceed 500*l.*, it now seems that the Persian Government are unwilling, or unable, to exact from the Chief, and Lord Granville would be glad to be favoured with your opinion as to whether it would be proper for Her Majesty's Government to insist on the money being paid.

I have, &c.
(Signed) ENFIELD.

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* In the letter written II.

*Report.*

That, in our opinion, Her Majesty's Government cannot properly insist on the money being paid.

J. D. C.
H. J.
J. P. D.

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### No. 180.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 6.)

*Temple, November* 5, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 31st October ultimo, stating that he was directed by your Lordship to transmit to us papers respecting the murder of Serjeant Collins near Shring in July 1872, and that we would perceive that the Persian Government took effective measures to punish the guilty persons; and it appeared that the Ludr Azem also promised to exact a sum of money from the Chief of the Kashkai tribe, for the benefit of the relatives of the murdered man. That the sum stated was not likely to exceed 500*l.*, and "it now seems that the Persian Government are unwilling, or unable, to exact from the Chief."

Lord Enfield further stated that your Lordship would be glad to be favoured with our opinion as to whether it would be proper for Her Majesty's Government to insist on the money being paid.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government cannot properly insist on the money being paid.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## Peru.

### No. 181.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July* 19.)

*Temple, July* 18, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch and its inclosures from Her Majesty's Minister at Lima relative to the case of a British subject named William How, a ship carpenter, who was sent against his will to work on board a Peruvian man-of-war, and detained there for two or three days on the ground that he had exercised his trade in the Bay of Callao without a "matricula."

That it appeared from Mr. Jerningham's despatch that he had reserved the claim put forward by How to compensation, but that, in consequence of his representations, the Peruvian Government had issued a Decree exempting smiths, carpenters, and caulkers from naval matriculation.

And that he (Mr. Hammond) was to request us to take Mr. Jerningham's despatch into consideration, and favour your Lordship with any remarks we might have to make thereon.

1873

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the inconvenience and possibly hardship caused to Mr. How by his being detained on board the ship, where he refused to work, and was subjected to no punishment for his refusal, are not such as would reasonably justify Her Majesty's Government in insisting upon any compensation being made by the Peruvian Government to Mr. How, and the more so, because the Peruvian Government appears to have at once taken adequate measures to prevent the recurrence of a case similar to that of which Mr. How complains.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 182.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 17.)

*Temple, December* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us the papers noted in the margin* relative to the creation by the Peruvian Government of a monopoly in the sale of nitrate of soda, and of a claim advanced against that Government by an English firm on account of losses alleged to have been sustained by them through the working of the monopoly in question, and he was to request that we would take the accompanying correspondence into our consideration, and favour your Lordship with our opinion as to the further instructions which should be addressed to Her Majesty's Minister at Lima on this subject.

In obedience to your Lordship's commands we have the honour to report—

That the only matter of law arising in this question is the right of the Peruvian Government to regulate the manufacture and export of produce within and from Peruvian territory, and we are of opinion that the Peruvian Government have the right to make such regulations, and that manufacturers settling for the purpose of trade and manufacture in Peru must be subject to the laws of Peru, whether they be natives or foreigners. We are of opinion, therefore, that the English firm have no claim to compensation.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## Portugal.

### No. 183.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 30.)

*Temple, January* 29, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 15th instant, stating that he was directed by your Lordship to transmit to us a letter from the India Office, inclosing a printed memorandum, the first part of which, omitting a passage marked at page 10, it was proposed to communicate to the Portuguese Government through the Minister at this Court, with regard to the privileges hitherto enjoyed by the Portuguese factory at Surat.

That the previous correspondence respecting the matter was likewise inclosed; and he (Lord Tenterden) was to state to us that before your Lordship addressed a communication on the subject to the Portuguese Government your Lordship would be glad to receive, at our early convenience, any suggestions which we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

We are of opinion that a communication may be properly made to the Portuguese Government to the effect suggested in the letter from the India Office. We consider that the previous privileges could always have been withdrawn at the pleasure of the Government which granted them, and of the successor of that Government being the present Government of India, and that sufficient reasons exist in the gross and wanton abuse of the existing privileges for withdrawing them.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* Mr. Jerningham, No. 45, 1872; Board of Trade, January 6; to Mr, Jerningham, No. 1, Commercial; Mr. Jerningham, No. 12, Commercial; to Mr. Jerningham, No. 4, Commercial; Mr. Jerningham, Nos. 16 and 42, Commercial, 1873.

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### No. 184.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 1.)

*Temple, February* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 28th instant stating that, with reference to his letter of the 15th instant he was directed by your Lordship to transmit to us a translation of a note from the Portuguese Minister at this Court in continuation of that addressed by him (the Minister) to Her Majesty's Government on the 23rd October last respecting the question of the commercial privileges hitherto enjoyed by the Portuguese at Surat; and that he (Lord Tenterden) was to request us to take the same into consideration (with previous papers), and favour your Lordship with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we had the honour yesterday to report to your Lordship our opinion on the question of the commercial privileges of the Portuguese factory at Surat.

The same reasons which induced us to be of opinion that the privileges on the import trade enjoyed by the Portuguese at Surat were revocable and should now be forfeited apply, though possibly in a modified degree, to the privileges on the export trade. And we are of opinion that these latter privileges should also be put an end to.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 185.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 2.)

*Temple, April* 2, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that he was directed by your Lordship to transmit to us a note, which your Lordship had received from the Portuguese Minister at this Court, respecting a Portuguese sailor named Antonio Martino, who is detained in Bristol prison as a necessary witness in the case of a man about to be tried for murder.

That that note was referred to the Home Office, and the inclosed Report upon the case had been returned by Mr. Secretary Bruce.

That he (Mr. Hammond) was now to request us to take the papers into consideration, and inform your Lordship whether any further steps could properly be taken for the liberation of Martino, and what answer should be returned to the Portuguese Minister.

1873

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship cannot take any steps for the liberation of Martino, and that the application of the Portuguese Minister must be answered to that effect.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 186.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 16.)

My Lord, *Temple, September* 16, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a despatch with inclosures from Her Majesty's Chargé d'Affaires at Lisbon* relative to the complaint advanced by British merchants residing at Funchal against the system introduced with regard to levying the 1 per cent. *ad valorem* additional duty on goods entering the Portuguese dominions, referred to in the despatches from Her Majesty's Minister at Lisbon, which were likewise inclosed.

That we would observe that the grievance of the merchants consisted of two distinct causes of complaint: first, the obligation of making oath in confirmation of goods imported; and, secondly, that the Customs officers had the option of taking such goods at the invoice value, with only an additional sum of 5 per cent. instead of the additional sum of 10 per cent. authorized by the XIIth Article of the Treaty of 1842 between Great Britain and Portugal.

And that he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Her Majesty's Chargé d'Affaires in regard to the matter.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion the Article XII of the Treaty of 1842 is free from all doubt upon the two points referred to in Mr. Hammond's letter, and the obligation of an oath instead of or in addition to a declaration cannot be imposed upon the British importer, nor can the Custom-house officers be at liberty to take the goods at 5 per cent. instead of 10 per cent. in the event of their being of opinion that the declared value is insufficient.

The observations made by Mr. Doria in his letter of the 15th August, 1873, respecting the state of commercial relations between Portugal and Great Britain, seem to us of very great importance.

And we submit to the consideration of your Lordship that Her Majesty's Chargé d'Affaires at Lisbon may properly be instructed that in bringing the matter to the consideration of the Portuguese Government he should say that so long as the Treaty of 1842 between the two countries subsists Her Majesty's Government cannot allow any of its provisions to be affected, either by the laws of Portugal or by Treaties between Portugal and other countries, to which Treaties Great Britain is no party.

But that Her Majesty's Government will not be unwilling to entertain, if the Portuguese Government should so desire, the question of a new Treaty.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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### No. 187.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 20.)

My Lord, *Temple, December* 19, 1873.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us a translation of a note from the Portuguese Minister at that Court, together with a despatch and its inclosures from Her Majesty's Minister at Lisbon, relative to the liability of British subjects to taxation within the dominions of Portugal.

That Mr. Lister also inclosed a memorandum on the subject, which had been prepared at that Office, and that he was to request that we would take those papers into our consideration in connection with the Law Officers' Reports of the 14th May, 1863, the 18th July, 1864, and the 13th January, 1868, and favour your Lordship with our opinion as to the answer which should be returned to the Portuguese Minister, and the instructions which should be furnished to Sir Charles Murray in regard to that matter.

In obedience to your Lordship's commands we have the honour to report—

That the Portuguese Minister may, in our opinion, properly be answered that Her Majesty's Government does not agree with the interpretation which the Portuguese Government puts upon the Treaty of 1842.

Her Majesty's Government admits that it was the intention of the High Contracting Parties to equalize the taxation of foreigners with the natives in all cases not excepted.

But the "Mancio de decima industrial" was a tax from which, up to the time of the Treaty, British subjects resident in Portugal had been specially exempted.

This exemption was surrendered by the Treaty. British subjects thenceforth became subject to the tax, but a provision, as might have been expected, was introduced, fixing the "maximum of the tax at 20 per cent. on the rent of their houses, shops, and warehouses, which should serve as an invariable rule to the Tribunal of the Treasury whenever it shall have to decide on any appeal made by British subjects in the form disposed by the Ist Article of the Treaty."

In this respect, then, the equality was by the very precise words employed by the High Contracting words not to be observed, and the mode of imposition and maximum rate of the particular tax determined.

This tax has been replaced, it appears, by an "industrial tax," and it is therefore argued that the guarantees stipulated by section 2 of Article I of the Treaty, and the annexed note, have ceased and become obsolete.

We are not acquainted with the nature or manner of imposition, nor do we know how far the substitution of this tax for the former "mancio" or "decima industrial" is a contrivance by which the Treaty exemption was to be got rid of.

Assuming, however, that the imposition of the new tax was proper, we are of opinion that the change was entirely within the power of the Portuguese Government, and that British subjects, being equally taxed with Portuguese subjects under the new law, have no ground of complaint which Her Majesty's Government can support. And in this aspect of the case we are of opinion that Her Majesty's Government may answer the Portuguese Minister, and instruct Sir Charles Murray that if this tax has been properly substituted for the former tax, and is equally levied, Her Majesty's Government cannot interfere further.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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* Mr. Doria, No. 29, Commercial.

## Prussia.

### No. 188.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 8.)

My Lord, *Temple, January* 8, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th ultimo, stating that with reference to our letter of the 17th ultimo,

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in which we stated that we were of opinion that Her Majesty's Government might bring before the German Government the circumstances of the claim of Messrs. Hirsch and Josephé, he was directed by your Lordship to remind us that the claimants, though naturalized as British subjects, were, as had been ascertained, natives of Mecklenburg-Schwerin, and consequently by birth German subjects; and he was to inquire whether, in case it should be ascertained that they had not lost their German nationality, we would be still of opinion that Her Majesty's Government would be justified in supporting their claim.

In obedience to your Lordship's commands we have the honour to report—

That if Messrs. Hirsch and Co. still retain their German nationality, we are of opinion that they cannot avail themselves of British naturalization, and thereby claim your Lordship's interference in their behalf with the Government of Germany.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 189.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 4.)

*Temple, February* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us therewith the translation of a note from the German Ambassador at this Court, inclosing drafts in English and German of a Convention which his Excellency's Government was desirous to conclude with that of Her Majesty, having for its object the mutual recognition of joint stock companies.

Lord Tenterden also inclosed a further draft which had been prepared by your Lordship's directions, and which your Lordship thought might be advantageously proposed to the German Ambassador to be substituted for that submitted by his Excellency, as more in accordance with the form usually observed in such documents, it being founded upon the declaration (copy inclosed) exchanged between the British and Italian Governments on the 26th November, 1867.

That we would observe that the German Ambassador proposed the insertion of a paragraph not included in the Declaration made with the Italian Government, but was willing that the reservation contained in it should be recorded in a separate protocol or exchange of notes, if preferred.

And that he was to request us to take the papers into consideration, and favour your Lordship with such observations as we might have to offer thereupon; and particularly with our opinion upon the reservation proposed by the German Ambassador, and the terms and manner in which, if in our judgment it could properly be adopted, that reservation should be recorded.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft Declaration, as framed by Her Majesty's Government, is preferable to that submitted by the German Ambassador; but we see no objection to the additional paragraph proposed by Count Bernstorff if it is inserted in the terms and in the place indicated on the third page of the draft Declaration of Her Majesty's Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 190.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 1.)

*Temple, February* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 24th instant, stating that he was directed by your Lordship to transmit to us a letter with its inclosure from the Association for the Protection of Commercial Interests as regarded wrecks and damaged property, relative to the case of the German vessel "Turandot," which was captured by the French at the conclusion of the Franco-German war, and the insurance upon which it was now desired to recover from the German Government; and he (Lord Tenterden) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to whether any and what steps should be taken in the matter by Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government cannot, in our opinion, take any steps in the matter of the German vessel "Turandot" at present or at the instance of the Association for the protection of Commercial Interests as regards wrecks and damaged property.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 191.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 18.)

*Temple, April* 18, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th instant, stating that with reference to our Report of the 24th ultimo regarding the complaint made by the Rev. Mr. Harrison of the ill-treatment which he and his friend Mr. George received at the hands of the Aix-la-Chapelle police, he (Mr. Hammond) was directed by your Lordship to transmit to us a further despatch from Her Majesty's Ambassador at Berlin, inclosing Mr. George's statement of the occurrence.

That he (Mr. Hammond) was to transmit, with the former papers, a copy of the instructions that were sent to the Ambassador in accordance with our Report, and to request us to favour your Lordship with our opinion upon the case, and as to the course that Her Majesty's Ambassador ought to pursue.

In obedience to your Lordship's commands we have the honour to report—

That the conduct of the police at Aix, as described by Mr. George, and of his description we see no reason to doubt the main accuracy, was in the first instance so violent, and so without excuse subsequently, that in our opinion Her Majesty's Minister at Berlin may properly be instructed to bring the two statements of Mr. Harrison and Mr. George to the attention of the German Government, with the object of securing the examination of those gentlemen at the official inquiry on the conduct of the police, and such apology or compensation, if any, as the case may require, and the punishment of the police if the result should show that the two British subjects were ill-used.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 192.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 18.)

*Temple, April* 18, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us a letter from the British Chaplain at Bonn, stating the circumstances under which he (the Chaplain) asked for a certificate from the British Embassy at Berlin of the legality of a marriage between an English lady and an English officer in the German service, both parties being resident in Germany.

That the grounds upon which the certificate had been refused by the British Embassy were stated in the letter; and he (Mr. Hammond) was to request us to take the case into consideration, and favour your Lordship with our opinion whether the request could or could not be complied with.

In obedience to your Lordship's commands we have the honour to report—

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That, in our opinion, the request of Mr. Phelps cannot be complied with.

The validity of the marriage in Germany of an English woman with a subject of Germany, which the intended husband is by the law of Germany, must depend upon the law there in force, and Her Majesty's Ambassador should not be called upon to give a certificate of an opinion upon the law of the country in which he may be, for the use of individuals.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 193.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 18.)

My Lord, *Temple, April* 18, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Berlin, asking under what circumstances the certificate of a foreigner naturalized in a British Colony, and particularly in the Colony of Victoria, "becomes void"; and he (Mr. Hammond) was to request us to favour your Lordship with our opinion whether the inclosed draft of the proposed answer to the Ambassador's question was right and proper.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion the draft of the proposed answer to Her Majesty's Ambassador at Berlin is right and proper.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 194.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 24.)

My Lord, *Temple, June* 23, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 17th instant, stating that he was directed by your Lordship to request that we would inform your Lordship whether we concurred in the despatch, draft inclosed, which it was proposed to address to the Ambassador at Berlin in reply to a despatch, also inclosed, received from him (the Ambassador), upon the subject of the claim of a German, naturalized in England, to have his passport viséd at the British Embassy at Berlin.

And that the various Acts, Regulations, and Circulars by which questions of this description are decided would be found at pp. 93 to 97 of the Appendix to the accompanying Report of the Naturalization Commission.

In obedience to your Lordship's commands we have the honour to report—

That we concur in the despatch which it is proposed to address to Her Majesty's Ambassador at Berlin.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 195.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 4.)

My Lord, *Temple, July* 3, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 26th ultimo, stating that, with reference to our Reports of the 18th

*Earl Granville to Lord Odo Russell.*

(No. 158.)

My Lord, *Foreign Office, April* 22, 1873.

I HAVE received your Excellency's despatch No. 118 of the 4th ultimo, asking, with reference to the case of Mr. Adalbert Kruge, "under what circumstances the certificate of a foreigner naturalized in a British Colony, and particularly in the Colony of Victoria, becomes void."

I have to state to your Excellency in reply, that under the instructions given to the Governors of Colonies (which you will find at p. 14 of the Appendix to the Report of the Naturalization Commission) a passport issued by a Governor of a Colony to a naturalized British subject would undoubtedly become void after the holder had resided abroad for more than twelve months, but his certificate would be equally good on his return to the Colony, however long the bearer may have been absent.

In this respect the colonial certificates of naturalization differ from the English certificates under the Act of 1844, the latter becoming absolutely cancelled after six months' residence abroad without leave.

I have to add that the general rule to be observed in all cases of this nature, is that British naturalization does not entitle the person naturalized to any protection, rights or privileges as a British subject within the country of his original nationality unless he has ceased to be a subject of that country according to the laws thereof, and in any application which he may make to the British Embassy, it rests with him to prove that this is the case, and also to show that if naturalized under the Act of 1844 his certificate has not lapsed.

I am, &c.
(Signed) GRANVILLE.

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April and 1st ultimo, relative to the complaints of Messrs. George and Harrison against the police of Aix-la-Chapelle, he was directed by your Lordship to forward to us further correspondence with Her Majesty's Ambassador at Berlin, from which we would perceive that, in answer to the representations which were made on our advice, the Prussian Government had refused to reopen the official investigation into the conduct of the police, and stated that it was open to Messrs. George and Harrison to bring the matter under the examination of the Prussian Courts by means of a civil action against the officials concerned.

And that he (Lord Enfield) was to request us to take these papers into consideration, and favour your Lordship with our opinion whether any further diplomatic action could properly be taken in the matter, or whether the parties should be left to take the legal remedy which seemed open to them.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, no further diplomatic action can with propriety be taken in the matter, unless your Lordship considers the incident of sufficient importance to proceed to extreme lengths in the event of the German Government persisting in the refusal to reopen the matter.

Mr. George and Mr. Harrison, being left to take the legal remedy which seems open to them, should be informed of the answer in terms of the German Government, that they may be able to form some opinion of the result which they are likely to attain by any proceedings on their own behalf.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 196.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August 5.)*

*Temple, August* 4, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 30th ultimo, stating that the German Government had at various times applied to the Secretary of State for Foreign Affairs for the repatriation of pauper or lunatic British subjects found in Germany; these applications had been refused, except in cases in which special reasons had been shown for assenting, on the ground that the British Government had no power to expatriate indigent or lunatic foreigners found in this country, and that consequently it was not in a position to enter into any arrangement for mutual repatriation.

The German Ambassador had recently inquired confidentially, communicating at the same time the memorandum inclosed with the papers, whether Her Majesty's Government would be disposed to conclude a Convention providing for the treatment of distressed subjects of one country in the territory of the other, based upon a Convention between Germany and Denmark, of which a translation was annexed. The Ambassador distinctly states that the starting-point of the proposed Convention would have to be an admission of the right of either party to expel the subjects of the other.

And that your Lordship would be glad to be favoured with our opinion as to whether Her Majesty's Government could or should enter into negotiations for the conclusion of a Convention of this description, provided that there were no objections to it on the ground of expense or of policy.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That Her Majesty's Government cannot, in our opinion, conclude or give effect to a Convention of the description referred to in the present state of the law.

Your Lordship will best judge whether it is expedient to enter into negotiations at present for the conclusion of such a Convention, and to obtain later the consent of Parliament, or whether an Act should be obtained in the first instance authorizing the Government to make such Conventions from time to time with foreign Governments.

We see no objections on the ground of expense or policy to the suggested Con-

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ventions, and the object for which they would be made seems most reasonable and desirable.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 197.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 4.)

*Temple, August* 4, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us a letter from the Admiralty, inclosing a telegram from the Junior Naval Officer at Gibraltar, from which it would appear that Her Majesty's ship "Swiftsure" and the German iron-clad "Frederick Carl" had seized two of the revolted Spanish ships, and were taking them to Carthagena with the intention of detaining them till further orders.

Mr. Hammond also inclosed copies of the previous letters to the Admiralty respecting the course to be pursued in regard to revolted ships.

And that he (Mr. Hammond) was to ask our opinion, at our earliest convenience, as to the instructions which should be given for the guidance of Her Majesty's naval forces at Carthagena or elsewhere in similar circumstances to those set forth in Commodore Phillimore's telegram.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's naval forces at sea or in foreign territorial waters or elsewhere should, in our opinion, be instructed not to interfere with revolted Spanish ships except for the necessary and immediate protection of the property and persons of British subjects.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 198.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 20.)

*Temple, December* 19, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 6th December instant, stating that he was directed by your Lordship to request that we would favour you with our opinion as to the answer which should be returned to the note from the German Ambassador, of which a translation was inclosed, requesting that the authorities of Heligoland may be instructed to administer an oath, under the decision of a German Tribunal, to a Dr. Zimmermann, who appeared to be co-defendant in a suit pending before the Tribunal.

In obedience to your Lordship's commands we have the honour to report—

That we think your Lordship may inform the German Ambassador that the parties who desire to have the testimony of the witness taken at Heligoland should proceed before the local Court there, by themselves or their agent, to make an application to have the witness examined, and not through the agency of the Foreign Office. The proceedings are regulated by the 19 & 20 Vict., cap. 113, and your Lordship may point out that, in order to support the application, the certificate of the German Ambassador at this Court should be produced to the Court at Heligoland, and that that certificate should clearly state that a suit touching a civil or commercial matter is pending in a German Court having jurisdiction over it, and that such Court is desirous of obtaining the testimony sought (see 19 & 20 Vict., cap. 113, sec. 3).

We wish to add that under the Statute we have above referred to there is no power in the Court of Heligoland to enforce the attendance of the witness unless that Court be a Supreme Court.

## No. 197*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 4.)

*Temple, November* 4, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 27th ultimo, stating that he was directed by your Lordship to transmit to us a translation of a note from the German Chargé d'Affaires at this Court, returning, with a verbal alteration, the counter-draft of the proposed Agreement between Great Britain and Germany, relative to the mutual recognition of Joint Stock Companies, which, on the receipt of our Report of the 1st February last, your Lordship forwarded to the German Ambassador.

That the previous correspondence in the case was also inclosed for purpose of reference; and that he (Lord Enfield) was to request us to again take the matter into consideration, and favour your Lordship, at our early convenience, with our opinion as to the answer which should be returned to the communication from the German Chargé d'Affaires.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to the verbal alterations suggested by the German Chargé d'Affaires.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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If the German Ambassador desires it, we see no objection to your Lordship, as a matter of courtesy, forwarding any communication he may wish to the legal authorities at Heligoland, but we advise your Lordship, in so doing, to make it clear that you are not interfering with any legal procedure.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 199.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January 2, 1874.*)

My Lord,
*Temple, December* 31, 1873.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 19th instant, stating that he was directed by your Lordship to request that we would advise your Lordship as to the course which you should pursue respecting the application contained in the letter from a Mr. Griffiths.

Mr. Lister stated that it appeared that Mr. Griffiths and a man named Duggan bound their two sons by indenture to a performer in a circus named Alfred Gaillard, upon such terms that for seven years they were to receive nothing but clothing and what is called reasonable education, after which term for five years more they were to receive a small salary at a fixed rate of increase; the boys were bound to travel with their master to any part of the world. The original indentures were inclosed for our perusal.

Mr. Lister further stated that it appeared from the inclosed letter to Duggan from the British Chaplain at Aix-la-Chapelle that Gaillard has been recently performing with the boys at that place, where his ill-treatment of the boy Duggan had led to the interference of the police. A letter, also inclosed, addressed to Mr. Griffiths has informed the latter that his son is subjected to gross ill-usage. The interference of Her Majesty's Government is requested to procure the restoration of the boys to their parents, but as the latter had bound their sons by indentures, which, however unjustifiable they may be in their character, seem to have been formally executed, your Lordship, before giving any instructions in the matter, would be glad to be favoured with our opinion as to the steps which can properly be taken for the protection or restoration of the boys.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, this is scarcely a case in which your Lordship should officially interfere, but we see no reason why your Lordship should not advise Her Majesty's Consular Agent acting for any matters arising at Aix-la-Chapelle that he may take charge of the boy Duggan and send him home to this country. The consent of the father in writing to receive him should be obtained and sent to the Consul.

As to the boy Griffiths, we think that your Lordship can do no more than suggest to Her Majesty's Consular Agent that he should see the boy, and if it be found that he is subjected to serious ill-usage, the interference of the German police authorities should be sought. The directions of the local authorities as to how far the boy is to be removed from Gaillard's custody must be followed, but if by them given over to the Consul or Chaplain, we see no reason why he should not be also returned to his father.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## Russia.

### No. 200.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 8.)

My Lord, *Temple, January* 6, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 31st ultimo, stating that Mr. G. Tagliaferro, a British subject, having made a complaint against Mr. Zohrab, Her Majesty's Consul at Berdiansk, of neglecting the interests of his wards, the heirs of his brother Mr. T. Tagliaferro, your Lordship called on Mr. Zohrab for a Report on the subject.

That that Report he was now to transmit to us, together with the previous correspondence on the subject.

That he (Lord Tenterden) was also to inclose drafts of communications which, with our concurrence, your Lordship proposed to address to Mr. Zohrab and Mr. Tagliaferro in the matter; and he (Lord Tenterden) was to request us to take the papers into consideration, and favour your Lordship with our opinion on the proposed drafts.

In obedience to your Lordship's commands we have the honour to report—

That the proposed drafts, altered in blue pencil, are, in our opinion, right and proper.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 201.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 29.)

My Lord, *Temple, January* 27, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at St. Petersburgh forwarding an application from the British Vice-Consul at Moscow, asking for information as to the validity of marriages celebrated in the British chapel at Moscow by the Chaplain of the Russia Company.

That he (Lord Enfield) was to inclose the correspondence relating to the Riga marriages, which formed the subject of our Report of the 20th November, and to request that we would take the matter into consideration, and favour your Lordship with our opinion, at our earliest convenience, as to the instructions which should be sent to Mr. Roberts on the subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, a marriage celebrated in the British chapel at Moscow between British subjects by the Chaplain of the Russia Company, being valid by *lex loci*, is a good marriage in law.

We are also of opinion that a marriage performed by the said Chaplain in the interior of Russia at a private house will be valid or not according to *lex loci*. In England such a marriage would be good if had under a special licence, and the law of Russia, which seems to consider marriages valid where they are performed with the religious rites and ceremonies of the faith of the parties, may consider the place indifferent if those rites are had. But we have not the information upon this point which might enable us satisfactorily to advise your Lordship how to instruct Mr. Roberts in answer to his second question.

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## Russia.

### No. 202*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 10.)

*Temple, October* 9, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st October instant, stating that he was directed by your Lordship to transmit to us the inclosed letter from Mr. Navarra, who is a native of Malta and is now employed as chief medical officer to the Persian troops in Azerbijan, giving an account of an attack and robbery committed upon him by Turkish brigands in Russian territory on the road between Tabreez and Tiflis, and to request that we would take that letter, together with the inclosed despatch from Sir H. Elliot on the case, into our consideration, and favour your Lordship with our opinion as to Mr. Navarra's right to demand compensation for his wrongs either from the Government of Turkey or that of Russia.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the robbery having happened on Russian territory, Mr. Navarra has no right at all to claim compensation from the Government of Turkey.

Mr. Navarra, who alleges himself to be a British subject, was as a medical officer in the military service of Persia at the time of the robbery, and we doubt whether he has a right in that state of things to demand the assistance of Her Majesty's Government in obtaining him compensation for his losses.

But the facts may, in our opinion, properly be brought before the Russian Government, and that Government be asked to consider favourably the losses which Mr. Navarra has suffered in Russian territory.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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In all cases of doubt on the validity of a marriage the safest course is to have the marriage had strictly in accordance with the *lex loci*, in addition to any other rite or ceremony peculiar to the custom of the persons to be married. And this course is especially to be followed where the man and woman are not both British subjects.

Your Lordship might, therefore, in our opinion, instruct Mr. Roberts, in answer to his third question, that in cases of any doubt the marriage should, either before or after the marriage by an English Chaplain, be also had as if the parties were Russians.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 202.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 2.)

*Temple, August* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed to transmit to us the accompanying letter, and its inclosures, from Mr. Donadato, a British subject, respecting a claim which he is desirous of bringing against the Russian Government; and to request that we would have the goodness to take these papers into consideration, and inform your Lordship whether, in our opinion, it would be advisable for Her Majesty's Government to give Mr. Donadato their support.

In obedience to your Lordship's commands we have the honour to report—

That the information which Mr. Donadato has forwarded to Her Majesty's Government is not sufficient to make it advisable, in our opinion, that Her Majesty's Government should give him support.

It seems that so far back as 1868 Mr. Donadato was in communication with the British Embassy at St. Petersburgh, and that the right was reserved to him of addressing a formal complaint to the Senate against the proceedings of the "Chambre Criminelle" of Kiew.

Mr. Donadato does not say whether he exercised that right, or with what result. His claim of 265,000*l.* seems to us extravagant, and is unsupported by evidence.

Mr. Donadato might, however, be properly told that if he can give further and satisfactory proof of the alleged injury which he has sustained, and of his failure to obtain redress from the Russian Government, and produce vouchers or other evidence of the amount of his losses, Her Majesty's Government will again consider his application.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 203.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 8.)

*Temple, November* 7, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence regarding a machine which is alleged to have been obtained from Messrs. Powis, James, Western, and Co., and shipped to Odessa under false pretences; and he (Lord Enfield) was directed by your Lordship to request that we would favour your Lordship with our opinion as to the reply which should be given to Mr. Flavell's letter of the 17th ultimo.

In obedience to your Lordship's commands we have the honour to report—

That Messrs. Flavell may properly be answered that on the receipt of the letter from Powis, James, Western, and Co. (a copy of which should be furnished to Messrs. Flavell), Her Majesty's Consul-General at Odessa was instructed to take such steps as the circumstances of the case might warrant.

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That, if Messrs. Flavell desire, the Consul-General at Odessa shall be communicated with farther on the subject, but that at present your Lordship has not been informed of the reasons which induced the Consul-General to apply to the Customs authorities at Odessa.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 204.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 13.)

My Lord, *Temple, November* 13, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 8th instant, stating that he was directed to transmit to us the accompanying papers relating to the case of Mr. Marsden, a British subject, who was imprisoned by the Russian Government on a charge of having killed a Russian woman; and to request that we would take these papers into consideration, and favour your Lordship with our opinion whether, as Mr. Marsden died in prison before his trial, your Lordship would be justified in instructing Her Majesty's Ambassador at St. Petersburgh to bring Mr. Marsden's case again before the Russian Government, with a view of obtaining some compensation for his widow and children.

In obedience to your Lordship's commands we have the honour to report—

That we do not find, in the papers which have been sent to us, any grounds for suspecting that the death of Mr. Marsden was caused by his imprisonment, and we are of opinion that Her Majesty's Government would not be justified, by the fact that Mr. Marsden died in prison, in instructing Her Majesty's Ambassador at St. Petersburgh to bring the case again before the Russian Government.

But Lord A. Loftus may, we think, properly be instructed to make full inquiries into the case; that in the event of any misconduct being proved, or found capable of proof, against the Russian officials, in arresting Mr. Marsden in the first instance, or in keeping him under arrest, or in relation to his treatment whilst under arrest, the circumstances may be communicated by Lord A. Loftus to your Lordship, and the case, if necessary or desirable, be then brought to the attention of the Russian Government.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## Spain.

### No. 205.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February* 7.)

My Lord, *Temple, February* 6, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 4th February instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at Puerto Rico, reporting the case of six British subjects who have been detained in the prison at Humacao for sixteen months without trial, and without even knowing the charge to be brought against them. That the authorities of the island had disregarded Mr. Cowper's repeated representations; and that his Lordship was to request that we would favour your Lordship with our opinion, at our earliest convenience, as to the instructions which should be sent to Her

### No. 205*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February* 17.)

My Lord, *Temple, February* 15, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Madrid respecting the claim of Mr. Archibald, a British subject at Amurrio, to be exempted from paying a tax levied upon him as proprietor of a house for the maintenance of public worship.

That he (Lord Enfield) was also to inclose a previous despatch from Mr. Layard, inclosing a copy and translation of the Law under which the tax in question was supposed to have been levied, and that he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the instructions which should be sent to Mr. Layard in that case.

In obedience to your Lordship's commands, we have the honour to report—

That we see no reason why Mr. Archibald should be exempted from paying a tax levied upon him in respect of his house. We are therefore of opinion that Mr. Layard may properly be instructed to take no steps in the matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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Majesty's Minister at Madrid, and to Her Majesty's Consul at Puerto Rico, to secure prompt justice to the unfortunate prisoners.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may properly instruct Her Majesty's Minister at Madrid to bring the facts before the Spanish Government, and to urge in the strongest way the wrong which has, by the negligence of the Spanish authorities, been done to the prisoners, and demand their immediate release, and claim compensation for their long detention.

Her Majesty's Minister may also be instructed to ask for the punishment of the Spanish officials through whose negligence the injury has been suffered.

Her Majesty's Consul at Puerto Rico may be instructed to press upon the authorities there the necessity of immediately releasing the prisoners; at the same time he should be directed, whilst insisting upon the releases, to take no steps, and make no admissions which might interfere with the claim for compensation and demand for the punishment of the Spanish officials which Her Majesty's Minister may be instructed to make at Madrid upon the Spanish Government.

We presume Her Majesty's Consul at Puerto Rico has no doubt about the nationality of the prisoners.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 206.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 21.)*

*Temple, February* 20, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us two despatches, with their inclosures, from Her Majesty's Minister at Madrid, relative to the circumstances under which the British vessel "Saxon Maid" was detained at Portugalete while an investigation was conducted by the local authorities respecting the death of a seaman who had been accidentally killed on board that vessel.

That we would observe that there were two distinct issues raised in the inclosed papers:—

1. As to the claim for the detention of the "Saxon Maid" while the authorities at Portugalete inquired into the death of the seaman.

2. As to the rights under Treaty of Her Majesty's Consular officers in Spain, specifically in regard to similar cases of that description, and generally as to the title of Her Majesty's Consular officers under existing Treaties to be allowed all the rights of the Consuls of the most favoured nation which might, since the Treaties with England were entered into, have been accorded to other Powers.

That a memorandum, with its annexes, had been prepared at the Foreign Office on the subject (inclosed); and he (Lord Tenterden) was to request us to take the papers into consideration, and favour your Lordship with a separate Report upon each of the points above referred to.

In obedience to your Lordships commands we have the honour to report—

That, in our opinion, no claim can be made with effect for the detention of the "Saxon Maid."

The detention was placed on the ship during an inquiry into the cause of the death of a seaman on board that vessel, and whilst the vessel was in Spanish waters. The *post-mortem* examination may have been necessary, and the examination of the crew certainly was necessary, and without the crew the ship could not proceed.

The XXIIIrd Article of the French Consular Convention, paragraph 2, forbidding the visit and search of a functionary of justice on board a ship without the invited presence of the Consul or Vice-Consul, cannot, in our opinion, be referred to as applicable to British ships and Consuls by virtue of any provision in the Treaties between Great Britain and Spain.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 207.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 21.)

*Temple, February* 20, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us two despatches, with their inclosures, from Her Majesty's Minister at Madrid, relative to the circumstances under which the British vessel "Saxon Maid" was detained at Portugalete while an investigation was conducted by the local authorities respecting the death of a seaman who had been accidentally killed on board that vessel.

That we would observe that there were two distinct issues raised in the inclosed papers:—

1. As to the claim for the detention of the "Saxon Maid" while the authorities at Portugalete inquired into the death of the seaman.

2. As to the rights under Treaty of Her Majesty's Consular officers in Spain, specifically in regard to similar cases of that description, and generally as to the title of Her Majesty's Consular officers under existing Treaties, to be allowed all the rights of the Consuls of the most favoured nation which might, since the Treaties with England were entered into, have been accorded to other Powers.

That a memorandum, with its annexes, had been prepared at the Foreign Office on the subject, as also inclosed; and he (Lord Tenterden) was to request us to take the papers into consideration, and favour your Lordship with a separate Report upon each of the points above referred to.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Consuls, under existing Treaties with Spain, have not the rights of the Consuls of the most favoured nation, which rights have been accorded to other Powers since the Treaties with England were entered into, for the XXVIIIth Article of the Treaty of 1814 limits the power and authority of the Consul in the execution of his charge by saying that power and authority shall be the same as any other Consul hath formerly had in the dominions of the King of Spain, the terms being not prospective but retrospective.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 208.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 1.)

*Temple, March* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying translation of a letter from the Spanish Minister at this Court, calling attention to an advertisement in the "Westminster Gazette," inviting subscriptions in aid of the Carlist insurrection in Spain; and he was to request us to take Señor Moret's letter into immediate consideration, and favour your Lordship with our opinion as to the steps that should be taken thereon.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may properly point out to Señor Moret that the advertisement which he has brought under your notice is a request for gifts only of money for the support of the cause of Don Carlos, and that although any contract for this purpose would be illegal and unenforceable in the English Courts, yet there is nothing to make a mere gift of money by the subjects of this country illegal, or the persons giving it in any way punishable. We cannot admit the correctness of Señor Moret's position, that there is anything in the conduct of these persons which can in any way constitute a breach of international neutrality on the part of this country. The contrary we believe to be a well-recognized position of international law. Under these circumstances we cannot advise your Lordship to take any steps whatever in the matter.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 209.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 4.)

*Temple, March* 3, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 24th ultimo, stating that, upon receipt of our Report of the 23rd July last, your Lordship addressed the instructions of which the drafts were therewith inclosed, to Her Majesty's Chargé d'Affaires at Madrid and Her Majesty's Consul at Manila, with reference to the proceedings of the Customs authorities at the port of Iloilo towards Messrs. Loney in respect of the vessel the "Priam," and the conduct of the British Vice-Consul at that port on the occasion in question; and Viscount Enfield stated that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires, inclosing a copy of a note which he addressed to the Spanish Government respecting this case, to which no reply had yet been received.

Viscount Enfield also stated that he inclosed a despatch from the Acting British Consul at Manila, accompanying a copy of one from the British Vice-Consul at Iloilo, together with a Report thereupon by Mr. Consul Ricketts, who was then absent from his post on leave; and that he was to request that we would take the same into consideration, together with the previous papers in this case, and favour your Lordship with such further observations as we might have to offer thereupon, with especial reference to the explanations offered by the Vice-Consul at Iloilo in defence of his proceedings in regard to the case of the "Priam," and his attitude generally towards Messrs. Loney.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, the explanation offered by the Vice-Consul at Iloilo in defence of his proceedings in regard to the case of the "Priam" is not satisfactory. He appears to have allowed every annoyance from the Customs and the utmost rigour of the law to be put in full force against that vessel without remonstrance on his own part, and without communication with Mr. Consul Ricketts. His conduct in reference to the "Priam" and his attitude towards Messrs. Loney are, in our opinion, to be attributed to the disputes between those gentlemen and himself, and were inconsistent with the fair and right discharge of his duty as Vice-Consul.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 210.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 4.)

*Temple, March* 3, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit to us the despatches from Her Majesty's Minister at Madrid, together with a letter from the Board of Trade, relative to a tax on passengers and freights which it appeared had been levied at Spanish ports upon British shipping in spite of an order for its abolition issued by the Spanish Government; and he (Lord Tenterden) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Her Majesty's Minister with regard to reclaiming from the Spanish Government the fees paid by the steam-ship "Trinacria" and other British vessels subsequently to the revocation of the Regulation in question.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Minister at Madrid may, in our opinion, properly be instructed to reclaim from the Spanish Government the fees paid by the steam-ship "Trinacria" and other British vessels subsequently to the revocation of the Regulation imposing such fees.

We havv, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 211.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 30.)

*Temple, April* 30, 1873.

My Lord,

We are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th instant, stating that, with reference to our letter of the 1st ultimo, he was directed by your Lordship to transmit to us the accompanying translation of a further letter from the Spanish Minister at this Court on the subject of the Carlist subscriptions in this country; and to request that we would take it into consideration, and inform your Lordship whether we see any reason to alter the opinion expressed by us in our former Report.

Mr. Hammond also stated that a previous correspondence on this subject was inclosed for convenience of reference; and in a postscript to his letter that a memorandum drawn up in the Foreign Office relative to subscriptions raised in England in support of civil wars abroad was also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That there is nothing in the letter now submitted to us from Señor Moret to your Lordship which leads us to desire in any manner to alter the opinion which we had the honour to express to your Lordship on the 1st March, 1873. Nor do we think that our opinion is in substantial conflict with any opinion given in writing or orally by our predecessors so far as the materials supplied by your Lordship enable us to judge. We do not for the moment enter into the question as to the law of conspiracy, but as to individuals giving money for the support of an individual or a cause in a foreign country, we think the law was stated with entire accuracy by Sir Henry Keating at pp. 8 and 9 of Mr. Green's memorandum. Lord Gifford and Lord Lyndhurst in 1823, though they were "*inclined to say upon general principles*" that subscriptions to one of two belligerents would be unlawful, carefully guard themselves, as reported in the "Times," by saying that there was no trace in our legal history of such a thing having been either prosecuted in fact, or even laid down to be unlawful in a legal text-book. Lord Westbury, in 1860, does indeed say *in debate* that "*directly or indirectly* to supply money in aid of the revolted subjects of any nation or power with whom we are in alliance is an offence at common law." But he goes on to point out that common law is founded on precedent and authority, and he states himself that he can find neither precedent in fact nor authority in writing in support of his proposition. For ourselves, we are unable to assent to it. Furnishing munitions of war to a belligerent is clearly no breach of English law; to furnish them at a cheap rate, or to give them, would, we think, be no breach of it; and we are unable to see how furnishing the means of purchasing them can stand on any different footing. The question of loans is too clear for argument, and the terms on which a loan is made, or the turning of a loan into a gift, can in principle make no difference. Lord Chief Justice Bovill, we observe, though using strong language does not go further in laying down the law than that such conduct as he describes "*ought to be*" held liable to punishment.

The dictum of Lord Wynford was in a civil case in which a contract arising out of such a loan was attempted to be enforced, and for any such purpose such a contract was quite truly and justly said to be unlawful.

We may also point out to your Lordship that the case brought before you by Señor Moret is not parallel in its circumstances to any which has been heretofore discussed. There is as yet no recognized Government in Spain, and the Carlist insurrection is a revolt so to call it existing at the time when these subscriptions were invited and paid, if they have been paid. This, however, is a point which it is entirely for your Lordship to consider whether to put before Señor Moret or not.

On the question of conspiracy (as to which point only Lord Cairns committed himself in 1860), we did not and do not mean to say that it would be impossible to frame an indictment against a number of persons for conspiring by such and such means to embroil the country in war. But now upon this point we are unaware of any precedent for such an indictment, and success in any such proceedings would be almost hopeless. This seems to be the conclusion at which Lord Gifford and Lord presumest arrived in 1823, and the Foreign Secretary of that day (Mr. Canning we Green, t) appears from the terms of his despatch to Sir C. Stnart, as quoted by Mr. Green, to have gone even further.

We have troubled your Lordship thus at length upon this subject because we supposed from the papers sent to us that your Lordship invited our remarks, and it is

no doubt important that Her Majesty's Government should clearly understand the exact limits by which such advice as we are able to give them is bounded.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 212.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 13.)

*Temple, May* 12, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid, asking what instructions he should give to Her Majesty's Consul at Cadiz as to the liability of British subjects to serve as jurors in Spanish Courts of Law, and as to the right of British subjects to exemption from the payment of forced loans or contributions.

Mr. Hammond also stated that, with regard to the first point, he inclosed a previous despatch from Mr. Layard, reporting that a provisional law, establishing trial by jury, was to be put in force on the 15th January last.

That with regard to the second point, he was to inclose a memorandum drawn up at the Foreign Office relative to forced loans levied on British subjects in Spain.

Mr. Hammond also stated that he was to request that we would take these papers into consideration, and favour your Lordship with our opinion as to the instructions that should be addressed to Mr. Layard upon the two points raised therein.

In obedience to your Lordship's commands we have the honour to report—

That the description of taxes coming under the names of "forced loans" is so vague that we are unable to say whether Mr. Layard may properly be instructed to remonstrate against their being levied on British subjects resident in Spain or not.

The subject matter, the object of and the mode of levying, as well as the authority for levying each tax, must be considered before any satisfactory opinion can be formed on the question whether British subjects may or may not claim exemption from such tax.

We are therefore of opinion that Mr. Layard cannot be instructed on the question of liability of British subjects and the payment of forced loans, further than that he should bring to your Lordship's notice each case of a tax from which he may have reason to think a British subject resident in Spain may claim exemption.

We do not know what the proposed law in Spain with respect to juries in criminal cases may be.

Clearly where the property, liberty, or life of a British subject are in question, great advantage might follow from the presence of Englishmen amongst the jury. And we do not think that there is any principle against the practice of summoning foreigners resident in a country as jurors; indeed, it was the practice to do so in England from very early times, and has only been recently discontinued.

Mr. Layard, upon this second point, may properly be instructed to forward the provisions of the proposed Criminal Code to your Lordship, that the provisions and objections, if they exist, may be carefully examined, and, if necessary, the objections brought to the notice of the Government of Spain.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

1873

## No. 213.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 26.)

*Temple, May* 24, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 22nd instant, stating that, with reference to our Report of the 17th December last, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Madrid, together with its inclosures, reporting that the Spanish Government had consented to remit a portion of the fine inflicted upon the "Erl King," on account of slight informalities in the manifest of that vessel when forced to put into Corunna through distress, but continued to justify the principle upon which that fine was levied.

That he (Lord Enfield) was to inclose a letter from the Board of Trade, together with previous papers on the subject; and stated that he was to request us to take the same into consideration, and favour your Lordship with our opinion as to the farther instructions which should be addressed to Mr. Layard in regard to that case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Layard may be properly instructed to remonstrate in the strongest manner consistent with diplomatic usages against the conduct of the Spanish authorities in imposing the fine on the "Erl King" at all, and in now retaining the part of the fine which has gone into the hands of its officials instead of repaying the whole sum.

Mr. Layard should also be instructed to point out to the Spanish Government, in the way stated in his despatch No. 57, Commercial, dated 2nd April last, that the principle upon which the Spanish Government has acted is utterly inconsistent with the relations existing between the two countries and with the practice of civilized nations.

And he should insist upon the whole amount of the fines being repaid.

In the event of the Spanish Government refusing to give redress, your Lordship will judge whether any and what farther measures may be taken to enforce a compliance with a just demand, and a security for the protection of British and general maritime commerce in future.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 214.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 26.)

*Temple, May* 26, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed to transmit to us two despatches from Her Majesty's Minister at Madrid respecting the arrest of Mr. Abel, a British subject and correspondent of the "New York Herald." That Mr. Abel, as would be seen by the correspondence, had been liberated, but demanded an apology from the Spanish Government. Mr. Hammond also stated that he was therefore to request that we would take those papers into consideration, and favour your Lordship with our opinion as to the instructions which should be given to Mr. Layard respecting the apology demanded by Mr. Abel.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Layard cannot properly be instructed to ask the Spanish Government officially for an apology for the arrest and treatment of Mr. Abel by the Spanish General at Victoria.

It appear sthat Mr. Abel had been with the Carlists for some time, and had marched with them for twenty-four hours. That this band of Carlists was composed of 4,000 well-armed men, who should, as Mr. Abel says, have made a stand against the Government troops. That Mr. Abel was found by the soldiers in the streets, being accidentally shut out from his house by the closing of the door, and, being taken prisoner, was marched to Victoria, and there, after a time, during which he was on parole, thrown into prison.

Mr. Abel must, we consider, take the consequences of the situation and circumstances in which he was found; and the Spanish Government cannot be pressed to apologize for the conduct of one of its officers who has treated, however harshly, a gentleman found so closely connected with 4,000 armed insurgents.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 215.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 27.)

*Temple, May* 27, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, inclosing a despatch from the Governor of the Bermudas, asking for instructions as to the course he should pursue in the event of those islands being used as a base of operations by the Cuban insurgents; and that he (Mr. Hammond) was to request us to take this despatch into consideration, and report to your Lordship our opinion whether the Governor should, under the local Act of 1862, prohibit the export of any arms and ammunition that might be landed in the islands under suspicious circumstances.

And further, your Lordship especially wished to have our opinion as to the effect of such a prohibition on the arguments which were used by Her Majesty's Government in answer to the complaints made by the German Government in regard to the export of arms from this country to France during the Franco-German war.

In obedience to your Lordship's commands we have taken this despatch into consideration and have the honour to report—

That, in our opinion, the Governor of Bermuda may and should, under the local Act of 1862, prohibit the export of any arms and ammunition that may be landed in the island.

This prohibition, however, should be absolute, excepting, of course, arms and ammunition the property of Her Majesty, and for the use of Her Majesty's naval and military forces, and the consideration of the circumstances being suspicious or not should not have any weight.

The effect of such prohibition would not, we consider, affect in any measure or degree the arguments which were used by Her Majesty's Government in answer to the complaints made by the German Government in regard to the export of arms from this country during the Franco-German war, since there is a distinction between the two cases.

In the case of export of arms from this country, the arms were the manufacture of the country, sold in the ordinary course of trade to any customer, whatever his nationality, and whether neutral or belligerent. That trade could not be prohibited without making the neutral producer or manufacturer a direct sufferer by a war between two nations, with each of whom he was on terms of amity, and might therefore carry on his commercial relation and business as in time of general peace.

But in the case of Bermuda the arms and ammunition, produced elsewhere, are not brought there in the course of ordinary traffic, but for the purpose of being exported, and thus the island becomes a depôt of military stores sent there for the use of one of the belligerents and for no other purpose.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

1873

## No. 216.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 27.)*

*Temple, May* 27, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us a letter, and its inclosures, which your Lordship had received from the Colonial Office, respecting a Proclamation proposed to be issued by the Governor of Gibraltar, forbidding, during the present disturbed state of Spain, the transhipment of arms and munitions of war destined for Spain within the Bay of Gibraltar; and that he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to the bearing, if any, which such a prohibition might have upon the questions raised by the German Government during the late war, which were fully discussed in the two notes to Count Bernstorff of which printed copies were inclosed.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That, in our opinion, the Governor of Gibraltar may, by Proclamation, forbid the transhipment of arms and ammunition of war destined for Spain.

The difference between this case and that which formed the subject of discussion between Her Majesty's and the Prussian Government during the Franco-German war, and to which Mr. Hammond in his letter refers, lies in the fact that Gibraltar is a fortress into which, as appears from the despatch of Sir F. Williams to Lord Kimberley, paragraph 3, arms and ammunition of war are not permitted to be stored or transhipped without the special sanction of the Governor.

The suggested prohibition, therefore, comes entirely within the authority and power of the Governor.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 217.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 30.)*

*Temple, May* 30, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that, with reference to our Report of the 29th May last year, he was directed by your Lordship to transmit to us further correspondence relative to the claims on the Spanish Government arising out of the seizure of the British schooner "Lark" by the Spanish authorities in Cuba.

And that he (Mr. Hammond) was to request us to take those papers into consideration, and favour your Lordship with our opinion as to the course that should be pursued with regard to the claims in question.

The previous correspondence was inclosed for convenience of reference.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, there is no justification to be found in the correspondence on the part of the Spanish Government for the imprisonment of the persons on board the "Lark," and their detention after they were allowed to leave the prison.

On the circumstances of the case these British subjects, if imprisoned at all, should have been at once liberated on the bail offered by the British Consul.

It appears that, after their release at a later time on the bail of the Consul, they were detained, and a paper procured from them under threats of a further imprisonment.

Great stress is laid upon this paper, which, as the Spanish Government allege, admits that the persons who signed it had no ground of complaint.

In our opinion, the obtaining of this paper under pressure by the Spanish officials is a proof of the need felt by them for a justification of their conduct in keeping the men in confinement, and no weight should be given to this document in considering the merits of the case.

The manner and length of the imprisonment and of the detention, and the foundation of the claim for compensation, and, since the Spanish Government is in these

respects responsible for the acts of its servants, the only remaining question, is the amount of compensation to be claimed.

We had the honour of reporting to your Lordship that the original claim for 16,000*l.* was preposterous. We think that the reduced claim for 3,150*l.*, as calculated in the despatch from the Governor of Jamaica inclosed in Mr. Meade's letter of the 22nd instant, is not unfair, and may properly be pressed upon the Spanish Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 218.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June 7.)*

*Temple, June* 6, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us two letters from Mr. McCormick, complaining of the detention of his vessel the "Tantivy" by the Custom authorities at Matanzas, and claiming compensation for losses alleged to have been thereby sustained by him; and he (Lord Tenterden) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to whether any and what steps should be taken in the matter pending the receipt of further particulars respecting the case from Mr. Consul-General Dunlop, who had been instructed to furnish a Report thereupon, as would be seen from the accompanying draft despatch which had been sent to him.

In obedience to your Lordship's commands we have the honour to report—

That no farther steps can, in our opinion, be taken until the Report of Mr. Consul-General Dunlop be received.

We see no objection to Mr. McCormick's being informed to that effect.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 219.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June 11.)*

*Temple, June* 10, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us the correspondence relative to the circumstances under which the firm of Messrs. McKillop and Co. had been hitherto unable to obtain from the legal authorities in Cuba the surrender of a consignment of goods sent out by them to Havana to be sold on commission by a firm which subsequently became bankrupt, the goods being still unsold; and he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the farther steps which should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Layard may properly be instructed to signify to the Spanish Government that inasmuch as the property of Messrs. McKillop and Co. and other British subjects is, and for some time has been, detained by the Spanish legal authorities in Havana contrary to and in defiance of the laws of Spain by which the said goods remained the absolute property (subject to commissions on their sale) of the British merchants who had consigned them, and inasmuch as the said goods are of a perishable nature, and liable to serious damage through such illegal detention, Her Majesty's Government will hold the Spanish Government responsible for any loss which may happen in

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consequence of the conduct of the Spanish legal authorities at Havana in respect of the detention of the said goods.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 220.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 28.)

*Temple, June* 27, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that, with reference to his letter of yesterday, he was directed by your Lordship to transmit to us a further letter, with its inclosures, from the Board of Customs, relative to the steamer "Deerhound;" and he was to request us to take the papers into immediate consideration, and favour your Lordship with our opinion as to the steps which should be taken with regard to the "Deerhound."

In obedience to your Lordship's commands we have the honour to report—

That we have nothing to add to the Report which we made to your Lordship in answer to Mr. Hammond's letter of yesterday's date.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 221.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 28.)

*Temple, June* 27, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that, with reference to our Report of the 23rd instant respecting the "Queen of the Seas," he was directed by your Lordship to transmit to us two letters which had been received from the Board of Customs respecting the "Deerhound," a vessel also suspected of shipping arms for the Carlists; and he was to request us to take the papers into immediate consideration, and favour your Lordship with our opinion as to the instructions which should be issued respecting her detention.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship cannot properly give instructions for the detention of the "Deerhound" on the ground that she is suspected of being used for the purpose of carrying arms to Spain.

It may, however, be quite right that the Customs authorities should detain the vessel for non-compliance with the regulations of the Merchant Shipping Act of 1854.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 222.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 17.)

*Temple, July* 16, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. T. Rich in regard to the nationality of his children, born of a Spanish subject previous to his marriage with her, and he (Lord Enfield) was to request that we would take the matter into consideration with reference to the Report of the Law Officers, dated 3rd February, 1853 (copy inclosed), and that we would favour your Lordship with our opinion as to the answer which should be returned to Mr. Rich's application.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the children born before the marriage are illegitimate by the law of England, and took the nationality which the mother at the time of their births was under, and retain by the law of England that nationality notwithstanding the subsequent marriage of their mother to the father, a British subject; and that Mr. Rich may properly be answered that his application cannot be complied with.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 223.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 21.)

*Temple, July* 21, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 19th instant, stating that, with reference to his letter of that day's date, submitting for our opinion the correspondence which has passed between Her Majesty's Government and the Government of Spain in regard to the case of the "Murillo," he was directed by your Lordship to transmit to us the accompanying letter from the Admiralty, embodying a telegram received from the captain of Her Majesty's ship "Triumph," now at Cadiz, stating that the "Murillo" was about to proceed to sea, and requesting to be informed whether he should detain her in the open sea; and he (Lord Enfield) was to request us to favour your Lordship with our opinion, at our earliest convenience, as to any instructions which it might be proper to give to the captain of the "Triumph" in this case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the captain of Her Majesty's ship "Triumph" should be instructed not to arrest, or in any way interfere with, the "Murillo."

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 224.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 24.)

*Temple, July* 24, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that it appeared, from a telegram from Her Majesty's Chargé d'Affaires at Madrid, although imperfectly transmitted, that a large number of Spanish ships of war have been declared by a Decree of the *de facto* Government of Madrid to be in a state which has led to their being denounced as pirates, and that, by the same Decree, the vessels of war of friendly Powers are authorized to treat them as such.

That he (Mr. Hammond) was to inclose a copy of the telegram. No copy had yet been received of that Decree, but as it is very probable that the vessels so denounced as pirates may be met with at sea by British ships of war, or may enter the waters of Gibraltar, your Lordship would be glad to receive our opinion, at our earliest convenience, whether any (and what) instructions could properly be issued to Her Majesty's officers for the guidance of their conduct in such contingencies.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government cannot properly take any action with respect to the ships, which the Government at Madrid appears by the telegram to have declared to be pirates; and that Her Majesty's officers at sea, and in the waters

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of Gibraltar, may properly be instructed to conduct themselves towards such ships as if they were ships of war belonging to a friendly Power.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 225.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July 25.)*

*Temple, July* 25, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that, with reference to his letter of the 23rd instant, he was directed by your Lordship to transmit, for our immediate consideration, a translation of a note which your Lordship had received from the Spanish Minister respecting the ships of war in revolt against the present Government of Spain.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government cannot properly comply with the request contained in the note of the Spanish Minister, and treat alleged revolted crews as pirates.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 226.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July 29.)*

*Temple, July* 28, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 19th instant, stating that the inclosed telegrams from Her Majesty's Consul at Cadiz and Her Majesty's Chargé d'Affaires at Madrid reported the result of the trial in the Spanish Courts of the "Murillo" on a charge of having run down and sunk the British vessel "Northfleet" off Dungeness on the night of the 23rd January last, causing the death of several hundred persons.

That the sentence of the Spanish Tribunal had not yet been communicated officially to Her Majesty's Government, but it would appear from the fact that the English witnesses will not be further required by the Spanish authorities; that no further investigation of the case is intended, and that this sentence is final as far as the Spanish Tribunals are concerned.

That Her Majesty's Government was not disposed to allow that sentence to pass unchallenged, but, before making any communication to the Spanish Government on the subject, your Lordship would be glad to be favoured with our opinion on the case, and, with this view, the whole correspondence which has passed in the matter is transmitted therewith.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the proceedings before the court-martial were defective in not requiring the evidence of some of the persons on board the "Northfleet."

We have no information as to the description of the "Northfleet," whether it corresponds or not with the description of vessel which the "Murillo," it is admitted, did run into, namely, a wooden full-rigged ship with painted port holes and a white figure-head.

If this description corresponds with that of the "Northfleet," the identity of the "Northfleet" with the ship which ran into is almost conclusively proved by the further evidence of the cries in English which were heard from that vessel, and showed her to be an English emigrant vessel.

Against this there was nothing before the court-martial save the idea that the blow itself was slight, and that no or very light trace of a collision appeared in the frame of the "Murillo."

The experience of numerous collisions, however, shows that, when an iron steamship with her stem strikes the side of a wooden ship, the latter may be destroyed, whi the former receives scarcely any perceptible injury.

No question seems to have been addressed to any witness or any evidence produced to explain why the "Murillo" left Lisbon immediately, or as to the fresh paint upon her.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 227.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August 4.)*

*Temple, August* 4, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us a letter from the Admiralty, inclosing a telegram from the Junior Naval Officer at Gibraltar, from which it would appear that Her Majesty's ship "Swiftsure" and the German iron-clad "Frederick Carl" had seized two of the revolted Spanish ships, and were taking them to Carthagena with the intention of detaining them till further orders.

Mr. Hammond also inclosed copies of the previous letters to the Admiralty respecting the course to be pursued in regard to revolted ships.

And that he (Mr. Hammond) was to ask our opinion, at our earliest convenience, as to the instructions which should be given for the guidance of Her Majesty's naval forces at Carthagena or elsewhere in similar circumstances to those set forth in Commodore Phillimore's telegram.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's naval forces at sea or in foreign territorial waters or elsewhere should, in our opinion, be instructed not to interfere with revolted Spanish ships except for the necessary and immediate protection of the property and persons of British subjects.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 228.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August 4.)*

*Temple, August* 4, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us therewith a despatch from Her Majesty's Ambassador at Paris (No. 753), reporting a conversation with the Duc de Broglie on Spanish affairs, and, with reference to that passage in it from which it appeared that the French Government considered that foreign Powers had the right of treating the rebel Spanish ships as pirates, if they chose to do so, under the general law of nations, but not as a duty imposed upon them by the Spanish Government, he (Mr. Hammond) was to request that we would favour your Lordship at our earliest convenience how far we agreed with the opinion of the French Government.

In obedience to your Lordship's commands we have the honour to report—

That we do not agree with the opinion of the French Government.

The Spanish rebel ships are sailing under circumstances entirely different from those under which piratical vessels in the legal and well-known sense of the term "piratical" are found at sea. The Spanish rebel ships have not committed and are not cruizing with the intent to commit any act which a foreign nation can properly call or treat as a piratical act, and needing, therefore, capture and punishment in the one case or seizure and detention in the other case.

These Spanish ships are manned by crews whose only alleged crime or offence

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is that they are in revolt against the Government at Madrid, and, in our opinion, they cannot properly be visited or detained or seized unless the Government which orders or approves of such visit, detention, or seizure is prepared to support the Government at Madrid against all persons and parties who may be in insurrection against that Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 229.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 7.)

*Temple, August* 7, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Admiralty, inclosing a despatch from Commander Cole Hamilton, of Her Majesty's ship "Zephyr," asking for instructions as to how he is to act in the event of the Carlists blocking the entrance to the port of Bilbao with torpedoes.

That he (Mr. Hammond) was to inclose a draft of the answer which your Lordship proposed to cause to be returned to the Admiralty, and he was to request us to favour your Lordship with our opinion thereupon with as little delay as possible.

In obedience to your Lordship's commands we have the honour to report—

That there may be a difficulty in ascertaining which of the two contending parties should give due notice of the laying the torpedoes and in fixing upon which of them the responsibility of making good any loss incurred by Her Majesty's subjects in consequence of injury from the torpedoes would fall, so that a proper compensation might be claimed and exacted.

We would therefore respectfully suggest the omission of the last paragraph in the draft letter, and the substitution of the following words:

"The naval officers may, however, properly be instructed to exercise all the vigilance in their power to ascertain when, and the places where, torpedoes are laid, and to warn all British and other vessels of the dangers caused by the torpedoes."

With this exception we are of opinion that the draft letter may properly be sent to the Lords of the Admiralty.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSELL.
J. PARKER DEANE.

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## No. 230.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 28.)

*Temple, August* 28, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Chargé d'Affaires in Madrid respecting the publication by the Municipality of Malaga of a Tariff of export duties, in contravention of Spanish law, and that he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship, at our early convenience, with our opinion as to the instructions which should be addressed to Her Majesty's Chargé d'Affaires in this matter.

In obedience to your Lordship's commands we have the honour to report—

That it is not the duty of the English Chargé d'Affaires to interfere as to any breach of the Constitutional Law of Spain by any Spanish Municipality except so far as British interests or existing Treaties between Great Britain and Spain may be affected thereby. The present condition of Spain is no doubt anarchical, yet while there exists a Central Government claiming authority over the whole country, that

Government is bound by Treaties, and to that Government only recourse must be had for the purpose of enforcing them, and to obtain redress for the breach of them. Mr. Macdonnell can, under the peculiar circumstances of the country, do no more than persistently call the attention of the Central Government to the illegal exactions threatened or enforced by the Municipality of Malaga, and distinctly inform the Central Government that Great Britain holds it responsible for the consequences of such illegality. Mr. Macdonnell has, in our opiniou, rightly advised the payment of these exactions under protest by British subjects. Beyond this nothing can be done by them until, if ever, the independence of various portions of Spain is recognized by this country, and separate diplomatic relations are entered into with those portions.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 231.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 28.)

My Lord,

*Temple, August* 28, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that, with reference to the correspondence which was some time ago submitted to us respecting the "Deerhound," which was suspected of being about to leave this country with arms for the coast of Spain, which correspondence he sent therewith for reference, and that he (Mr. Hammond) was directed to transmit to us a letter from Colonel Kirkpatrick, calling himself "Military Representative of Don Carlos VII in London," and a telegram from Colonel Stuart, the owner of the "Deerhound," complaining of the seizure of that vessel in French waters by a war steamer carrying English colours, but appeared to have belonged to the Spanish Government, and that he (Mr. Hammond) need scarcely say that Her Majesty's Government had not recognized any such person as Don Carlos VII as King of Spain, or any person as his representative in this country; neither have they recognized officially the *de facto* Government of Spain, though maintaining unofficial communications with it.

That the Foreign Office had no farther particulars respecting the proceedings or capture of the "Deerhound," but with reference to what was now before them and referred to us, he (Mr. Hammond) was to request us to inform your Lordship of our opinion as to how he should deal with Colonel Kirkpatrick's letter and Colonel Stuart's telegram.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship may properly merely acknowledge the receipt of Colonel Kirkpatrick's letter, and state that Her Majesty's Government does not recognize any such person as Don Carlos VII, whose military representative in London Colonel Kirkpatrick states himself to be.

In reference to the circumstances of the capture of the "Deerhound," mentioned in Colonel Kirkpatrick's letter and the telegram, and referred to in Mr. Hammond's letter, the information is too vague to enable us to give your Lordship any opinion. We would, however, observe that if the "Deerhound" was seized in French waters, the question is one which belongs to the French Government, whose territory has been violated by the act.

If the "Deerhound" was seized at sea or in Spanish waters, the seizure may be justified by the fact that the "Deerhound" was engaged in a traffic illicit under the law of Spain, on whose territory she was attempting to land forbidden goods.

And the fact that the Spanish steamer carried English colours is also capable of a perfectly good explanation.

We presume, however, that your Lordship does not at present wish to enter upon any discussion upon these subjects, as the true state of facts is not known, and any interference might lead to difficulty and inconvenience.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 232.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 28.)

*Temple, August* 28, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that, with reference to our Report of the 27th July last year, upon the subject of an alleged outrage upon a boat belonging to Her Majesty's ship "Vigilant" at the entrance to the River Palmones, near Algeciras, he was directed by your Lordship to state to us that a fresh inquiry having, at the request of Her Majesty's Government, been instituted into the matter by the Spanish authorities, it was thought desirable that Charles Hooper, the wounded seaman who is now in England, should be sent to Gibraltar to give evidence.

That we would see, however, from the accompanying letter and its inclosures from the Admiralty, that owing to the disturbed state of Spain it was impossible to continue the inquiry at present. Commodore Phillimore therefore suggested that the evidence of Hooper should be taken before the Spanish Consul-General in London; and that he (Mr. Hammond) was to request us to favour your Lordship with our opinion as to whether this suggestion should be adopted.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to the suggestion made by Colonel Chacon and Captain Phillimore being adopted, as being under the peculiar present circumstances of Spain the best thing to be done.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 233.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received August* 30.)

*Temple, August* 29, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that with reference to our Report of the 6th June last, he was directed by your Lordship to transmit to us the papers relative to the circumstances under which the British barque "Tantivy" was detained by the Custom-house authorities at Matanzas on account of the charterer of the vessel having absconded without paying the export duties upon a portion of a cargo of sugar; and that he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the further steps which should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the authorities at Matanzas were right in not allowing the cargo to be taken away by the ship till or unless the export duty was paid. The matter, however, having been referred to the Intendente by the British Consul, it may be worth while to wait until the Report of Mr. Crawfurd on the result of that reference be received.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 234.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received September* 2.)

*Temple, September* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us for our consideration, in connection with the papers inclosed in his (Mr. Hammond's) letter of the 18th instant, a telegram from Her Majesty's Chargé d'Affaires at Madrid, relative to the case of the "Deerhound."

In obedience to your Lordship's commands we have the honour to report—

That the telegram gives no information which leads us in any way to alter the opinion expressed in our former Report on the seizure of the "Deerhound."

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 235.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received September* 2.)

*Temple, September* 2, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that he was directed by your Lordship to transmit to us for our consideration, together with the papers inclosed in his letters of the 18th and 22nd instant, the accompanying further papers, as marked, relative to the seizure of the British steamer "Deerhound" by the Spanish man-of-war "Buenaventura."

In obedience to your Lordship's commands we have the honour to report—

That the "Deerhound" was certainly engaged in an enterprise which the Spanish Government is justified in treating as illegal. The real facts connected with her seizure are not at present known with the certainty which would enable Her Majesty's Government to take any decided course; and we respectfully suggest, upon Mr. Macdonell's letter of the 20th August, that he may be instructed to use extreme caution in any communication which he may make verbally or by letter to the Spanish Government, in order that Her Majesty's Government may not be compromised.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 236.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received September* 15.)

*Temple, September* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 3rd instant, stating that, with reference to our Report of the 12th May, which refers to the right of British subjects in Spain to exemption from the payment of forced loans or contributions, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires at Madrid, inclosing one from Her Majesty's Consul at Barcelona, relative to an extraordinary war tax which was about to be levied at that place (No. 111, August 26, 1873).

That the papers sent to us on the 7th May were inclosed herewith, together with the instructions addressed to Her Majesty's Minister at Madrid on receipt of our Report of the 12th May, and a memorandum drawn up in the Foreign Office in 1868 relative to the rights and privileges of British subjects in Spain, and that he (Mr. Hammond) was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the instructions which should be given to Mr. Macdonell respecting the liability of British subjects to the war tax about to be levied at Barcelona.

In obedience to your Lordship's commands we have the honour to report—

That the tax is said to be imposed upon all property, industry, and commerce under a law passed by the Cortes at Madrid.

The case, therefore, does not, in our opinion, fall within the description of cases referred to in the despatch of Lord Palmerston in 1832, but to be a general tax imposed by the Legislature of the country.

And we are of opinion that British subjects in possession of property, exercising an industry, or carrying on commerce in Spain, cannot claim an exemption from a tax

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which is imposed on their property, industry, and commerce in common with Spaniards in a similar position or occupation.

We have, &c.  
(Signed) J. D. COLERIDGE.  
J. PARKER DEANE.

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### No. 237.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received September* 15.)

*Temple, September* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, with reference to our Reports of the 28th ultimo and the 1st and 2nd instant, upon the case of the "Deerhound," he was directed by your Lordship to transmit to us a copy of a despatch from Her Majesty's Consul at Bayonne reporting the result of an inquiry which, by your Lordship's direction, he had made into the affair at San Sebastian; and he (Mr. Hammond) was to request that we would take Consul Graham's despatch into consideration, together with the former papers (inclosed), and favour your Lordship with our opinion as to the course that should now be pursued in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government cannot take at present any course in the matter of the seizure of the "Deerhound" other than to instruct the gentleman in charge of the British Legation at Madrid to represent to the Spanish Government that Her Majesty's Government considers the case to be one of great importance, in which the Spanish Government, whilst protecting and vindicating the integrity of its own territory, will see that the persons and liberty of British subjects as well as their property must be properly cared for in accordance with the rules of right, justice, and the friendly relations of both countries.

In submitting this Report to your Lordship we are obliged to point out that the statements made to Consul Graham by Colonel Stuart and the captain of the "Deerhound" to the effect that the arms were put on board at sea, and that the ship was captured in French waters, are not consistent, the one with the information received whilst the "Deerhound" was at Plymouth, the other with the French account, and we therefore are not prepared to admit the story that arms had not been landed in opposition to the Spanish statement that arms had been put on shore; and we venture to request that every statement which may come from the "Deerhound" should be received with the utmost caution.

We have, &c.  
(Signed) J. D. COLERIDGE.  
J. PARKER DEANE.

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### No. 238.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received September* 20.)

*Temple, September* 20, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 13th instant, stating that, with reference to his letter of the 8th instant, he was directed by your Lordship to transmit to us a copy of a further despatch from Her Majesty's Chargé d'Affaires in Madrid, inclosing the Reports of Spanish officials relative to the capture of the "Deerhound;" and he (Mr. Hammond) was to request us to take the despatch into consideration, together with papers already before us, and favour your Lordship at our earliest convenience with our opinion as to the steps that should be taken.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that Her Majesty's Government cannot at present take any steps other than those suggested in our last Report. And the fact that the "Deerhound" had been close to the Spanish shore, in communication by signal with the shore, and had sent one of her boats with four of the ship's crew on shore, makes it most advisable that great caution should be used in raising any question as to the seizure of that vessel on the high seas at the end of what may perhaps turn out to

have been a chase. We speak thus doubtfully because the Spanish Reports are not entirely consistent, some parts of them speaking as if there had been a pursuit and capture, which the expression as to the "banking up of the fires" appears to contradict.

We have, &c.  
(Signed) J. D. COLERIDGE.  
J. PARKER DEANE.

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### No. 239.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received September* 27.)

*Temple, September* 27, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. McAndrew and Co., requesting that steps might be taken to obtain for them reimbursement of the loss which they have sustained through the seizure by the insurgents at Cadiz of a cargo of coal shipped to that port on board the "General Ros de Olano;" and that he (Mr. Hammond) was to request that we would take Messrs. McAndrew and Co's. letter into consideration, and favour your Lordship with our opinion as to the steps that should be taken thereon.

In obedience to your Lordship's commands we have the honour to report—

That Messrs. McAndrew, in sending coals on board a Spanish ship to a port circumstanced as the port of Cadiz was in July 1873, took upon themselves a risk which Her Majesty's Government cannot properly undertake to protect, and we are of opinion that no steps can be taken to reimburse Messrs. McAndrew for the loss which they say they have suffered.

We have, &c.  
(Signed) J. D. COLERIDGE.  
J. PARKER DEANE.

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### No. 240.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received September* 29.)

*Temple, September* 27, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that a question was raised as to the rights of Spain to sovereignty over the islands in the Archipelago of Sulu, by a notice published at Singapore by the Spanish Consul, calling attention to a notification issued by the Spanish Government in 1860 prohibiting foreign vessels from resorting to Sulu except in case of distress.

That the inclosed memorandum contained a brief history of the relations of England and Spain with Sulu, and might suffice for the purpose of the present reference, though the papers to which it referred could be sent to us if we desired.

That it seemed, however, that the trade with Sulu was held to be of vital importance to the British Colony of Labuan, and hence had been raised the question of the right of Spain to interdict foreign resort to that island.

That Mr. Hammond sent a correspondence with the Colonial Office on that point, and with it the papers referred to in the letter from that Department of the 19th May, and that he also sent two further letters from the same Department, one inclosing a translation of a letter from the Sultan of Sulu to the Queen, the other a representation from Chinese merchants of Singapore complaining of interruption of that trade with Sulu.

That he (Mr. Hammond) was directed by your Lordship to request that we would take these papers into our consideration, and report our opinion whether there was any sufficient ground for disputing the sovereignty of Spain over Sulu, or for objecting to the notification prohibiting the resort of vessels to those islands.

In obedience to your Lordship's commands we have the honour to report—

That the information before us does not enable us to form a clear opinion upon the rights of Spain to the territories in question, or to say whether there are in fact sufficient grounds or not for disputing the sovereignty of Spain over Sulu.

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But we are of opinion that the notification prohibiting the resort of vessels to the Sulu territories and dependencies may properly be objected to, and the Spanish Government be called on to confine the effect of that notification to vessels engaged in illegal traffic.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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### No. 241.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received October* 3.)

My Lord, *Temple, October* 1, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th ultimo, stating that with reference to our Report of the 6th February last he was directed by your Lordship to transmit to us a further correspondence, as marked in the margin, relative to the British subjects imprisoned at Humacao in Puerto Rico in August 1871.

That from the despatch from Her Majesty's Chargé d'Affaires at Madrid, No. 99 of the 18th August, we would see that the Spanish Government had at length pardoned the prisoners in question, but denied that they had any claim to compensation, and that Her Majesty's Secretary of State for the Colonies, to whom Mr. Macdonell's despatch had been communicated, considered the answer of the Spanish Government very unsatisfactory.

That in those circumstances he was to request that we would take the accompanying papers into our consideration, and favour your Lordship with our opinion whether a further communication should be made to the Spanish Government upon that subject.

That the previous correspondence was likewise inclosed.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, a further communication should be made to the Spanish Government upon the case of the British subjects imprisoned at Humacao, of whom one was found innocent, and the others have now been pardoned.

It appears that all these persons were imprisoned without trial for more than sixteen months.

At the end of that time, and after the repeated applications of the British Consul, they were brought to trial. One, the woman Williams, was found innocent. In her case, we submit to your Lordship that compensation should be insisted upon for the long imprisonment which she has suffered, and that the Spanish Government should not be allowed to avoid making this compensation by leaving her to a private suit against either a witness for perjury or a Spanish official for misconduct, as suggested in the opinion of the Auditor de Juerra, inclosed in Mr. Consul Cowper's despatch No. 20 of the 23rd May, 1873.

Her right to compensation is, in our opinion, founded upon the fact of her long imprisonment without trial, a delay for which no justification is offered, and for which the Spanish Government is responsible.

In the correspondence transmitted to us, there is a letter from your Lordship of the 21st April, 1873, to Mr. Layard, in which Mr. Layard is instructed to express to Señor Castelar the earnest hope of Her Majesty's Government that in view of the long imprisonment which the men had already undergone, orders might be sent without delay to Puerto for the remission of the sentence inflicting a further imprisonment and a fine.

The Spanish Government had complied with this request, and it appears to us that there is great difficulty in now forcibly urging the Spanish Government to compensate the men.

In our opinion the most which Her Majesty's Government can do in their case is, whilst pressing in the strongest possible manner for compensation to the woman, to ask for the favourable consideration of the case of the men now liberated.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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### No. 242.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 23.)

My Lord, *Temple, October* 22, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st October instant, stating that he was directed by your Lordship to transmit to us copy of a letter which your Lordship had received from the Lords Commissioners of the Admiralty respecting the request made by the Admiral of the Spanish Government fleet to be supplied with coal at Gibraltar, and to request that we would take that communication into our consideration, and inform your Lordship of the answer which should be returned to the application.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason why the Spanish fleet should not be allowed to take in coal at Gibraltar.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 243.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 29.)

My Lord, *Temple, October* 28, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st instant, stating that with reference to his letter of that day's date he was directed by your Lordship to transmit to you a copy of the letter from the Admiralty referred to in that already sent to us.

That we would perceive from Captain Phillimore's telegram that the Spanish fleet were taking in coals at Gibraltar, presumably from the ordinary commercial sources, and that the object of his second telegram was to ask instructions as to supplying the Spanish Admiral with Welsh coal from Her Majesty's stores.

That if coal were supplied in either manner to the Spanish Government ships, it was possible that the insurgents might also request to be furnished with them upon similar terms, and that the decision come to upon that point might involve very difficult and delicate questions.

That Lord Tenterden was, therefore, to request that we would give our most careful consideration to the points raised by the papers before us, and that we would favour your Lordship with our opinion as to the rules which should be laid down with respect to the supply of coals to either, both, or neither of the contending Spanish fleets, and also as to the grounds upon which those rules should be maintained.

In obedience to your Lordship's commands we have the honour to report—

The principle which, in our opinion, should be the foundation of any rule with respect to the supply of coals to the contending Spanish fleets, is that Her Majesty's Government has no concern with the political state of Spain, and the conflicts between opposite parties in that country.

This condition of things, and the consequences following from it, will continue as regards the fleet under the Madrid Government until that Government shall cease to treat the insurgents as insurgents or "pirates," as it has, we believe, hitherto called them, and recognizes them as belligerents, or until, if ever, Her Majesty's Government think fit to recognize the insurgents as belligerents.

Then Her Majesty's Government will be bound to strictly observe the duties of neutrals in war, and neither supply nor allow the supply of coals for the purposes of carrying on war to either party.

In the meanwhile we are of opinion that coals may be supplied to the ships belonging to the Madrid Government as a Government *de facto*, and may properly be refused to the ships of the insurgents, as they carry no national flag, and are officered by persons who hold no Commission under either a *de facto* or a *de jure* Government.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 244.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received October* 30.)

*Temple, October* 29, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th October instant, stating that the Spanish Government, in releasing the "Deerhound" and her crew on the ground of her illegal capture, had expressed their hope that any infringement of British law committed by Colonel Stuart or the crew in that affair should not go unpunished; and that he (Mr. Hammond) was therefore directed by your Lordship to transmit to us the correspondence upon the case, and to request that we would favour your Lordship with our final opinion as to whether there are any grounds for instituting criminal proceedings against Colonel Stuart or any of the other parties connected with the "Deerhound."

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there are not any grounds for instituting criminal proceedings against Colonel Stuart or any of the other parties connected with the "Deerhound."

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 245.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 11.)

*Temple, November* 10, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Admiralty, from which we would see that on the 21st ultimo a boat, belonging to Her Majesty's ship "Lively," was fired upon, and a boy on board her wounded, by a Carlist sentry in the Bilbao River.

And that he was to request us to take the letter into consideration, and favour your Lordship with our opinion as to whether any steps should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government should not take any steps in the matter.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 246.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 12.)

*Temple, November* 12, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Enfield's letter of the 8th November instant, stating that in the month of August last Her Majesty's Consul at Bilbao reported to your Lordship that he had received several applications from British subjects, residing at that port, for permission to fly the British flag with a view to protection of their property; and in answer to his inquiry as to the reply which he should give to those applications, he was informed that he could not authorize, and that Her Majesty's Government could not sanction, private persons flying the British colours.

Lord Enfield further stated that the correspondence was therewith transmitted,* and that he also inclosed a further despatch from Mr. Young, reporting the circumstances under which he had prohibited British subjects from flying British colours, together with a letter from Mr. Woods complaining of this prohibition.

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* Consul Young, No. 49, August 7; to Consul Young, No. 7, August 19; Consul Young, No. 8, August 17; Consul Young, No. 75, October 18; Mr. Woods, October 20, 1873.

That Mr. Young appeared to have gone beyond his instructions in the matter, and Lord Enfield added that he was to request that we would take it into consideration, and favour your Lordship with our opinion whether Her Majesty's Government have any right to issue such a prohibition.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government have no right to issue a prohibition against private persons flying the British colours.

But Her Majesty's Government may properly, and, in our opinion, should instruct Her Majesty's Consul to make it known to British subjects that the fact of their flying British colours will not in any manner add to the right of such subjects to the protection of Her Majesty's Government.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 247.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 17.)

*Temple, November* 17, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 11th instant, stating that with reference to his letter of the 11th instant he was directed by your Lordship to transmit to us the accompanying further despatches from Her Majesty's Minister at Madrid relative to the duty of 5 per cent. recently imposed on all exports from Spain, and to the question of the liability of British subjects in Spain to war taxation.

That we would see from Mr. Layard's No. 479 of the 25th ultimo that the export duty had been reduced to 1 per cent. and the date of its coming into operation postponed until the 1st January next; but as these modifications did not affect the principle involved, he (Lord Tenterden) was to request us to take the accompanying papers into consideration, together with those transmitted to us in his previous letter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the reduction of the tax in percentage would not affect the right of imposing the tax.

We have read the correspondence between Mr. Layard and Mr. O'Shea, and the despatch of Mr. Layard stating the action taken by the French and other Governments, and we are still of opinion that British subjects resident in Spain cannot claim exemption from the taxes imposed.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 248.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 18.)

*Temple, November* 17, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th November instant, stating that he was directed by your Lordship to transmit to us a correspondence relative to a Decree issued on the 2nd ultimo by the *de facto* Government of Spain,* imposing extraordinary war taxes in Spain, and to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in claiming for British subjects in Spain exemption from any of the taxes imposed by the Decree in question, or any relaxation of the rules under which such taxes are to be levied.

That a question of a somewhat similar nature was submitted to us on the 7th May,

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* See List.

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and again on the 3rd September last, the correspondence relating to which was sent therewith for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government would not, in our opinion, be justified in claiming for British subjects any exemption from the taxes imposed by the Government at Madrid.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 249.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 20.)

*Temple, November* 18, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 17th instant, stating that with reference to our Report of the 24th May last he was directed by your Lordship to transmit to us a despatch with its inclosures from Her Majesty's Minister at Madrid respecting the refusal of the Spanish Government to remit the remainder of the fine levied upon the "Erl King."

That the former papers in this case were likewise inclosed; and that he was to request that we would take the same into consideration, and favour your Lordship with our opinion as to the further instructions which should be addressed to Her Majesty's Minister on this subject.

In obedience to your Lordship's commands we have the honour to report—

That this is not a case for actually enforcing restitution of the fines. The Spanish Government has acted upon a harsh and inequitable construction of a law in itself harsh and inequitable. Their conduct seems to us to be fairly open to the comments which Mr. Layard makes upon it.

It is for your Lordship to consider as matter of policy the propriety of issuing the notice which Mr. Layard recommends; but we may observe that there seems no reason for withholding the publication of it on any ground of consideration for the Spanish Government, which in this case appears to be entitled to none.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 250.

*The Attorney-General and Dr. Deane to Earl Grunville.*—(*Received November* 22.)

*Temple, November* 21, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us the accompanying translation of two letters from the Spanish Representative in this country (November 17, 1873), urging that measures might be taken to prevent the shipment at Newport of certain arms suspected to be intended for the use of the Carlists, and that two letters from the Board of Customs relating to the arms in question were likewise inclosed, and that he, Lord Tenterden, was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the answer that should be returned to Señor Rubio.

Lord Tenterden also stated that he was to call our particular attention to the statement that the arms were about to be declared to be shipped to a false destination, for which the vessel carrying them would be alleged to be bound, and to request that we would inform your Lordship whether that affords any ground for stopping the vessel or arms under the Customs or any other Act.

We were further favoured with a letter from Lord Tenterden of the 20th November instant, stating that with reference to his letter of the previous day he was directed by your Lordship to transmit to us a translation of a further letter from the Spanish Representative in London, inquiring whether in the event of his being able to produce certain evidence as to the destination of the arms, and to the understanding that the Spanish Government would be responsible for all costs that might thereby be incurred, Her Majesty's Government would detain the arms and submit the matter to a court of law.

Lord Tenterden was also pleased to request that we would take Señor Rubio's letter into our earliest consideration, together with the papers already before us, and favour your Lordship with our opinion as to the answer that should be returned thereto, and that he also inclosed a letter from Mr. Downing, the gentleman to whom the arms in question had been consigned at Newport for shipment, asking for advice in the matter, and that your Lordship requested that we would favour you with our opinion at the same time as to the answer to be returned to Mr. Downing.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there is no power either at common law or by statute by virtue of which the vessel or arms about to be exported therein can be detained, and we consider that Her Majesty's Government cannot take any steps, such as are suggested by Señor Rubio, although the Spanish Government may be ready to indemnify Her Majesty's Government, and we think that Señor Rubio may be properly answered to that effect.

We are, however, anxious to point out to your Lordship the actual state of the law in respect to the exportation of goods, whether arms or not. The only machinery by which goods can be detained is in the case of non-compliance with certain customs regulations in relation to declaring the nature of the goods about to be exported. The enactments in relation to those declarations are to be found in 16 & 17 Vict., cap. 107, 18 & 19 Vict., cap. 96, and 34 and 35 Vict., cap. 103. But these regulations in no way refer to the description of goods about to be exported, and apply equally to all goods, whether contraband of war or not.

Your Lordship might refer to the Customs authorities the question in Señor Rubio's letter, and request them to take the same steps they would in any other case to ensure the provisions of the Customs Acts we have referred to being carried out.

Mr. Downing may, in our opinion, be informed that your Lordship is not in a position to give him any advice, and that he must act on his own responsibility.

We have, &c.
(Signed) HENRY JAMES.
J. PARKER DEANE.

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### No. 251.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 29.)

*Temple, November* 28, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Admiralty and telegram from Her Majesty's Minister at Madrid[*] relative to a certain proposition that certain stores in the Arsenal at Carthagena, the property of the Spanish nation, should be received as a substantial guarantee for the future payment of some coals, British property, which have been seized and consumed by the Spanish insurgents.

Lord Tenterden further stated that we would observe that a similar proposition has been made with regard to payment for some wheat belonging to Italian subjects which has been seized in the same manner.

Lord Tenterden also stated that he was to request that we would take the inclosed papers into our immediate consideration, and favour your Lordship, at our earliest convenience, with our opinion as to the course that should be pursued with regard to the proposition in question.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government cannot, in our opinion, accept from the insurgents at Carthagena goods, the property of the Spanish nation, as security for the repayment of the value of British property seized, consumed, or destroyed by the insurgents.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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[*] Admiralty, November 24; Mr. Layard (Telegraphic), November 24, 1873.

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## No. 252.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 1.)

*Temple, December* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st ultimo, stating that with reference to his letter of the 20th ultimo relative to certain arms at Newport which were suspected of being intended for the use of the Carlists, he was directed by your Lordship to transmit to us, for our consideration, a memorandum which had been received from the Spanish Secretary, calling attention to a case in which he asserted that the British Government interfered to prevent shipment of arms supposed to be intended for the use of insurgents in Portugal. That it was to be presumed that the case referred to in that memorandum was that of the expedition to Terceira in 1828-9, the correspondence relating to which would be found in the "State Papers" (vol. xvi, pp. 433—469).

That a summary of the case was contained in "Phillimore's International Law" (pp. 229—237).

In obedience to your Lordship's commands we have the honour to report—

There can be no doubt that prior to 1826 Orders in Council to prohibit the exportation of arms and munitions of war to particular foreign States were sometimes issued under 29 Geo. III and 33 Geo. II, cap. 2.

It appears that when the Duke of Wellington was at the head of affairs he endeavoured to give effect to such an order, in the case of Portugal ("Despatches," vol. v, p. 178), though the exact course pursued is not very clearly stated. Since that period the settled policy of the British Government has been not to interfere with the exportation of munitions of war.

When the Foreign Enlistment Bill was under discussion in 1870, the House of Commons deliberately declined to introduce any provision as to the exportation of arms. The British Government throughout the whole course of the American Civil War and the war between France and Germany adhered to the same view.

And we have no hesitation in advising that this policy should be maintained.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 253.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 6.)

*Temple, December* 2, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th ultimo, stating that in accordance with the opinion expressed in our report of the 15th September last relative to an extraordinary war tax which was about to be levied at Barcelona, your Lordship informed Her Majesty's Chargé d'Affaires at Madrid that British subjects could not claim exemption from paying that tax.

That it appeared, however, from the accompanying telegram from Mr. Layard, that British subjects at Barcelona had now been called upon to pay the tax, but that French, Italian, and Portuguese subjects were exempted, and that Mr. Layard asked whether exemption could be claimed for British subjects under the "most-favoured-nation clause," or on other grounds.

That with regard to claiming exemption on "other grounds," our above-mentioned report would appear to be conclusive; but that your Lordship would be glad to be favoured with our opinion, with the least possible delay, as to the right of Her Majesty's Government to claim for British subjects under the "most-favoured-nation" clause an exemption similar to that which appeared to have been conceded to French, Italian, and Portuguese subjects.

That we would observe from the inclosed memorandum drawn up in that Office on October 15th, 1868, that Great Britain was expressly granted the privileges of the most-favoured nation by various clauses of Treaties concluded in the 17th and 18th centuries, which clauses were confirmed by the Definite Treaty of the 3rd September, 1783, and further by an additional Article to the Treaty of 1814.

That copies of the Treaties referred to would be found in Appendix A to the memorandum.

That the papers relating to that matter which had been previously referred to us were sent therewith.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government has the right to claim for British subjects under the Treaty of September 1783, Article II, and the Treaties renewed by the said Article, and the additional Articles of the 28th August, 1814, an exemption similar to that which has been conceded to French, Italian, and Portuguese subjects.

The Article VII in the Treaty of the 5th October, 1750, is the latest Treaty between Great Britain and Spain, which, as we believe, contains expressly a most-favoured-nation clause; but this Treaty is confirmed by the other Treaties to which we have referred, and as such is still binding.

We desire on this subject to call your Lordship's attention to page 27 of Mr. Herslet's Memorandum, since we consider the omission of Spain from the list laid before the House of Lords in 1843, and from the return laid before the House of Commons in March 1860, was made by some inadvertence, and the statement might with advantage be corrected.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 254.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received Desember* 9.)

My Lord, *Temple, December* 8, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid, requesting instructions as to the right of the Spanish Government to requisition for purposes of war horses *bonâ fide* the property of British subjects; and that he was to request that we would favour your Lordship with our opinion as to the answer that should be returned to Mr. Layard.

That Lord Tenterden was at the same time to call our attention to the fact that the Decree inclosed in Mr. Layard's despatch, exempting from requisition horses belonging to foreign Ambassadors, Ministers, and Chargé d'Affaires, made no mention of horses belonging to Secretaries of Legation or other members of Missions, and that Lord Tenterden was to request that we would inform your Lordship whether we considered that any notice should be taken of that omission.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Layard may properly be instructed that Her Majesty's Government considers that the Spanish Government is entitled to requisition for the purposes of war horses which are the property of British subjects in Spain.

In reference to the second question in Lord Tenterden's letter, we are of opinion that Mr. Layard may properly be instructed to inform the Spanish Government that Her Majesty's Government claim that the privilege of extra-territoriality extended to all persons attached to Her Majesty's representative at Madrid. And if needed, Mr. Layard may state to the Spanish Government that the Spanish Secretary of Legation in London has had, on the application of the Spanish representative in London, a similar privilege allowed him in this country, in a case where he claimed, and was allowed his privilege in a court of law.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 255.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—*(Received December* 17.)

*Temple, December* 16, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th December instant, stating that with reference to our Report of the 1st instant, he was directed by your Lordship to transmit to us, for any observations we might have to make thereon, a despatch from Her Majesty's Minister at Madrid (Mr. Layard, No. 158, November 29, 1873), inclosing the answer of the Spanish Government with regard to the disposal of the surviving British subjects taken on board the "Virginius," and the question of compensation to the families of those executed at Santiago.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Layard may properly be instructed by your Lordship to state to Señor Carvajal that inasmuch as the British subjects on board the "Virginius" had committed no offence deserving death by either municipal or international law, Her Majesty's Government will demand compensation for the families of those executed.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 256.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—*(Received December* 17.)

*Temple, December* 17, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a letter and its inclosures from the Colonial Office relative to the proceedings of the authorities at Jamaica with regard to the steamer "Virginius," which vessel it appeared was in Kingston Harbour from the 9th of July till the 23rd of October last, and that he was to request that we would favour your Lordship with our opinion as to whether Sir Peter Grant's proceedings should be approved.

That a letter from the Admiralty, inclosing Commodore de Horsey's Reports upon the subject, and a despatch from Her Majesty's Minister at Port-au-Prince relative to the proceedings of the "Virginius" at that port, were likewise inclosed, together with two despatches which had been received from Mr. Acting Consul-General Crawford.

In obedience to your Lordship's commands we have the honour to report—

That this case is one of such grave importance, that we do not desire to give our opinion upon it until an opportunity shall have been given to the Governor of Jamaica to place before Her Majesty's Government any further explanation he may have to offer as to the reasons which caused him not to detain the "Virginius."

It seems to us that the principal question is, whether the Governor of Jamaica had on the information before him "reasonable and probable cause for believing" (33 & 34 Vict., cap. 90, secs. 23, 24, and sec. 8, sub-sec. 4) that the "Virginius" was about to be dispatched with the intention of being employed in the naval or military service of the Cuban insurgents.

There is also a second question, whether the facts submitted to the Governor did not bring the persons about to embark on board the "Virginius" within the operation of the 11th section of the above-mentioned Act.

We think it right to call your Lordship's attention to the following documents, to which we would suggest the attention of the Governor of Jamaica should be particularly directed:—

Letter from Commodore de Horsey to Sir J. P. Grant, July 9, 1873.
Inspector Foley to Inspector-General, July 10, 1873.
Inspector Foley to Inspector of Police, July 12, 1873.
Inspector Foley to Commodore de Horsey, July 12, 1873.
Minute of Collector-General, July 14, 1873.
Letter of Vice-Consul of Spain, July 25, 1873.

Inspector-General of Police to Colonial Secretary, October 16, 1873.
Inspector Foley to Inspector of Police, October 16, 1873.
Inspector Foley to Inspector of Police, October 20, 1873.
Collector of Customs, Kingston, to Collector-General, October 24, 1873.
Collector-General to Colonial Secretary, October 21, 1873.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 257.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—*(Received December* 19.)

*Temple, December* 18, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 1st December instant, stating that he was directed by your Lordship to transmit to us a despatch (No. 91) from Her Majesty's Minister at Madrid, inclosing a copy of a simultaneous note which he has addressed to the Spanish Government in conjunction with his foreign colleagues on the subject of the system pursued in Spanish ports of inflicting fines upon shipping for errors in vessels' manifests, which question has, as we are aware, received the serious attention of Her Majesty's Government for some time past.

He also inclosed a further despatch from Her Majesty's Minister, wherein he calls attention to an Article in the Anglo-Spanish Treaty of 1667 ("Hertslet's Treaties," vol. ii, p. 140), as affording an additional ground for remonstrance with the Spanish Government in this matter; and he was to request that we would take the same into our consideration, together with the inclosed letter from the Board of Trade, and favour your Lordship with such observations as we may have to offer thereupon.

In obedience to your Lordship's commands we have taken these matters into our consideration and have the honour to report—

That, in our opinion, your Lordship may properly approve of the note addressed by Mr. Layard to the Spanish Government.

Your Lordship may, we think, instruct Mr. Layard that in any future remonstrance with the Spanish Government the Treaty of 1667 should not be referred to by him without directions from your Lordship applicable to the particular case.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 258.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—*(Received December* 26.)

*Temple, December* 24, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th instant, stating that, with reference to our Reports of the 2nd and 8th instant, respecting the rights of British subjects in Spain to be exempted from the payment of forced loans and special war taxes, and from requisitions for horses, he was directed by your Lordship to transmit to us two farther despatches from Her Majesty's Minister at Madrid upon the subject of the rights in question.

And that he was to request us to take these despatches into consideration, and favour your Lordship with any observations we might have to make thereon.

Lord Tenterden was further pleased to state in the postcript appended to his said letter that, with reference to the remark in our Report of the 2nd instant as to the omission of Spain from the list laid before the House of Lords in 1843, and from the Returns laid before the House of Commons in March 1860, that he was to inclose a memorandum by the Librarian of the Foreign Office explaining the omission in question.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason to alter the opinions we have formerly expressed, that

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apart from Treaty stipulations ordinary British subjects cannot claim exemption from the effect of such reasonable measures as the Spanish Government may think fit to take for the public safety, and which are applied indifferently to all persons resident in Spain.

In regard of forced loans, the Spanish Government have themselves, in the Decree of the 21st November, 1873, inclosed by Mr. Layard, placed their own construction on the existing Treaties as extending to foreigners exemption from such loans.

Whether this Decree covers more than the matter of money contribution may be doubted, but Mr. Layard, in his despatch of the 1st December, 1873, has very properly called the attention of the Spanish Minister of State to the precedents of 1837 and 1838 referred to in the inclosed correspondence.

It seems probable that the Spanish Government will not desire to recede from the view taken of their obligations by antecedent Governments; at all events, we think Her Majesty's Government may approve the despatch of Mr. Layard of the 1st December to the Spanish Minister of State, and await his reply to that despatch.

We are clearly of opinion that in any event British subjects are entitled to all the exemptions granted to other foreigners. How far it may be desirable to insist on the exemption from other requisitions which are applied to all alike is a question which it seems to us may be conveniently reserved until it shall appear that the Spanish Government are disposed to resist the last representation of Mr. Layard.

We beg leave te call attention to the fact that no translation is sent of the Spanish Decree, a circumstance which, when much may turn upon the meaning of particular words and phrases, is inconvenient.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 259.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 29.)

*Temple, December* 27, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th December instant, stating that, with reference to our Report of the 21st ultimo, relative to certain arms at Newport supposed to be intended for the use of the Carlists, he was directed by your Lordship to transmit to us a further letter, and its inclosure, from the Board of Customs, from which it appears that the arms in question, together with a quantity more which had arrived from Bayonne by the French steamer "Malfilatre," were about to be removed to Cardiff, and that it was further stated that the arms had been purchased by a Mr. Hugh L. F. Palmer, who alleged that he was negotiating for their sale to the Greek Government.

Lord Tenterden further stated that he was to request that we would take this letter into our consideration, together with the former papers which were sent therewith, and favour your Lordship with our opinion as to whether any and what steps should be taken in regard to the arms in question.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government cannot take any steps to prevent the exportation of the arms in question beyond directing the attention of the Customs authorities that every regulation under that Department be observed with the greatest care.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 260.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received December* 29.)

*Temple, December* 27, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd instant, stating that, with reference to our Report of the

16th instant, on the subject of the compensation to be claimed from the Spanish Government for the relatives of the British members of the crew of the "Virginius" executed at Santiago de Cuba, he was directed by your Lordship to transmit to us the accompanying telegram which has been received from Her Majesty's Minister at Washington, stating that the United States' Government has decided that that vessel had no right to the American flag or papers; and he was to request that we would take that paper into our consideration, and favour your Lordship with our opinion as to whether that decision makes any difference in the demands of Her Majesty's Government, and what should be required of the United States' Government as regards the survivors of the crew who have been delivered up to them and who are probably still detained, pending the result of the inquiry which it would appear is being instituted into the case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the contents of Sir E. Thornton's despatch should materially affect both the tone and extent of the demands to be made on the Spanish Government.

Assuming the United States' Government to have made the admission mentioned by Sir E. Thornton, we think your Lordship must regard the "Virginius" as being a vessel at the time of her seizure "not justly entitled to the flag of any nation."

It also appears to us that your Lordship will probably come to the conclusion that the "Virginius" when captured was engaged in an adventure directly hostile to the maintenance of the Spanish Government in Cuba.

We are therefore of opinion that your Lordship can in no way remonstrate on account of the capture or detention of the British subjects on board the "Virginius."

The question, however, remains whether the Spanish authorities were justified in inflicting the extreme punishment of death on those who were engaged in an unlawful filibustering expedition in favour of the Cuban rebels.

We need not point out to your Lordship that the degree of punishment to be inflicted for offences against or committed within a State must necessarily be determined by those who govern it, and it is only where the punishment is most clearly excessive in relation to the offence, or where the laws of humanity have been outraged, that the Government of a foreign State is entitled to interfere for the protection of its subjects.

Advising your Lordship on the meagre information before us, it seems to us that, even assuming the crew of the "Virginius" to have been in a similar position to that of pirates, with an object directly hostile to Spain, the punishment of death may be urged by your Lordship to have been excessive, and that you may so represent to the Spanish Government.

But we venture to suggest that every opportunity should be afforded to that Government to explain the nature of the offence with which the executed British subjects were charged, the mode of trial to which they were subjected, and the reason for inflicting the extreme punishment of death.

It probably will occur to your Lordship that, at the time of the trial of the accused persons, the Cuban authorities were not likely to have been aware that the "Virginius" was sailing without the protection of the American flag; and that the trial must have proceeded without the knowledge of the important fact that the vessel had "no right to the American flag or papers."

We think your Lordship may direct Sir E. Thornton to inquire from the United States' Government whether the British subjects are now detained with the object of being charged with any offence against the laws of the United States. If they be so, or if their detention is deemed necessary for inquiry, we see no reason why your Lordship should demand their immediate release. On the contrary, it seems to us, in the present state of our information on the subject, that any further action in respect of the surviving British subjects amongst the crew of the "Virginus" had better be suspended for the moment.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.

In the absence of Dr. Deane from London, as this matter is pressing, I have thought it better to forward the Report.

W. V. H.

## No. 261.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 1, 1874.)

*Temple, December* 31, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 26th instant, stating that, with reference to his letter of the 23rd instant, and to previous correspondence on the subject of the capture of the "Virginius," and the execution of British subjects at Santiago de Cuba, he was directed by your Lordship to transmit to us the accompanying papers bearing on that case;* and that he was to request that we would take into our consideration with the papers now before us,† and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That these papers in no way alter the opinion which we have expressed in our last Report of the 27th instant. The course taken by the British naval officers appears to have been vigorous and judicious, and their remonstrances well founded upon the view of the facts as they at the time presented themselves.

The correspondence occurred after the execution of the first batch of prisoners, and of course came too late to be of any avail, though it probably had the effect of saving the lives of the survivors. The most serious part of the correspondence appears to us to be the reference in the letter of the Governor of Santiago de Cuba of the 19th November (paragraph 9) to the conduct of the Governor of Jamaica as being the real cause of the catastrophe.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 262.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 1, 1874.)

*Temple, December* 31, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch, which has been received from Her Majesty's Minister at Madrid, respecting the question of the liability of British Consular Agents, who happen to be Spanish subjects, to be called upon to serve in the militia; and he was to request that we would take that paper into our consideration, and favour your Lordship with our opinion thereupon.

And that he was likewise to inclose a memorandum, which has been drawn up in the Foreign Office, on the position of Consular Agents with reference to existing Treaties.‡

In obedience to your Lordship's commands we have the honour to report—

That the general principle is correctly stated by Hallech, cap. 10, sec. 10:—

"When a citizen of a State is appointed to a foreign Consulate in the State, it is optional with his Government to refuse to permit him to hold the office, or to attach conditions to his holding it. But suppose he be recognized as such Consul without any conditions, reason and analogy would lead us to the conclusion that if no conditions are imposed in the exequatur, the citizen who is Consul of a foreign State is entitled as much as an alien Consul to the privileges and exemptions which necessarily pertain to that office; and it is believed that this conclusion is sustained by authority of the text writers." See also Calvo, vol. i, p. 610; Phillimore, vol. xi; De Marten's Guide Diplomatique.

The question then is, whether the "Consular Agents" spoken of in Mr. Layard's despatch are persons acting under an exequatur from the Spanish Government; next, whether any conditions were imposed at the time when they were recognized in such capacity, which might be either under special arrangement or by the general Spanish law.

M. Calvo, p. 601, refers to Spanish Consular Regulations, February 1, 1765, and Ordinances, May 8, 1827; July 17, 1847; November 17, 1852. These should be consulted, as also other Regulations referred to by De Martens.

Without further information we can only give an opinion generally, that if the Consular character of Spanish subjects has been unconditionally recognized by the Spanish Government, Her Majesty's Government would be entitled to claim immunity for them from service in the militia, an employment which would be clearly incompatible with the due discharge of their ordinary Consular functions. This, however, is not the personal privilege of the individual, but of the Governments he represents for the advantage of the public service, and if Her Majesty's Government should think it more prudent to waive the privilege, they are at liberty to do so.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 263.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 1, 1874.)

*Temple, December* 31, 1873.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 24th instant, stating that, with reference to our Report of the 16th instant, he was directed by your Lordship to transmit to us therewith the accompanying letter (December 17) which had been received from Colonel Stuart, containing further particulars respecting the capture of his vessel the "Deerhound."

That in addition to his claim for compensation on account of imprisonment, which claim could not, in our opinion, be supported by Her Majesty's Government, Colonel Stuart considers that he is entitled to additional compensation for damages alleged to have been done to the "Deerhound" while in possession of the Spanish authorities, and also for the value of arms and ammunition which he stated were detained by those authorities when the vessel was delivered over to him.

Lord Tenterden further said that he was to state that your Lordship presumed that Her Majesty's Government would not be justified in submitting those additional claims to the Spanish Government, as you scarcely supposed that Colonel Stuart's further letter made any difference in the case. Your Lordship would, however, be glad to be favoured with our opinion.

In obedience to your Lordship's commands we have the honour to report—

That Colonel Stuart's further letter in no way causes us to alter our opinion of the 16th December, 1873, to which we adhere.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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* Admiralty, December 13; Mr. Crawford, No. 32, November 27, 1873.
† Colonial Office, December 17, 1873.
‡ Memorandum, December 23, 1873.

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## Sweden.

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### No. 264.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 10.)

*Temple, March* , 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mrs. Pihl, requesting to be informed whether she and her children were to be regarded as British subjects.

That it appeared from the letter and papers inclosed that Mrs. Pihl is by birth a British subject, and was married in 1847 at Surbiton to Mr. Pihl, a Russian subject, now deceased; on proceeding after her marriage to St. Petersburgh she was furnished with a certificate from Her Majesty's Consul there, dated October 18, 1847, declaring her to be a British subject; since then she has resided in England and elsewhere, and is now at Stockholm.

That your Lordship presumed, from the statements in Mrs. Pihl's letter, that some of her children might have been born in England. Those would be British subjects by birth, and about them there could be no question. The points, therefore, on which he would be glad to be favoured with our opinion were, whether by the marriage contracted with Mr. Pihl, a Russian subject, Mrs. Pihl ceased to be a British subject, undert he Act 33 Vict., cap. 14, of which a copy was inclosed, or any previous law; (2) if so, whether she could obtain a certificate of readmission to British nationality under that Act.

3. Whether if she obtained such a certificate any of her children would become thereby naturalized as British subjects under the 10th section (5).

It would be observed that they were respectively born in 1848, 1850, 1851, 1854, 1856, and 1859.

In obedience to your Lordship's commands we have the honour to report—

1. That Mrs. Pihl by her marriage became, and during the marriage must, in our opinion, be deemed to have been a subject of the State, that is Russia, of which her husband was a subject (see 33 Vict., cap. 14, section 10), which is a restatement of the previous law on the subject.

2. By 33 Vict., cap. 14, sec. 10, sub-section 2, Mrs. Pihl, who by her marriage became, as a subject of Russia, a statutory alien, may now on her widowhood obtain a certificate of readmission in the manner provided by sections 7 & 8 of 33 Vict., cap. 14, but subject within the limits of the Russian Empire to the conditions imposed by section 8 of the same Act.

3. The 10th section (5) is so framed that, in our opinion, the words "such father or mother" in that sub-section mean the "father or mother who has obtained a certificate of naturalization in the United Kingdom."

Mrs. Pihl has not up to the present time obtained this certificate. The three eldest children, who are 21 and upwards, therefore do not come either of them within the description of a child who during infancy has become resident with a mother who has obtained a certificate of naturalization in the United Kingdom; and these three children cannot under the Act be deemed to be naturalized British subjects.

But if Mrs. Pihl obtains the certificate, any of the other children who during infancy may reside with her in the United Kingdom will, under the Act, be deemed to be British subjects.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 265.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 16.)

*Temple, June* 16, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 12th June, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Tyne and Wear Iron Steam-Ship Insurance Association, with its inclosures, claiming compensation from the Swedish Government for damage caused to the steam-ship "Stagshaw" by the Swedish frigate "Vanadis" in Alexandria Harbour; and he was to request us to take the papers into consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government cannot at present interfere in the matter of this collision in the harbour of Alexandria.

The Tyne and Wear Iron Steam-Ship Company may properly be informed that when Her Majesty's Government receives from them the refusal of the Swedish Government in an official form to pay the damages consequent upon the collision, or to submit the case to a trial, or to a reference, Her Majesty's Government will consider whether the case requires their interference.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## Switzerland.

### No. 266.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 26.)

*Temple, May* 24, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Berne, referring to the question of mixed marriages of British subjects in Switzerland, in cases where the parties interested were desirous of being married according to the *lex loci*, and without the marriage ceremony being performed at the Legation.

It appeared that the Swiss Cantons refused to sanction the ceremony unless they received from Her Majesty's Minister a certificate declaring that such marriages would be valid in England, and that the wife would henceforth become English according to British law; and Mr. Bonar had accordingly drawn up a form of certificate such as he considered would meet the requirements of the Swiss Government; but he was desirous of being informed whether it is correct in every particular and might be adopted by Her Majesty's Legation.

That your Lordship would be glad to be favoured with our opinion upon this subject, but that your Lordship would suggest whether it would would not be advisable to omit the concluding paragraph of the proposed certificate, and to limit the statement in the last paragraph but one to marriages performed at Her Majesty's Legations since *previous evidence* was a formality required both for a marriage performed at a British Consulate, although it was dispensed with in the case of a marriage at a Legation.

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report—

That, having carefully read the letter of Her Majesty's Minister at Berne, and considered the object of the proposed form of preliminary certificate; in reference to

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the marriages according to the *lex loci*, the certificate is, in our opinion, proper, but we suggest the omission of the paragraph beginning "Mais de ce que" and ending "en d'autres pays."

But in reference to that part of the certificate which is in the English language we consider that it may mislead, and that the whole of such part had better be left out; and that Her Majesty's Minister should inform each applicant of the formalities required, and not point out those which are not needed.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

## No. 267.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 5.)

*Temple, November* 5, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 27th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Berne, referring to applications by naturalized British subjects to be married at Her Majesty's Mission in that capital, and asking whether, in respect of marriage at Her Majesty's Legation, the naturalized British subject was under any disability, and if so to what degree, or whether, as regards the marriage law and the instructions to Her Majesty's Missions abroad contained in the Circular despatch from the Foreign Office of the 10th February last, the naturalized British subject stood upon perfect equality with the natural-born.

And that he (Lord Enfield) was to request us to take the matter, which is one of much importance, into our early consideration, and favour your Lordship upon the points directly adverted to by Mr. Bonar, upon which might be founded the answer to be returned to his present inquiry, but also with any observations which we might have to offer and which might be of use to your Lordship in framing a Circular instruction both to Her Majesty's Diplomatic and Consular representatives abroad upon this question, should it be considered advisable to do so, as they were liable at any moment to be called upon by naturalized British subjects to perform the marriage ceremony.

And that a copy of the Circular above referred to, as well as of the Naturalization Act, 1870, and of a memorandum drawn up at the Foreign Office on the subject of marriages of British subjects at Missions and Consulates abroad, were inclosed.

In obedience to your Lordship's commands we have the honour to report—

That the naturalized British subject is, as respects every country other than that of which he was a natural-born subject, or a subject before his naturalization, and in which he may be living, entitled to all the rights of a natural-born British subject, and may therefore claim to be married under the Consular Marriage Act at Berne or elsewhere.

But if Berne, or the place in which he desires to be married, be the country of his birth, or the country of which he was a subject previously to his obtaining his certificate of naturalization, and he has not ceased to be a subject of that State in pursuance of its laws or by Treaty, and the laws of that country do not admit the validity of such Consular marriage, we apprehend such marriage will be open to very great doubt everywhere, except in Her Majesty's dominions, and will be invalid in the country in which it was had.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

## No. 268.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received January* 1, 1874.)

*Temple, December* 31, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd instant, stating that he was directed by your Lordship to transmit to us the accompanying despatches, as marked in the margin,* from Her Majesty's Minister at Berne, respecting a claim put forward by the Cantonal Government of Geneva to succession duty on the personal estate of Mr. Forbes, formerly Her Majesty's Minister at Dresden, who died at Geneva on the 5th of last month, an embargo having been laid upon the property, which was on the point of being removed to this country, until the duty is paid.

And that we should see by Mr. Bonar's despatches that he has not thought himself warranted in making any remonstrance against the claim for duty, the validity of which seems to turn upon the question of domicile in Mr. Forbes' case, and whilst awaiting instructions on this subject, has confined himself to obtaining a suspension of all judicial proceedings against the estate until the heir could be communicated with, and should be called, either to appear in person in Court, or should name some one to represent him, and that this course has been assented to.

Reference was also made to Mr. Bonar's despatch No. 72, to the declaration signed at Berne in the course of last year, relative to the succession duty on the property of British subjects dying in the Canton of Vaud, a copy of which was inclosed, and that we should perceive that negotiations which had been commenced with a view to a corresponding arrangement with the other Cantons have as yet remained without result, so that the question of succession duty in the Canton of Geneva must be determined by the laws hitherto in force, and accordingly he was to transmit to us such of Mr. Bonar's despatches as are referred to by him as containing information on this subject.†

He was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the instructions which should be given to Mr. Bonar in this matter.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That we are of opinion that the right to the succession duty claimed must clearly depend upon the law of the Canton of Geneva.

The authorities there seem to have acted with proper consideration in affording an opportunity to Mr. Forbes' representatives to appear, and we think your Lordship may instruct Mr. Bonar that if those representatives do not appear to contest the claim he ought not to interfere further in the matter, except to see that the property seized is not unnecessarily injured.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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* Mr. Bonar, Nos. 70, 71, and 72.

† Mr. Bonar, No. 83, August 14, and No. 99, September 25, 1871; ditto, No. 10, February 7, 1873.

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# Tunis.

## No. 269.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 13.)

*Temple, June* 13, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that with reference to our Report of the 6th March last year upon the proposal of the Bey of Tunis for the establishment of mixed Tribunals at Tunis for the purpose of deciding civil and commercial suits between natives and foreigners in that regency, he was directed by your Lordship to transmit to us, together with former papers, a further despatch from Her Majesty's Agent and Consul-General forwarding a copy of the Rules of Procedure to be observed by the Tribunals in question. Mr. Hammond also inclosed a despatch from Sir P. Francis reporting on the same, and he (Mr. Hammond) stated he was to request us to favour your Lordship with our opinion as to whether Her Majesty's Government should give their assent to the adoption of the proposed Rules of Procedure.

In obedience to your Lordship's commands we have the honour to report—

That we have considered the proposed Rules of Procedure before the mixed Tribunals at Tunis, and we have also considered the despatch of Sir Philip Francis reporting on those Rules.

We are of opinion, in accordance with the Report of Sir P. Francis, that Her Majesty's Government may properly assent to the adoption of the proposed Rules.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 270.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 23.)

*Temple, June* 23, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us a despatch with its inclosure from Her Majesty's Agent and Consul-General at Tunis, reporting the instructions which, in consequence of representations from the Tunisian Government, he (the Agent) had addressed to the British Consular Agents within his district with a view to the prevention of the clandestine importation and exportation of goods to and from Tunisian ports in vessels under the British flag.

And that he (Lord Tenterden) was at the same time to state to us that your Lordship proposed to approve the instructions issued by Mr. Wood in this matter, but that before doing so your Lordship would be glad to be favoured with our opinion as to whether the same were right and proper.

In obedience to your Lordship's commands we have the honour to report—

That the proposed instructions are, in our opinion, right and proper.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 271.

*The Lam Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 23.)

*Temple, June* 23, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that in the year 1869 a mixed Commission was established by a Decree of the Bey of Tunis for liquidating the debts of the regency to the subjects of foreign Powers.* That the Decree would be found at page 134 of an accompanying volume of the "Archives Diplomatiques,"† and that the negotiations which led up to that Decree were set forth in the printed collection sent therewith.

And we would see by the manuscript correspondence which he inclosed that a discussion had arisen at Tunis as to the limits assigned by that Decree to the rights of the Bey in regard to farming out certain portions of the Tunisian domain; and that he (Mr. Hammond) was to request us to consider and report to your Lordship our opinion whether such restrictions are imposed by this Decree on the Bey as are maintained by the Commission sitting at Tunis to have been contemplated by it.

In obedience to your Lordship's commands we have taken this matter into consideration and have the honour to report—

That, in our opinion, the spirit and words of the Decree impose upon the Bey the restrictions which are maintained by the Commission sitting at Tunis to have been contemplated by it.

The intention of the Decree appears to have been that the Bey should surrender into the hands of the Commission the whole revenues of the Kingdom for the purposes of administration, and this object could hardly be obtained if the Bey had still the power of farming out without the control of the Commission any part of those revenues.

The terms upon which a part of the revenues are to be farmed seems a necessary part of the work of the Commission, and it might be inconvenient, and certainly would be invidious, to give occasion to a difference in the terms between the Bey and the Commissioners.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 272.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 11.)

*Temple, November* 10, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 1st instant, stating that he was directed to transmit to us the accompanying papers relative to the continuance of British protection to Si Hamuda Ben Ayat in Tunis, and to request that we would take these papers into consideration and favour your Lordship with our opinion on the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the continuance of British protection to Si Hamuda Ben Ayat in Tunis depends, first, upon the right of Her Majesty's Government; and, secondly, upon the policy of Her Majesty's Government in the circumstances.

As to the right, we think that the Tunisian Government having admitted the British protection for a long series of years, Her Majesty's Government has a right to insist upon a continuance of that protection, and especially when the right is disputed not by the Tunisian Government, but by a foreign Consul.

If the French Government should bring the matter before your Lordship, it seems to us, with our present information on the subject, that the right may properly be insisted upon as to the past, whatever arrangements for the future may be made between the two Governments.

In reference to the policy of continuing this protection, it appears to us that the surrender of that protection would be a most serious injury to the interests and

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* July 5, 1869.

† "Archives Diplomatiques," 1870, vol. i, p. 134.

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influence of England (particularly in comparison with the gain to France in both these respects) in Tunis and the neighbouring countries.

We have, &c.
(Signed) J. D. COLERIDGE.
H. JAMES.
J. PARKER DEANE.

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## Turkey.

### No. 273.

*The Law Officers of the Crown and Dr. Deane to Earl Granville*—(*Received January* 18.)

*Temple, January* 17, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter, together with its inclosures, from Messrs. Laycock and Co., respecting their claim on the Turkish Government for coals delivered by them as far back as the year 1868, for which they had hitherto been unable to obtain payment, and soliciting the intervention of Her Majesty's Government on their behalf, and that he was to request us to take the papers into consideration and favour your Lordship with our opinion as to what steps, if any, could be properly taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That we gather from the letter of Messrs. Laycock and Co. to your Lordship that credit was given to the Turkish Government, and that that Government is in fact and in law the debtor of Messrs. Laycock and Co. for coals supplied by their agent.

But, in our opinion, some further proof of this fact should be supplied, or the real state of things ascertained on the spot.

And we should advise your Lordship, as the convenient course, to instruct Her Majesty's Minister at Constantinople to inquire if the claim of Messrs. Laycock is founded on facts, and if the claim be so founded, to press the claim upon the Ottoman Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 274.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 3.)

*Temple, February* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that with reference to our Report of the 18th instant, he was directed by your Lordship to transmit to us the papers relating to a case pending in the Consular Court at Constantinople, in which the Italian vessel "Arturo" was claimed as a derelict by the crews of two English steamers who found the "Arturo" abandoned in the Black Sea; and that he (Mr. Hammond) was to request us to take the papers into immediate consideration, and report to your Lordship our opinion as to the instructions which should be given to Her Majesty's Ambassador and to the Judge of Her Majesty's Consular Court at Constantinople for their guidance in the case.

In obedience to your Lordship's commands we have the honour to report—

That in England the question whether the ship was derelict or not would be but an element in calculating the amount of salvage.

But the telegram from Sir H. Elliot states that the point whether derelict or not determines the jurisdiction, and the Italian Consul admits that if the ship were derelict the jurisdiction lies with the British.

We are of opinion that in this state of things your Lordship might properly instruct Her Majesty's Ambassador and the Judges of Her Majesty's Consular Court at Constantinople to confer with the Italian Minister and Consul at Constantinople, and endeavour to have this preliminary question of jurisdiction, depending upon simple facts, determined by the two Consuls on the evidence to the facts of derelict agreeing; and, in the event of their differing, to refer the decision to some third person upon whom they may beforehand agree.

The vessel in the meanwhile should remain under sequestration, or be let go on security.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 275.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 4.)

*Temple, February* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us a letter from a person named Paul Tamagian, containing a complaint against Sir Philip Francis, the Judge of Her Majesty's Consular Court, together with Sir P. Francis' Report on the subject,* and he (Lord Enfield) was to request us to take the papers into consideration and favour your Lordship with our opinion as to the answer which should be returned to Mr. Tamagian.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may properly direct that Mr. Tamagian be informed that after inquiry into the circumstances which form the grounds of his complaint against Sir P. Francis, your Lordship finds no sufficient reason for complying with the request of Mr. Tamagian.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 276.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 20.)

*Temple, February* 19, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the correspondence noted in an inclosed list relative to the circumstances under which the British mail-steamer "Cashmere" was attacked at Bushire in the month of June last by pirates, who killed one of the crew and wounded others, besides carrying off a large sum in specie; and that he (Lord Tenterden) was to request us to take these papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government could properly address a request to the Government of the Porte for compensation to the family of the murdered man, and to the other sufferers through the outrage in question.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That the circumstances of this case are such that Her Majesty's Government

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* Mr. Tamagian, November 28; Sir P. Francis, No. 7, January 7, 1873.

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cannot properly address a request to the Government of the Porte for compensation to the family of the murdered man, or to the other sufferers through the outrage.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 277.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 22.)

My Lord, *Temple, February* 21, 1873.

WE are honoured with your Lordship's commands signified in a memorandum from Lord Tenterden of the 18th instant, stating that with reference to his letter of the instant he was directed by your Lordship to transmit to us for consideration (with papers before us) a despatch with its inclosure from Her Majesty's Consul-General at Bagdad relative to the piratical attack upon the steamer "Cashmere."

In obedience to your Lordship's commands we have the honour to report—

That we see nothing in these papers which leads us to alter or modify the Report which we had the honour to submit to your Lordship on the 19th instant.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 278.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 19.)

My Lord, *Temple, March* 18, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 14th instant, stating that with reference to our Report of the 1st ultimo he was directed by your Lordship to transmit to us a further despatch and its inclosures from Her Majesty's Ambassador at Constantinople, as well as all the previous papers in the case of the "Arturo," and he (Lord Enfield) was to request that we would take the papers into consideration and favour your Lordship with our opinion as to the correctness of Sir H. Elliot's views, and as to any instructions which it would be proper to give his Excellency for his guidance in any case of a similar nature which might hereafter arise.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the views of Sir H. Elliot are in the main correct.

We consider that no ship against which a claim for salvage has been made on behalf of British subjects at Constantinople should be allowed to leave those waters till full security for the amount of salvage claimed has been given to the satisfaction of, and with the consent of, the British authorities.

But as the detention of any vessel leads to great expense and loss, and as the security represents the ship, and no injury therefore can be done to the salvors by her release when security has been given, we are of opinion that Sir H. Elliot should be instructed to consent to the release of all ships similarly circumstanced with the "Arturo" as soon as security has been given, and that British subjects should be informed that they will not be justified in attempts to retain possession of vessels which they may have salved after such security has been given.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 276*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 19.)

My Lord, *Temple, February* 19, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a correspondence between the Foreign Office, Her Majesty's Ambassador at Constantinople, and Mr. Reilly, who was engaged in drawing up a draft for a revised Order in Council and Rules relating to Her Majesty's Courts in the Ottoman Dominions, respecting the advisability of introducing into the new Order a clause specially exempting members of Her Majesty's Embassy in Turkey from all liability to be summoned as defendants before these Courts.

That your Lordship fully concurred with Sir H. Elliot as to the desirability of that exemption, but before proceeding farther he (Lord Enfield) was to request us to take the inclosed papers into consideration and favour your Lordship with our opinion whether, under the terms of the Foreign Jurisdiction Act (copy inclosed) the Secretary of State had the power and would be borne out in issuing directions, either directly or through the instrumentality of an Order in Council, exempting the members of Her Majesty's Embassy at Constantinople from being summoned as defendants before the Consular Courts in Turkey, including the Supreme Consular Court at Constantinople.

That, in our opinion, the Secretary of State has not the power under the terms of the Foreign Jurisdiction Act, either directly or through the instrumentality of an Order in Council, to exempt the members of Her Majesty's Embassy from being summoned as defendants before the Consular Courts in Turkey, including the Supreme Consular Court at Constantinople.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 279.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 24.)

My Lord, *Temple, March* 22, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter dated the 19th March instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Sir Francis Goldsmid,* complaining that a law had been passed by the Roumanian Chambers prohibiting the grant of licences to sell spirituous liquors to any persons who are not electors, and as the Jews under existing laws have no political rights, they were consequently debarred from carrying on their trade.

That Sir Francis Goldsmid appealed to the XLVIth Article of the Convention with Turkey of 19th August, 1858.

Lord Enfield was further pleased to say that he therefore inclosed us a copy of that Convention, and requested that we would favour your Lordship with our opinion as to whether Her Majesty's Government, in concert with other Powers who are parties to the said Convention, can properly make any representations to the Roumanian Government on the subject.

Lord Enfield added in a postscript that he likewise transmitted to us three despatches from Her Majesty's Agent and Consul-General at Bucharest on the subject.†

In obedience to your Lordship's commands we have the honour to report—

That the measure, according to Mr. Consul Green's despatches, is passed with the view of excluding persons who may be Jews from the exercise of a gainful trade, and in this light is a harsh measure, against which Her Majesty's Government may in concert with other Powers make a representation to the Roumanian Government.

But we are of opinion that there is nothing in the measure, itself contrary to the XLVIth or any other Article of the Convention with Turkey of the 19th August, 1858.

And that the measure, though pressing with great severity as suggested against Jews, is a regulation affecting all other persons who may not be electors, and that possibly very good reasons may be given for not granting licences to persons who are not electors.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 280.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 23.)

My Lord, *Temple, April* 22, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us correspondence relating to a practice which appeared to have grown up within the last few years of carrying slaves on board British vessels, or in vessels in which British subjects served as officers, and that he (Lord Enfield) was to request us to take the papers into consideration, and favour your Lordship with our opinion whether the notices (drafts inclosed), and which it was proposed to issue with the view to put a stop to the objectionable practice in question, were right and proper.

And further to request us to favour your Lordship with our opinion whether it would be competent to your Lordship to instruct Her Majesty's Consular officers on the north coast of Africa to issue notices providing that no negroes should be embarked on board British vessels, whatever might be the condition of such negroes, without a pass from the Consular officer at the port of embarkation; and in the event of our advising that it would be within the competency of the Secretary of State that he (Lord Enfield) was to request us to favour your Lordship with the draft of such a notice as might be properly issued.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft notices are too wide, and require to be confined to the carrying of slaves for sale.

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* March 7, 1873.

† Mr. Green, Nos. 7, 9, and 11, 1873.

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For we assume that it is not intended to prohibit the conveyance on board British ships or on board ships in which British subjects may be serving of Turks and others with their families and suites, amongst whom some persons are probably slaves, and we think such a prohibition, if intended, would not be legal within the Slave Trade Acts.

We are of opinion that it would be competent for your Lordship to instruct Her Majesty's Consular officers on the north coast of Africa to issue notices providing that no nogroes shall be embarked on board British vessels, whatever may be the condition of such negroes, without a pass from the Consular officer at the port of embarkation.

We have prepared and inclose a draft of the notice which may be issued.

### *Notice.*

To the Masters and others commanding British Vessels.

No negro, whatever may be the age, sex, or condition of such negro, shall be allowed to embark on board a British vessels without a pass from the British Consular officer at the port of embarkation. And all masters and others commanding British vessels who may permit the embarkation of any negro on board his vessel without the said Consular pass will be liable to such punishment as tho law may direct.

(Signed) A. B., *Consular officer at* ———.

[*Date of Notice.*]

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 281.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received May* 17.)

*Temple, May* 17, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the India Office, inclosing a despatch from the Governor of Bombay, having reference to the steps to be taken with the view to prevent British Indian and protected subjects from engaging in Slave Traffic or holding slaves, and inclosing also a paper containing the opinion of the Advocate-General of Bombay on the bearing of the existing laws upon the measures to be taken for the suppression of the East African Slave Trade; and he (Lord Enfield) was to request us to take the papers into consideration, and favour your Lordship, at our earliest convenience, with our opinion upon the points raised by the Bombay Advocate-General.

In obedience to your Lordship's commands we have the honour to report—

That we concur generally with the conclusions and the reasons for them expressed by the Advocate-General of Bombay in the memorandum sent to us by your Lordship.

In regard to the verbal amendments of the Indian Statute, which the Advocate-General suggests as necessary to effect the objects which he recommends, as we have not the Statute before us we are unable to express an opinion; but this is a mere question of drafting.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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## No. 281*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 7.)

*Temple, June* 6, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 29th ultimo, stating that he was directed by your Lordship to transmit to us for consideration, copy of a despatch from Her Majesty's Deputy Judge of the Supreme Consular Court of the Levant, relative to the case of a British subject accused of having committed a crime in a foreign country taking refuge within the jurisdiction of the Consular Court at Constantinople.

2. That in the case mentioned by Mr. Cookson, under no circumstances would the Consular Court have had the power to surrender him, there being at present no extradition Treaty between Great Britain and Austria. But your Lordship would be obliged if we would favour you with our opinion as to what course should have been pursued by the Judge of the Consular Court, had a similar application been made by the Consul of a country with which Great Britain has an extradition Treaty.

3. That the case mentioned by Mr. Cookson was that of a British subject who, having committed the offence of embezzlement in Austria, was found a fugitive from justice in Turkey, where Great Britain has extra-territorial jurisdiction.

That that case gave rise to the following questions:—

1. Has a foreign Consul, or other person acting under the authority of a foreign Government, in a country where Great Britain has extra-territorial jurisdiction, the right of making a requisition to the Judge of a Consular Court for the surrender of a fugitive criminal who is within or who is suspected of being within that jurisdiction?

That the Extradition Act of 1870 states (section 7) that "a requisition for the surrender of a fugitive criminal of any foreign State, who is in, or suspected of being in, the United Kingdom, shall be made to a Secretary of State by some person recognized by the Secretary of State as a Diplomatic Representative of that foreign State," &c.; and in section 17, which provides for the case of fugitive criminals in British possessions, it was stated that: "The requisition for the surrender of a fugitive criminal who is in, or suspected of being in, a British possession, may be made to the Governor of that British possession by any person recognized by that Governor, as a Consul-General, Consul, or Vice-Consul, or (if the fugitive criminal has escaped from a Colony or dependency of a foreign State on behalf of which the requisition is made) as the Governor of such Colony or dependency."

That it appeared from the two sections of the Extradition Act above referred to that provision was made for the extradition of fugitive criminals found either in British territory or in British possessions, but there did not appear to be any special provision for the extradition of fugitive criminals found within British extra-territorial jurisdiction; and therefore your Lordship would be glad to be informed how such cases should be dealt with.

2. The second question related to the surrender of native subjects.

That with the view of meeting the requirements of the laws of foreign countries a clause had been inserted in all the Extradition Treaties which Great Britain has concluded by virtue of the Act of 1870, stipulating for the reciprocal non-surrender of native subjects to be tried by the Tribunals of the country where the crime for which surrender was demanded, had been committed.

That your Lordship would be glad to be favoured with our opinion whether, supposing that a Consular Court in a country where Great Britain has extra-territorial jurisdiction had the power to order extradition, it had the same power of refusing to surrender a British subject, fugitive from justice, who was found within the jurisdiction of the Consular Court, as a magistrate would have had the fugitive taken refuge in British territory.

That there was one more point in which your Lordship was desirous of having our opinion, viz.:—

What was the course which had been, or would be, pursued by the Criminal Courts in British territory with regard to the cases of native subjects whom they refused to surrender to be tried by a foreign Tribunal?

For murder and conspiracy to murder your Lordship apprehended that there would be no difficulty in trying the offender on the evidence produced by the foreign Government; but your Lordship would be glad to be informed how the cases of native subjects, charged with crime of less gravity, are or would be dealt with by British

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Tribunals, and whether the course pursued in such cases by British Tribunals could also be adopted by the British Consular Courts in countries where Great Britain had extra-territorial jurisdiction.

And that a copy of the Order in Council relative to the jurisdiction of Her Majesty in the dominions of the Sublime Ottoman Porte was inclosed for our information, as well as copies of the Extradition Treaties with Germany, Belgium, and Italy, which contained the clause above mentioned relative to the non-surrender of native subjects.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Judge of the Consular Court could not, on the application of the Consul of a country with which Great Britain had an Extradition Treaty, give up a fugitive criminal who was a British subject.

Nor has a foreign Consul, or other person acting under the authority of a foreign Government in a country where Great Britain has extra-territorial jurisdiction the right (that is in the sense of a right which must be complied with, or may be enforced) of making a requisition to the Judge of a Consular Court for the surrender of a fugitive criminal who is within, or who is suspected of being within, that jurisdiction.

The reason is that the Extradition Act applies to Her Majesty's dominions and possessions only; another reason is that if the criminal be a British subject the Treaties are against such a surrender; if the criminal be not a British subject the Consular Judge or Court has no jurisdiction.

3. In reference to your Lordship's third question, we are of opinion that, except for treason, and except also for murder and manslaughter, and being accessory thereto, as to which the 24 & 25 Vict., cap. 100, gives jurisdiction, and except in the case of offences committed by a master seaman or apprentice employed, or within three months previous to the offence employed, in a British ship under 17 & 18 Vict., cap. 104, sec. 267, no native subject can be tried in England for any offence committed on land if in the territories of another Power.

At common law such cases as those suggested in your Lordship's question could not be dealt with by British Tribunals.

The Consular Court jurisdiction is limited to offences committed by British subjects within their jurisdiction, that is, in the foreign dominions within which they exercise extra-territorial jurisdiction or on board British ships.

Their jurisdiction, therefore, is even more limited than that of Tribunals properly called British Tribunals.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 282.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 24.)

*Temple, June* 23, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 14th June instant, stating that with reference to our Report of the 18th March relative to the case of the "Arturo," he was directed by your Lordship to transmit to us a despatch which your Lordship addressed to Sir Henry Elliot,* founded on our Report, and containing instructions for his guidance in any future cases of a similar nature.

Lord Enfield also transmitted to us Sir Henry Elliot's reply,† in which he asks for further instructions, together with Sir Philip Francis' Report upon the subject,‡ and stated that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion on Sir Philip Francis' views as set forth in the Report.

Lord Enfield further said the previous papers were also inclosed for reference if necessary.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the salvors have a right to bring or place the property which they have salved within the jurisdiction of their own Courts.

This right is founded upon the principle that the salvors have a lien upon the things salved, which they may hold in their keeping till they are rewarded, or till security, upon which they can rely, is given for their receiving their rewards.

We do not see any distinction between cases of salvage, where the owners through the master and crew remain in possession of the ship and cargo, and cases of derelict.

And in all cases, we are of opinion that the salvors, British or foreign, may come to their own Court, both to obtain the security, and also to assess the amount of rewards in the exercise of its jurisdiction.

The security consequently should, in all contested cases, be given to the Court which will decide upon the merits of the cases.

We agree with the views of Sir Philip Francis, and consider that the rule "Actus Sequitur forum rei" does not apply to cases of salvage where the maritime lien gives the jurisdiction.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 283.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 27.)

*Temple, June* 26, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th June, stating that he was directed by your Lordship to transmit to us the accompanying papers respecting the difference between the Turkish Government and the Danube and Black Sea Railway Company, and the request of the latter for the good offices of Her Majesty's Ambassador at Constantinople in support of their agent; and that he (Lord Tenterden) was to request us to take the papers into consideration, and favour your Lordship with our opinion as to what instructions should be sent to Sir H. Elliot in the matter.

In obedience to your Lordship's commands we have the honour to report—

That it appears from the previous papers which have been transmitted to us that Sir H. Elliot is well acquainted with the difficulties which have long existed between the Porte and the Company.

We are of opinion that Sir H. Elliot may properly now be instructed again to press the Sublime Porte to bring this matter without farther delay to a just and satisfactory conclusion, and to exert his influence to induce the Porte to submit those differences to arbitration or to a Mixed Commission.

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* No. 11, Consular, April 7.

† No. 27, Consular, April 19.

‡ May 20, 1873.

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Sir H. Elliot may farther be instructed to give the agent of the Company, Mr. Austin, such assistance as can properly be given to him.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 284.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 9.)

*Temple, July* 8, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Ambassador at Constantinople, relative to the refusal of the Ottoman Government to pay to the holders of Syrian Indemnity Consolidé bonds the interest due for the time during which the bonds were allowed to remain overdue; and he was to request us to take the papers into consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Her Majesty's Ambassador in regard to the matter.

In obedience to your Lordship's commands we have the honour to report—

That assuming that the debt secured by the bonds is one as to which diplomatic representation may properly be made, we are of opinion that Her Majesty's Ambassador at Constantinople may properly be instructed to press for the payment of the interest on the bonds while overdue.

But we doubt whether the interest should be taken at 12 per cent.

It appears from the letter of the 23rd August, 1872, from Messrs. Black and Co. to Mr. Consul Eldridge (Inclosure 2), that the stipulated interest was 6 per cent., and we are of opinion that such rate of 6 per cent., with perhaps compound interest, is the utmost that the Ottoman Government can be called upon to pay.

We have no information respecting the nature of these bonds or the obligations under which the Ottoman Government may be to satisfy the debt which for the purpose of this Report we assume to be a debt due from or guaranteed by the Ottoman Government, and not a purely local debt, for which security may have been taken from or upon the customs or taxes of some particular town or district.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 285.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 29.)

*Temple, August* 29, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Constantinople, together with a memorandum drawn up by Sir P. Francis, Her Majesty's Consul-General and Judge in that city, as to certain new regulations of the Porte concerning the transmission of property; and your Lordship would be glad to be favoured with any observation which we might have to offer on the subject to which the papers related.

In obedience to your Lordship's commands we have the honour to report—

That if the new law had been communicated to Sir Henry Elliot officially, or the interests of any British subject were compromised, we should be of opinion that Sir Henry Elliot might rightly be instructed to remonstrate against a law the operation of which would have affected the transmission of property held beneficially by British subjects, if under a fiction at least under a fiction recognized and sanctioned by Ottoman law.

But as the opinions of Mr. Cookson, Sir P. Francis, and Sir H. Elliot concur that no mischief to any British interest will probably follow as a consequence of the new law, we are of opinion that the course recommended by Sir H. Elliot should be followed.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 286.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 30.)

*Temple, August* 29, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to request that we would take the accompanying papers respecting the granting of British protection to Mr. F. Mida into consideration, and favour your Lordship with our opinion as to what answer should be returned to Mr. Mida's renewed request.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Mida may properly be answered that on his return to his native country his right to British protection ceased, and his claim to be considered a British subject cannot now be entertained.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 287.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 30.)

*Temple, August* 29, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying draft of a revised Order in Council, which had been prepared by Mr. Riley in consultation with Sir Philip Francis, the Judge in the Supreme Consular Court at Constantinople, for regulating Consular jurisdiction in the Ottoman dominions.

That the draft in question was a reconstruction of the Order in Council of 1864, with such additions and amendments as time and experience would seem to render necessary.

That he (Lord Tenterden) was to inclose two memoranda drawn up by Mr. Riley, together with the papers therein referred to, and he was to request us to take the papers into consideration, and report to your Lordship our opinion whether the draft in question is right and proper, and might be approved by Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft Order prepared by Mr. Riley in consultation with Sir P. Francis is right and proper, and may be approved by Her Majesty's Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 288.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 2.)

*Temple, September* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 12th August last, stating that he was directed by your Lordship to

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transmit to us the accompanying letter from Mr. Riley, with its inclosures,* containing further remarks on the draft Order in Council for the regulation of Consular jurisdiction in the Ottoman dominions, and to request that we would take the papers into our consideration, in connection with those which were forwarded to us on the 4th August, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we have gone through and considered the Forms in the Schedules.

In Form No. 6 the word "on" should be read instead of the word "for," underlined.

In Form No 9 the note marked 1 seems to us to require the statement of a fact which is not material, and the note might, in our opinion, properly be omitted.

And in Form No. 10 the words "stating the relationship, if any, to the testator," might also, and for the same reason, be omitted.

In Form No. 21, after the word "creditors" the words "or any person interested in the administration or distribution of the property of the deceased" should, in our opinion, be inserted.

Subject to these alterations, we are of opinion that the Schedules may properly be made part of the Order in Council.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 289.

*The Attorney-General and Dr. Deane to Earl Granville.—(Received October 3.)*

My Lord, *Temple, October* 3, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that with reference to our Report of the 8th July last he was directed by your Lordship to transmit to us, together with the other papers relating to the matter, a further letter from Mr. Smylie Robson, stating the grounds on which he considered that interest at the rate of 12 per cent. ought to be paid by the Porte on Syrian Consolidés for the time during which the bonds were allowed to remain overdue; and that he (Mr. Hammond) was to request that we would again take this matter into consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That as the bonds were issued at the rate of 6 per cent., Mr. Robson's reasons for pressing for a higher rate of interest seem to us inapplicable.

But, in our opinion, the Ottoman Government may properly be urged to pay the bondholders compound interest on the overdue interest.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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## No. 290.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October 20.)*

My Lord, *Temple, October* 20, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that with reference to our Report of the 29th August last respecting the granting of British protection to Mr. F. Mida, he (Mr. Hammond) was directed by your Lordship to transmit to us a further letter which had been received from him, renewing his request to be recognized as a British subject, and he (Mr. Hammond) was to request us to take the letter into consideration, and inform your Lordship whether it leads to any alteration in our decision.

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* August 9, 1873.

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## No. 288 A.

*The Law Officers of the Crown to Earl Granville.*—(*Received September* 15.)

My Lord, *Temple, September* 15, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a correspondence which has taken place between the India Office and the Foreign Office as to the claims set up by certain members of the foreign Consular Body at Bombay for exemption from payment of municipal and other taxes.

That these claims were disallowed with the exception of that of the Turkish Consul, who based his claim for exemption from customs duties on the VIIIth Article of the Treaty between Great Britain and Turkey of the 5th January, 1809.

That a copy of this Treaty was inclosed, from which it would be seen that the Article in question stipulated that "similar privileges and immunities to those granted to English Consuls resident in the Ottoman dominions shall be duly afforded to the 'Shahbenders' (Consuls) of the Sublime Porte," who may be appointed at Malta and in the dominions of His Britannic Majesty.

That although it seemed difficult to suppose that the Article in question could have been meant by the negotiator to bear the construction sought to be put upon it, it was thought better to recommend that any tax imposed upon the Turkish Consul by the Government of Bombay should, if objected to, not be enforced.

That the Turkish Consul-General had now further claimed exemption from municipal rates and taxes under the same Article, alleging that British Consuls in Turkey are exempt from all taxes, whether Government or municipal.

That the Indian Government gave, in their despatch on the subject, their reasons for taking exception to this claim, and as the matter was one of very wide bearing, affecting the position of all the Turkish Consuls in the British dominions, and involving, moreover, the possibility of claims for reciprocity of treatment on the part of Consuls of other Powers who have Treaty rights to "most favoured" treatment, your Lordship would be glad to have our opinion on the extent of the privileges and immunities which might properly be claimed by Turkish Consuls under the Article of the Treaty in question.

In obedience to your Lordship's commands we have the honour to

*Report—*

That the words "privileges and immunities" in Article VIII of the Treaty of the 5th January, 1809, are, in our opinion, open to no other construction than that contended for by the Turkish Consul at Bombay, who is entitled to an immunity reciprocal with, or the same as a British Consul receives in the Ottoman dominions.

We are unable to agree with the argument that, because India was not in 1809 a part of Her Majesty's dominions, India now is not within the words of Article VIII.

However wide or disagreeable the consequences may be, we are of opinion that the claim of exemption put forward by the Turkish Consul must be allowed.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

In obedience to your Lordship's commands we have the honour to report—

That the further letter from Mr. F. Mida does not state anything which leads us to alter the opinion which we have formed upon his case.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 291.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November 28.)*

My Lord, *Temple, November 26, 1873.*

WE are honoured with your Lordship's commands signified to us in Viscount Enfield's letter of the 19th instant, stating that with reference to our Reports of the 29th August and 1st September last relative to the new Order in Council for the regulation of Consular jurisdiction in the Ottoman dominions, he was directed by your Lordship to transmit to us a despatch from Sir P. Francis, with a revised scale of Bankruptcy fees which it was proposed to levy, and certain other proposed amendments in the Table of Fees, and he was to request that we would give our immediate attention to this matter, and favour your Lordship with our opinion whether those alterations are right and proper, and may be approved by Her Majesty's Government.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That we see no reason for not agreeing with Sir P. Francis, and we are, therefore, of opinion that the alterations in the revised scale of Bankruptcy fees suggested by him are right and proper, and may be approved by Her Majesty's Government.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 292.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December 3.)*

My Lord, *Temple, December 2, 1873.*

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 25th November last, stating that with reference to the letter from the Foreign Office of the 27th September, and the reply of the 3rd October, he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Ambassador at Constantinople respecting the claims made by British subjects for interest on overdue Syrian Consolidé bonds, and to request that we would furnish your Lordship with our opinion as to the further instructions which should be addressed to Sir Henry Elliot.

In obedience to your Lordship's commands we have the honour to report—

That the fact stated by Sir H. Elliot in his despatch of the 6th November, that the bonds derived their chief value from their being terminable, and that the interest was on that account calculated at 6 per cent., does not appear to have been brought prominently before the Law Officers and Dr. Deane on former occasions.

This circumstance affects the rights of the case very materially, and we agree with Sir P. Francis in the opinion expressed in his letter of the 31st October to Sir H. Elliot, that the bondholders were entitled to be paid at the rate of 12 per cent. for the time during which the bonds were overdue.

Sir H. Elliot may, we think, properly be instructed to that effect. Your Lordship would probably think it right to leave the time for making the claim to Sir H. Elliot's judgment.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 293.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 20.)

My Lord, *Temple, December* 19, 1873.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 26th November ultimo, stating that with reference to our Report of the 4th instant on the subject of marriages in Ottoman dominions of Maltese subjects of Her Majesty, he was directed by your Lordship to transmit to us a despatch from the Judge of the Supreme Consular Court at Constantinople, asking for specific instructions as to the course to be pursued by him in regard to the administration of the intestate estate of a Maltese named Antonie Aquilina. He was also to request that we would take this matter into our consideration, and favour your Lordship with our opinion as to the instructions which should be sent to Sir Philip Francis in this case.

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report—

That we regret to differ from the opinion which apparently is entertained by Sir P. Francis on the subject of the marriage of British Maltese subjects in the Ottoman dominions.

But we are of opinion that a Maltese may marry in the Ottoman dominions according to the law affecting marriages in Malta. The absence of any *lex loci* in the Ottoman dominions regulating the marriages of Roman Catholics causes foreign Roman Catholics who marry there to revert to the law to which they are naturally subject, viz., the law which prevails in the place of domicile, which in this case is Malta, and that all the consequences following the marriage of a Maltese British subject within the Ottoman Empire are the same as if the marriage had been celebrated in Malta.

We are of opinion that British Maltese subjects are not compelled to avail themselves of the Consular Marriage Act.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## United States.

### No. 294.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 3.)

My Lord, *Temple, January* 3, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Sir E. Thornton, forwarding a memorial and other documents relating to the claim of George Wigg for compensation for the seizure of the British steamer "Virgin," by the United States' authorities, at the end of the civil war in America; and he (Mr. Hammond) was to request that we would take the papers into consideration, and report to your Lordship our opinion as to the course that should be pursued in regard to that claim.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government could not effectually support the claim of Mr. Wigg for compensation, and we are of opinion that your Lordship may properly decline to take any steps on his behalf.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 295.

*The Attorney and Solicitor-General to Earl Granville.*—(*Received January* 6.)

My Lord, *Temple, January* 4, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd January instant, stating that, with reference to his letter of the 11th ultimo, relative to the examination to be held before the United States' Consul-General, on the 7th instant, for the purpose of taking Sir George Cartier's evidence in regard to certain statements contained in memorials submitted to the Claims Commissioners at Washington, he was directed by your Lordship to inform us that it was desired to take also the evidence of Lord Monck on the same subject, but that his Lordship is unable to be in London on the 7th, and that your Lordship had therefore requested General Schenck to instruct the United States' Consul-General, after taking Sir G. Cartier's evidence on the 7th instant, to adjourn until the 14th instant, in order to take that of Lord Monck.

Mr. Hammond also stated that he was to request that Dr. Deane might be prepared to appear as counsel on both those days, and that Lord Monck was to be examined generally as to his entire previous ignorance of the St. Alban's raid, and as to the date at which he first heard of it, and also any other point which we might think material.

In obedience to your Lordship's commands we have the honour to report—

That we will communicate your Lordship's wishes to Dr. Deane as to the examination of Lord Monck and the general scope of the questions to be addressed to him.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.

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### No. 296.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 16.)

My Lord, *Temple, January* 14, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 9th instant, stating that, with reference to his letter of the 9th ultimo respecting the claim of Messrs. Shand, Higson, & Co. upon the United States' Government, he was directed by your Lordship to transmit to us the papers not sent in that letter, namely, the memorial of Messrs. Shand & Co., the evidence in support of the memorial, and the letter from the Foreign Office to Mr. Johnson of the 9th March, 1867, referred to in Messrs. Bateson's letter of the 27th May, 1872, as requested in our letter of the 12th ultimo, together with the rest of the correspondence respecting that claim; and he was to request that we would take the matter into consideration, and favour your Lordship with our opinion as to the reply which should be sent to the claimants.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may, in our opinion, direct that the claimants be informed that the answer of the United States' Government (particularly as to the original purchase being made on account of Mr. Wigg, and not on account of Messrs. Johnson, their assignees) is so complete that your Lordship cannot farther support the claim.

We presume that, unless there be an objection to that course, the copy of the answer of the United States' Government will be sent to the claimants.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

### No. 297.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 18.)

*Temple, January* 18, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us therewith a draft of instruction to Sir E. Thornton, in reply to his despatches sent therewith, respecting the formal demarcation of the boundary between Her Majesty's possessions and those of the United States of America, under the Treaties of Washington of 1846 and 1871.

That he also inclosed the draft of a Protocol, with an annexe, in which it was proposed to record the signature of the charts on which the boundary would be laid down, as well as of the instruction to Admiral Prevost on the subject; and he (Mr. Hammond) was to request us to take the same into consideration, and report to your Lordship, at our earliest convenience, our opinion whether they might properly be adopted.

In obedience to your Lordship's commands we have the honour to report—

That the drafts may, in our opinion, properly be adopted.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 298.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 31.)

*Temple, January* 31, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that he was directed by your Lordship to transmit to us therewith a letter from Mr. Stewart, with its inclosure, respecting a claim of his nephews, which had been overlooked, as he alleged, through fraud, for compensation for cotton destroyed in February, 1865, by the United States' troops; and he (Mr. Hammond) was to request that we would take the papers into consideration, and favour your Lordship with our opinion as to what steps could be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, a vague and general allegation of fraud committed by some persons, not named and said to be dead, is not a sufficient reason why Her Majesty's Government should in any way interfere in support of Mr. Stewart's supplemental claim before the Commissioners at Washington.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 299.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 4.)

*Temple, February* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that, with reference to our Report of the 26th August last, he was directed by your Lordship to transmit to us therewith a letter from Messrs. Ellman, Raper, and Ellman, inclosing a copy of the evidence upon which Mrs. Cassin based her claim against the United States' Government; and he was to request that we would take the papers into consideration, and favour your Lordship with our opinion as to the answer which should be returned to the applicants.

In obedience to your Lordship's commands we have the honour to report—

That we have not before us the Report of Mr. S. C. Greene, made, we presume, to the United States' Government, and referred to in the evidence of Mr. Young, and in Messrs. Ellman, Raper and Ellman's letter of the 24th ultimo to your Lordship, and upon which Report Messrs. Ellman supposes a decision of the Spanish Claims Commission was arrived at.

But upon the evidence now sent, and upon which Mrs. Cassin places her claim, we are of opinion that your Lordship may give instructions that this claim be brought to the favourable notice of the United States' Government, and that Messrs. Ellman may be informed to that effect.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 300.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 3.)

*Temple, February* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Home Office, requesting that Her Majesty's Minister at Washington might be instructed to apply to the United States' Government for the extradition of a British subject named John Robinson on a charge of absconding with money belonging to his creditors; and he (Mr. Hammond) was to request us to take the papers into consideration, and advise your Lordship whether this is a case in which extradition could properly be asked for.

In obedience to your Lordship's commands we have the honour to report—

That John Robinson, the British subject whose extradition your Lordship is asked to apply for to the United States' Government, has been guilty of a misdemeanour, but has not committed nor can he be charged with robbery or any of the other crimes named in Article X of the Treaty of the 9th August, 1842.

We are therefore of opinion that your Lordship cannot properly instruct Her Majesty's Minister at Washington to apply to the United States' Government for his extradition under the Treaty.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 301.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 3.)

*Temple, February* , 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that he was directed by your Lordship to transmit to us therewith a despatch from Her Majesty's Minister at Washington in regard to a claim upon the United States' Government, put forward by Mr. A. Ravenscroft, for certain goods belonging to him, which, he alleged, were pillaged by the United States' troops in 1865; and he (Mr. Hammond) was to request us to take the despatch into consideration, and favour your Lordship with our opinion as to the answer which should be returned to Sir E. Thornton.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may, in our opinion, properly instruct Sir E. Thornton to bring the claim of Mr. Ravenscroft to the notice of the United States' Government.

The United States' Government may possibly state sufficient reasons for declining to entertain the claim; but those reasons cannot be the same as the reasons given by the United States' Government for rejecting the claim of Messrs. Shand, Higson, and Co., to which case Sir E. Thornton refers in his letter to your Lordship.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 302.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 20.)*

My Lord, *Temple, February 19, 1873.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 15th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Washington, relative to the manner in which the declarations of aliens should be taken in the United States so as to be valid in this country; and he (Mr. Hammond) was to request us to take the despatch into consideration, and report to your Lordship our opinion as to the instructions which should be sent to Sir E. Thornton on the subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Sir E. Thornton may properly be instructed that whenever he shall be thereto required, and whenever he shall see necessary, he may administer to an alien any oath or take from an alien an affidavit or affirmation.

We are of opinion that the oath, affidavit, or affirmation should be administered or taken only upon matters arising in and to be determined within the United Kingdom.

And we see no objection to Sir E. Thornton taking the measures, which he suggests, to secure the identity of the persons to or from whom he administers the oath, or takes the affidavit or affirmation.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 303.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March 7.)*

My Lord, *Temple, March 6, 1873.*

WE were honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th February ultimo, stating that, with reference to his letter of the 14th January last, relative to the claim of Messrs. Shand and Co. against the United States' Government, he was directed by your Lordship to transmit to us a letter from Messrs. Bateson and Co. (February 21), replying to the objections taken by Mr. Fish in regard to the claim, and requesting that a further representation might be made to the United States' Government in support of it.

Mr. Hammond added that he was to request that we would take that letter into our consideration, and report to your Lordship our opinion as to the answer that should be returned to Messrs. Bateson.

In obedience to your Lordship's commands we have the honour to report—

That the attention of Messrs. Bateson and Co. may be called to the fact that Messrs. Shand and Co. brought in the evidence of Mr. Cromwell, from whose statement it appears that the cotton in question was bought by him for Mr. Wigg.

If this statement was incorrect, Messrs. Shand had from the first the opportunity of putting the matter in the right way, and pointing out that Mr. Wigg was but an agent and not a principal.

This opportunity they neglected, and we are of opinion that Messrs. Bateson may be answered that Her Majesty's Government cannot make any further representation to the Government of the United States on the subject of the claim of Messrs. Shand.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 304.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March 7.)*

My Lord, *Temple, March 7, 1873.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th ultimo, stating that, with reference to our Report of the 30th September last, he was directed by your Lordship to transmit to us a despatch from Sir E. Thornton, forwarding an Additional Article to the Treaty of the 8th May, 1871, signed by him and Mr. Fish on the 18th ultimo, to enable the Mixed Commission to hold its sessions out of Washington; and he (Mr. Hammond) was to request us to report to your Lordship whether we saw any reason why the Article should not be ratified.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason why the Article should not be ratified.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 305.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March 17.)*

My Lord, *Temple, March 17, 1873.*

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that, after the receipt of our Report of the 31st January, your Lordship instructed Mr. Howard to take such steps as he properly could in regard to Mr. W. H. Stewart's supplemental memorial. Mr. Howard thereupon presented the memorial to the Commissioners, who at first gave permission for it to be filed, but had since withdrawn that permission and ordered the additional claim to be struck out.

That he (Lord Tenterden) was now instructed by your Lordship to transmit to us a letter from Mr. Stewart protesting against the decision of the Commissioners; and he was to request that we would take it into our consideration, with the previous correspondence relating to Mr. Stewart's supplemental claim sent therewith, and report to your Lordship our opinion as to the answer that should be returned to Mr. Stewart.

That the correspondence relating to Mr. Stewart's original claim, together with copy of the Treaty of Washington, was annexed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Stewart may, in our opinion, be informed, in answer to his letter of the 11th instant to your Lordship, that the Commissioners had, under the XIVth Article of the Treaty of Washington, 1871, the power to reject his supplemental claim; and that Her Majesty's Government cannot interfere on his behalf.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 306.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March 25.)*

My Lord, *Temple, March 22, 1873.*

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th instant, stating that he was directed to transmit to us a letter from the Colonial Office, forwarding correspondence respecting the seizure of the schooner "Bessie," of New Brunswick, by the United States' Custom-house officials; and that he was to request that we would take the papers into consideration, and report to your Lordship our opinion on the case.

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In obedience to your Lordship's commands we have the honour to report—

That in this case it would seem that the British vessel was seized in British waters, and that great violence was used towards her crew by the seizors.

At the same time it is evident, from the statement of the master of the British vessel, that he was endeavouring to escape from legal custody, and some considerable allowance must be made for the continuance of the pursuit beyond legal limits, and for some violence in regaining possession of a ship which was, in the circumstances, endeavouring to evade a possible lawful demand.

These being the facts, and the considerations applicable to those facts, and looking to the delay in making any complaint, and the absence of the result of any inquiry from the British Consul on the spot, we are of opinion that your Lordship cannot properly bring the case to the attention of the United States' Government at present.

Your Lordship, however, may think fit to and, in our opinion, may properly direct that inquiry into the conduct of the British master, and the truth of the facts stated by him, should be made of the British Consul, particularly as to the latter part of the transaction after the ship had been brought in.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL
J. PARKER DEANE.

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### No. 307.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March 24.)*

My Lord,
*Temple, March 24, 1873.*

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us a copy of a Bill to carry into effect the provisions of the Treaty of Washington, relating to fisheries, which had been passed by the United States' House of Representatives; and that he (Lord Tenterden) was to request us to report to your Lordship our opinion whether this Bill complies with the provisions of the Treaty.

Lord Tenterden was pleased to annex a copy of the Treaty for convenience of reference.

In obedience to your Lordship's commands we have taken this Bill into consideration and have the honour to report—

That the Bill complies, in our opinion, with the provisions of the Treaty.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 308.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March 24.)*

My Lord,
*Temple, March 24, 1873.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, with previous correspondence, relating to the land claims of the British settlers in the Island of San Juan; and he was to request us to take the papers into consideration, and report to your Lordship our opinion on the subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there is nothing either in the conduct of the Governor of Washington Territory, or in the order of the President of the United States, which your Lordship can properly direct Sir E. Thornton to bring to the notice of the United States' Government as contrary to the rights of British subjects settled in the Island of San Juan.

The order, as Sir E. Thornton observes, in his letter to your Lordship of the 7th February, 1873, shows a desire that British subjects should not be disturbed in any rights which they may possess.

And the letter from Mr. Hamilton Fish to Sir E. Thornton of the 27th January, 1873, gives a satisfactory explanation of the action taken by the Governor of Washington Territory.

Sir E. Thornton may, however, be properly instructed to keep this subject before him, and to communicate, as he has hitherto done, with Mr. Hamilton Fish, if any occasion should call upon him so to do.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 309.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March 28.)*

My Lord,
*Temple, March 28, 1873.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, forwarding correspondence on the subject of the claim of Dr. Rufus Bratton for compensation on account of his abduction from Canadian territory into the United States; and he (Mr. Hammond) was to request us to take the papers into consideration, and report to your Lordship our opinion as to the course that should be pursued in regard to Dr. Bratton's claim.

The former correspondence was inclosed for reference.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government cannot, in our opinion, suggest the claim of Dr. Rufus Bratton for compensation.

Sir E. Thornton, on the 30th January, 1873, wrote to Mr. Hamilton Fish, acquainting Mr. Fish that Her Majesty's Government was prepared to accept as satisfactory the explanations given in the note from Mr. Fish of the 12th November, 1872, of the circumstances under which the abduction took place. This letter of Sir E. Thornton, we are of opinion, precludes farther action on the part of Her Majesty's Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 310.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received April 2.)*

My Lord,
*Temple, April 2, 1873.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 28th March ultimo, stating that he was directed by your Lordship to transmit to us a despatch (No. 9) from Mr. Howard, asking for instructions as to certifying the awards given by the Claims Commission; and that he was to request that we would take that despatch into our consideration, and report to your Lordship our opinion as to the instructions that should be given to Mr. Howard on the subject.

In obedience to your Lordship's commands we have taken the despatch into our consideration and have the honour to report—

That, in our opinion, Rules 16, 17, and 18 are so clear, that any party upon whose claim an award shall have been given has the right, under Rule 17, on the award being made, to be furnished on his request with a certified copy of the award.

We are further of opinion that very great inconvenience may, in the settlement of the claims, be occasioned if money is raised on the copies of or on the assignments of the awards, and that Mr. Howard should be instructed to have Rule 17 cancelled as he suggests.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 311.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received April 2.)*

My Lord, *Temple, April* 2, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th ultimo, stating that, with reference to our Report of the 17th ultimo, he was directed by your Lordship to transmit to us a farther letter from Mr. W. H. Stewart, relative to the refusal of the Claims Commission to allow his supplemental memorial to be filed; and he (Mr. Hammond) was to request us to report to your Lordship our opinion as to the answer that should be returned to that letter.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason for altering the opinion which we had the honour of reporting to your Lordship on the 17th ultimo, and that Mr. Stewart may properly be answered that Her Majesty's Government cannot interfere on his behalf.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 312.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received April 4.)*

My Lord, *Temple, April* 3, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us the correspondence noted in the margin relative to a claim preferred by the Great Western Steam-Ship Company against the State of New York for the return of head-money on passengers which was alleged to have been levied between the years 1838 and 1844, and a portion of which had already been recovered by the Company.

That a copy of the Claims Convention of the 8th February, 1853, referred to in Sir E. Thornton's despatch, was likewise inclosed; and he (Lord Tenterden) was to request us to take the papers into consideration, and favour your Lordship with our opinion whether the claim of the Great Western Steam-Ship Company was one which could properly be supported by Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the claim preferred by the Great Western Steam-Ship Company against the State of New York cannot properly be supported by Her Majesty's Government.

The claim is for head-money on passengers illegally levied from April 1838 to October 1844.

The levying of this head-money was declared in 1849 to be unconstitutional.

The head-money levied from October 1844 to July 1846, and which had been paid under protest, was subsequently repaid, but neither at the time of this repayment, nor apparently at any other time, was the retaining of the tax from April 1838 to October 1844 protested against, or made a ground of complaint by or on the part of the Company.

All that Mr. Miles says is that the reason why the whole amount had not been refunded to the Company was that the head-money comprised within the earlier period had not been paid under protest.

He does not say that the money was formally applied for.

What became of the memorial of 1855 inclosed in Mr. Archibald's despatch to Sir E. Thornton does not appear.

But it is strange that no memorial or application should, at or about that time, when the matter was recent and public, be shown to have been preferred by the Company.

This delay and laches on the part of the Company in seeking a remedy should, in our opinion, induce Her Majesty's Government not to support the claim against the United States' Government.

And we are also of opinion that the claim is barred by the Articles I, III, and V of the Convention of the 8th February, 1853, referred to by Sir E. Thornton.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 313.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received April 19.)*

My Lord, *Temple, April* 18, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 9th instant, stating that, with reference to our Report of the 2nd instant, he was directed by your Lordship to transmit to us a farther letter from Mr. Stewart, in regard to the refusal of the Claims Commission at Washington to allow his supplemental claim to be filed; and he (Lord Tenterden) was to request us to take it into consideration, and inform your Lordship whether we saw any reason to alter our previous opinion upon the subject.

Lord Tenterden also inclosed a farther letter received from Mr. Stewart.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason to alter our opinion on Mr. Stewart's case.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 314.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received April 23.)*

My Lord, *Temple, April* 22, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th April instant, stating, that with reference to our letter of the 17th December, relative to Dr. Tumblety's claim against the United States, he was directed by your Lordship to transmit to us a despatch (No. 126) from Sir E. Thornton, reporting that Dr. Tumblety's first claim had been disallowed by the Commission for want of evidence, and asking for instructions as to the presentation of the second claim.

Lord Tenterden was pleased further to state that he was to request that we would report to your Lordship our opinion as to the answer that should be sent to Sir Thornton, and that the former papers were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That Dr. Tumblety having thought fit not to offer any evidence in support of his first claim, notwithstanding the letter sent to him by the Foreign Office on the 9th January, 1873, informing him "that it would be better to defer any representation on the subject of the second arrest till the Claims Commission should have heard the evidence upon the first arrest, and determined the claim arising out of it," Sir E. Thornton may properly be instructed to obtain from Dr. Tumblety his reason for not offering any evidence, and Sir E. Thornton may also be instructed to report fully upon the case, which may not be a right case for your Lordship to bring to the attention of the United States' Government, particularly after a lapse of eight years.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 315.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received April 25.)*

*Temple, April* 25, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to forward for our perusal a Confidential despatch from Sir E. Thornton, inclosing copy of a letter addressed by the United States' Attorney-General to the District Attorney at New York, giving instructions as to the course to be pursued in a case of attempted violation of the neutrality of the United States.

In obedience to your Lordship's commands we have the honour to report—

That the letter of the United States' Attorney is, in our opinion, a very proper letter to have been sent to the District Attorney at New York.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 316.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May* 6.)

*Temple, May* 5, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that, with reference to our Report of the 1st February, relative to Mrs. Cassin's claim against the United States' Government, he was directed by your Lordship to transmit to us a despatch from Sir E. Thornton, forwarding the reply of the United States' Government to the representation which he was instructed to make on Mrs. Cassin's behalf; and he was to request that we would take this paper into consideration, and report to your Lordship our opinion upon the case.

In obedience to your Lordship's commands we have the honour to report—

That it appears from Mr. Fish's letter to Sir E. Thornton of the 7th April last that the United States' Government have, after a careful review of the proofs presented in support of Mrs. Cassin's claim, and all the circumstances connected with the transaction, declined to reopen the investigation made in 1866.

In that state of things your Lordship cannot, in our opinion, usefully press the matter further upon the United States' Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 317.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May* 10.)

*Temple, May* 9, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th April ultimo, stating that, with reference to our Report of the 23rd September last, as to the treatment of the British vessel "Grace" by the local authorities at Darien, United States, he was directed by your Lordship to transmit to us a despatch from Sir Edward Thornton, forwarding a copy of the reply which he had received from the United States' Government to the application which he was instructed to make for compensation for the persons injured. Mr. Hammond further stated that he was to request that we would take that paper into our consideration, and report to your Lordship our opinion of the case, and added that the former papers were sent for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the reply of Mr. Fish inclosed in the despatch of Sir E. Thornton does not satisfactorily dispose of the question as to the treatment of Mr. Irvine.

Our Report of the 23rd September, 1872, was founded on the Judgment of the United States' Commissioner, a copy of which was inclosed in Sir E. Thornton's despatch of the 13th July, 1873.

That Report was contained in a newspaper, and was transmitted as authentic by Mr. Boutwell, the Secretary of the Treasury, to Mr. Fish, on the 3rd August, 1871. No notice appears to have been taken of this document by Mr. Fish till an application was made to him upon the subject of Mr. Irvine's grievances by Sir E. Thornton on the 10th July, 1872. In reply to Sir E. Thornton's despatch of that date, Mr. Hall, the Acting Secretary of State, for the first time incloses to him a copy of the newspaper report of the decision of the United States' Commissioner as being an authentic report of his Judgment, without any comment. It appears to be impossible for Mr. Fish to be allowed to dispute the authenticity of that Report, more especially as he does not suggest the existence of any other Report; and it seems to us to be difficult for him to refuse to be bound by the Report of his own Commissioner communicated to the British Minister as it was in the manner which we have described. Under these circumstances, we think that the Report of the United States' Commissioner may properly be brought again before the United States' Government as being conclusive of the merits of the question; and they may be asked to consider: Whether it becomes a great commercial country like the United States to refuse all consideration of compensation to the subjects of a friendly Power for injuries inflicted upon those subjects by a magistrate of the United States, who "has grievously erred in judgment to a degree which the United States' Commissioner can scarcely characterize as less than persecution of Captain Irvine, and through him indirectly of the owners of the ship and shippers of the cargo, whose interests in these proceedings were undoubtedly greatly damaged. The proceedings in the defendants' (Campbell's) Court against the ship and Captain Irvine in the several cases presented in the testimony are also, so far as they are disclosed by the records offered in evidence, irregular and informal to an extent which the United States' Commissioner in his experience has never seen exceeded."

He continues: "It is in my opinion particularly unfortunate that they should have been had in cases where subjects and the property of subjects of a friendly foreign Power were made defendants, as they cannot but have the effect of bringing the administration of justice with us into disrepute, and injuring those commercial relations which we should all, both Courts and citizens, seek to protect and foster."

Although in the Commissioner's Report he suggests the possibility of the magistrate being liable in damages to Mr. Irvine for his conduct towards him, we are by no means satisfied that any damages could be recovered, as the Court in which an action might be brought might decide, as the Commissioner appears to have done, that the error of the magistrate was only one of judgment.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 318.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May* 14.)

*Temple, May* 14, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us a letter, and inclosures, from Mr. Mogridge, which had been forwarded to your Lordship by Messrs. Harrison, Beal, and Harrison, and which related to his claims against the United States' Government; and that he (Mr. Hammond) was to request us to take these papers into consideration, and report to your Lordship our opinion as to the answer that should be returned to Mr. Mogridge.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, your Lordship may properly direct that Mr. Mogridge be informed that the decision of the Commissioners must be considered as conclusive by

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Her Majesty's Government, under Article XIII of the Treaty of Washington, 1871.

We have, &c.
(Signed) J. D. COLECIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 319.

*Dr. Deane to Mr. Hammond.—(Received May 22.)*

*Temple, May* 21, 1873.

Sir,

I BEG to acknowledge the receipt of your letter of the 20th instant, in which you state that Lord Granville, after directing my attention to the XXIst Article of the Treaty of Washington of the 8th May, 1871, requests that I would prepare a confidential memorandum for use in any argument which may be raised upon the point mentioned in your letter before the Commission appointed by such Treaty.

I will at my earliest convenience place myself in communication with the Librarian at the Foreign Office for the purpose indicated in your letter.

I am, &c.
(Signed) J. PARKER DEANE.

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### No. 320.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 29.)*

*Temple, May* 29, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, forwarding a copy of an Act which had been passed by the Legislature of Newfoundland for carrying out the provisions of the Treaty of Washington in regard to fisheries; and he was to request us to take the documents into consideration, and report to your Lordship, at our earliest convenience, our opinion whether it sufficiently complied with the terms of the Treaty of Washington, especially with reference to the proviso at the end of the first section of the Act.

That a copy of the Treaty of Washington was annexed, and that he (Mr. Hammond) was to inclose a despatch to Sir E. Thornton, forwarding a draft of Protocol fixing the 1st July as the date at which the provisions of Articles XVIII to XXV and Article XXX of the Treaty should come into operation, which he (Sir E. Thornton) had been authorized to sign if the United States' Government concurred in it.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Protocol which recites the Acts of the Imperial Parliament of the Dominion of Canada, and of the Legislature of Prince Edward Island, should also recite the Act passed by the Legislature of Newfoundland, particularly with reference to Article XXXII of the Treaty of Washington, 1871.

In reference to the proviso at the end of the first section of the Act of Newfoundland, we are of opinion that the clause should be so framed as expressly to cover the close time for the herring fishery, and the observation by American fishermen of the rules and regulations imposed upon the fishermen of Newfoundland in that particular.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## United States.

### No. 320*

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 31.)*

*Temple, May* 30, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that he was directed by your Lordship to transmit to us a despatch from Mr. H. Howard,* Agent to the Claims Commission at Washington, requesting to be informed whether Her Majesty's Government would recognize an assignment of a claim properly executed and placed on the file of the Commission, and he (Mr. Hammond) was to request us to take the matter into consideration and favour your Lordship with our opinion as to the answer which should be returned to Mr. Howard.

In obedience to your Lordship's commands we have the honour to report—

That such claims as those in question may be made the subject of a perfectly valid assignment, and that in case of a claim being admitted and money paid in respect thereof, Her Majesty's Government could not refuse to recognize a legally constituted assignee.

We see no objection to Mr. Howard being informed of this and being permitted to communicate his information to any claimant who may consult him. But we think Mr. Howard should do no more than acknowledge the receipt of any notice of an assignment and keep a list of such notices.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* No. 15, May 6, 1873.

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### No. 321.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 2.)

My Lord, *Temple, June* 2, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 30th ultimo, stating that, with reference to our Report of the 3rd January as to the claim of George Wigg for compensation for the seizure of the British steamer "Virgin" by the United States' authorities at Mobile, at the end of the civil war, he was directed by your Lordship to transmit to us a letter from Mr. F. B. Smart, Official Liquidator of the European Trading Company, requesting that compensation might be recovered for the creditors and shareholders of the Company for the loss of that vessel; and that he (Mr. Hammond) was to request us to take the case into consideration, and report to your Lordship our opinion as to the answer that should be returned to Mr. Smart.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. F. B. Smart, the Official Liquidator of the European Trading Company, stands in no better position as to his claim under the Treaty of Washington, 1871, than the orignal claimant, Mr. G. Wigg, and that Mr. F. B. Smart may properly be answered that your Lordship must decline to support his claim with the Commissioners, or to communicate on his claim with the Government of the United States.

We have, &c.

(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 322.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 7.)

My Lord, *Temple, June* 7, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 5th instant, stating that, with reference to our Report of the 29th ultimo, he was directed by your Lordship to transmit to us a letter from the Colonial Office in regard to the Act recently framed by the Legislature of Newfoundland for giving effect to the Fishery Article in the Treaty of Washington; and he was to request us to take the letter into our consideration, and favour your Lordship with our opinion as to whether the Act in question did sufficiently comply with the terms of that Treaty, and as to the steps that should be taken for giving effect to it.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Act does sufficiently comply with the terms of the Treaty.

The suggestion made by Lord Kimberley that Mr. Fish be asked to sign a Protocol in respect of Newfoundland, similar to that which has been granted respecting Canada and Prince Edward Island, may be properly adopted.

But that Protocol should contain a clause following as nearly as possible the words of the proviso at the end of the Ist Article of the Newfoundland Act.

We have, &c.

(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 323.

*Dr. Deane to Earl Granville.*—(*Received June* 10.)

My Lord, *Temple, June* , 1873.

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th ultimo, stating that he was directed to refer me to the XXIInd Article of the Treaty of Washington of the 8th May, 1871, which provides for the appointment of a Mixed Commission "to determine having regard to the privileges

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accorded by the United States to the subjects of Her Britannic Majesty, in return for the privileges accorded to the citizens of the United States under Article XVIII of this Treaty."

That it is possible that, in the discussions which may take place between the Commissioners, the question may be raised as to the right of reservation for British subjects of exclusive fishery in the bays which are found in various part of the British American coast, and in dealing with this question the extent of the territorial rights of Great Britain within such bays may come under consideration.

That this point, which I should recognize under the description of the "Headland" question, had been frequently under discussion, and besides any information in regard to it which might be obtained from general sources with which I am acquainted, the archives of the Foreign Office it is believed could supply such information.

Mr. Hammond further stated that the Librarian of the Foreign Office had consequently been instructed to examine the archives for that purpose; but that Her Majesty's Government considered it desirable that without loss of time a Confidential memorandum should be prepared for use in any argument, supposing the point referred to should be raised before the Commission.

That your Lordship requested, therefore, that I would, at my earliest convenience, prepare such a memorandum, and besides the assistance which the Librarian of the Office might be able to render me by providing me with materials, your Lordship proposed that I should have the assistance of the gentleman who would shortly be appointed to attend the Mixed Commission under the XXIIIrd Article of the Treaty as Agent on behalf of Her Majesty's Government.

In obedience to your Lordship's commands I have the honour to report—

That I have prepared a memorandum for use in argument supposing the point referred to in Mr. Hammond's letter should be raised before the Commission.

I shall be glad to avail myself of your Lordship's proposal, that before finally completing the draft I should receive the assistance of the gentleman who may be appointed to attend the Mixed Commission under the XXIIIrd Article of the Treaty as Agent on behalf of Her Majesty's Government.

I have, &c.
(Signed) J. PARKER DEANE.

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## No. 324.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June* 13.)

My Lord,
*Temple, June* 13, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 12th instant, stating that, with reference to our Report of the 24th March last, he was directed by your Lordship to transmit to us the accompanying correspondence relative to the date at which Articles XVIII to XXV and Article XXX of the Treaty of Washington are to come into operation; and he was to request us take the papers into consideration, and report to your Lordship our opinion whether, the Protocol fixing the 1st July having been signed by Mr. Fish and Sir E. Thornton, Lord Kimberley should be informed that the Governor-General of Canada and the Lieutenant-Governor of Prince Edward Island might be instructed to issue their Proclamations for bringing the Articles into force in those Colonies.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Lord Kimberley may properly be informed that the Governor-General of Canada and the Lieutenant-Governor of Prince Edward Island may be instructed to issue their Proclamations for bringing the Articles into force in those Colonies.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 325.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June* 30.)

My Lord,
*Temple, June* 30, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 25th instant, stating that, with reference to our Report of the 22nd April, relative to Dr. Tumblety's claim against the United States' Government, he (Mr. Hammond) was requested by your Lordship to transmit to us a despatch from Sir E. Thornton, reporting on the case, and suggesting that he should be authorized to address a note to the United States' Government, stating that Dr. Tumblety had presented a claim on account of his arrest, and inquiring on what ground the arrest was ordered; and he (Mr. Hammond) was to request us to report to your Lordship our opinion as to the instructions that should be given to Sir E. Thornton on the subject.

In obedience to your Lordship's commands we have the honour to report—

That it would appear from the letters 1 and 6, June 1865, from Dr. Tumblety to Sir F. Bruce, Inclosures Nos. 4 and 5 in Sir E. Thornton's despatch No. 246, that Dr. Tumblety was not altogether ignorant of the causes of his arrest.

But we see no reason why Sir E. Thornton should not be instructed to write the note which he suggests, provided he is careful in wording that note not to commit Her Majesty's Government to the support of a doubtful claim.

Sir E. Thornton may also be instructed to communicate confidentially with Her Majesty's Consul at St. Louis, in order to ascertain as far as may be what the true facts connected with Dr. Tumblety's arrest were. We submit this suggestion to the consideration of your Lordship, more particularly because we have no information as to what, if anything, was done by Dr. Tumblety in the memorandum, Inclosure No. 8 in Sir E. Thornton's despatch No. 246.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 326.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July* 4.)

My Lord,
*Temple, July* 4, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 18th ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Admiralty, calling attention to an Article in the United States' Naval Regulations of 1870, which relates to convoys, and which is thought by the Board to be contrary to international law, and also inquiring whether your Lordship was of opinion that any change is desirable in the Article on convoy in Her Majesty's Regulations for the navy.

And that he (Mr. Hammond) was to request us to take the letter into consideration, and report to your Lordship our opinion as to the answer that should be returned to it.

In obedience to your Lordship's commands we have the honour to report—

That the decision given by Lord Stowell in the case of the "Maria," and affirmed on appeal, is of the highest value upon the right to visit ships under convoy.

Your Lordship is aware that that decision, and the principles upon which it was based, and the results to which it led, formed the subject of much discussion, and gave rise to a difference of opinion in which this country stood almost, if not quite, alone against all the other Maritime Powers of the time. (Wheaton's "Modern Law of Nations," Edn. 1845, p. 391; Hautefeuille, "Des Droits et des Devoirs des Nations Neutres," tit. xi, ch. 3.)

It may then well be doubted, in our opinion, whether the assertion in the present day of the principles laid down in the "Maria" would not be prejudical instead of advantageous to the interests of Great Britain, and the Admiralty might, we consider, be informed that your Lordship is of opinion that notwithstanding the decision in the "Maria," naval officers should be instructed not to insist on visiting ships under convoy.

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We see no reason for altering the 11th Article on convoy in Her Majesty's Regulations for the navy. This Article seems to us quite clear and sufficient for the purpose.

In the event of any change being made as suggested with reference to the question of search of vessels under convoy, the rules laid down in Articles XXIV and XXIX of the Treaty of 1801 between Russia and Sweden (Martens Recueil, vii, pp. 329-331) seem to afford protection to the rights both of neutrals and belligerents, and any breach of the duty of a neutral in convoying enemy's ships or ships carrying contraband of war would be a just cause of complaint on the part of the belligerent, and no question can, since the Declaration respecting maritime law of the 30th March, 1856, now arise as to enemy's goods on board neutral ships between the Powers who signed that Declaration.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 327.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 14.)

*Temple, July* 12, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 8th instant, stating that, with reference to our Report of the 23rd February, 1869, he was directed by your Lordship to transmit to us a letter from Mr. Isaac Parr, forwarding depositions in support of his claim and of the claims of William and Frederick Parr and of Mrs. Elizabeth Luck against the United States; and he (Mr. Hammond) was to request us to take the papers into consideration, and report to your Lordship our opinion as to the steps that should be taken in regard to them.

In obedience to your Lordship's commands we have the honour to report—

That the claims of Messrs. Parr and Mrs. Luck may, in our opinion, be brought to the favourable consideration of the United States' Government.

The claimants, British subjects, appear to have had their property seized by the Confederate troops, and afterwards, on the disappearance from their neighbourhood of these troops, to have recovered a part of their property, and been in the peaceful occupation and use of it, when they were in July 1875 deprived of the whole remaining portion of the property by the authority of the United States' officers.

It is for this latter act, however, and not for any loss occasioned by the acts of the Confederates, that any claim for compensation can be made.

There is no sufficient account of this loss, and the claim must therefore necessarily be general.

We assume that the long delay since 1869, which appears to have been the date of the last Report, can be accounted for, but no reason is assigned or excuse offered for that delay in the papers with which we have been furnished.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 328.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 21.)

*Temple, July* 19, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 16th instant, stating that, with reference to our Report of the 9th May last, he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Sir E. Thornton, relative to the claim of Captain Irvine, of the British vessel "Grace," against the United States' Government; and that he (Mr. Hammond) was to request us to favour your Lordship with any observations that we might have to offer thereupon.

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## United States.

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### No. 328*.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 22.)

My Lord, *Temple, July* 22, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 21st instant, stating that with reference to our Report of the 30th May, he was directed by your Lordship to transmit to us a despatch from Mr. Henry Howard,* apprising your Lordship of the form which, by the advice of Mr. Carlisle, he had adopted in answering questions from claimants as to the validity of assignments of their awards; and that he (Mr. Hammond) was to request us to take this despatch into consideration and favour your Lordship with our opinion as to whether this notice is sufficient.

In obedience to your Lordship's commands, we have the honour to report—

That in our opinion the notice is sufficient, but we suggest that for the word "could" in the last line but one of p. 1 in the copy despatch the word "would" might be substituted.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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* No. 21.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship cannot take any further steps in the matter of Captain Irvine's claim.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 329.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 2.)

*Temple, August* 1, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 25th ultimo, stating that, with reference to our Report of the 3rd April last, he was directed by your Lordship to transmit to us a letter from Mr. Hodgson, M.P., inclosing memorial signed by Mr. J. W. Miles, containing further particulars with respect to the claim of the Great Western Steam-ship Company upon the State of New York for the repayment of head-money improperly levied upon the Company by the authorities of that State.

Mr. Hammond also inclosed papers in this case, and stated that he was to request us to take it into consideration, and favour your Lordship with our opinion as to whether there is anything in Mr. Miles' memorial to alter the views already expressed by us in regard to the matter.

In obedience to your Lordship's commands we have the honour to report—

That having carefully considered the memorial of Mr. Miles, we see no reason to alter the opinion already expressed by us upon the claim of the Great Western Steam-ship Company upon the State of New York.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 330.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 5.)

*Temple, August* 4, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 31st ultimo, stating that, with reference to our Reports in regard to Mr. Stewart's claim against the United States' Government, he was directed by your Lordship to transmit to us a farther letter from that gentleman upon the subject; and he (Mr. Hammond) was to request us to take the letter into consideration, and favour your Lordship with our opinion as to the answer which should be returned to Mr. Stewart.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Stewart may, in our opinion, properly be answered that Her Majesty's Government will not interfere with the decision of the Commissioners.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 331.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 6.)

*Temple, August* 6, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 2nd instant, stating that, with reference to our Report of the 9th ultimo,* on the case of the Marquise de Seraville, he (Mr. Hammond) was directed by your

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* See "General," p. 64.

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Lordship to transmit to us an accompanying letter from Mrs. Lambert, an English-born subject, and the widow of an American gentleman recently deceased, stating that the United States' Legation had declined to furnish her with a passport to return to St. Petersburgh, on the ground that by the death of her husband she had ceased to be a subject of the United States, and requesting that she may be furnished with one by the Foreign Office.

And that he (Mr. Hammond) was to request us to take this case into consideration, and favour your Lordship with our opinion in the matter.

In obedience to your Lordship's commands we have taken this case into consideration and have the honour to report—

That, in our opinion, Mrs. Lambert is not entitled to claim a passport as a British subject.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 332.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 30.)

*Temple, August* 29, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 14th instant, stating that, with reference to our Report of the 5th May, respecting Mrs. Cassin's claim against the United States' Government, he was directed by your Lordship to transmit to us a further letter from Messrs. Raper and Ellman upon that subject; and he (Mr. Hammond) was to request us to take the letter into consideration, and favour your Lordship with our opinion as to the answer which should be returned to Messrs. Raper and Ellman.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship may, in our opinion, properly inform Messrs. Raper and Ellman that you cannot interfere further in the matter of Mrs. Cassin's claim.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 333.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 2.)

*Temple, August* 31, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 27th instant, stating that, with reference to our Report of the 4th instant, he was directed by your Lordship to transmit to us a despatch from Mr. Howard relative to a farther application which had been made to him (Mr. Howard) by Mr. Stewart in regard to his claim against the United States.

That Mr. Howard suggested that he might be authorized to enter a protest in the name of Her Majesty's Government against the action of the Commissioners; and he (Mr. Hammond) was to request us to report to your Lordship our opinion as to the instructions which should be sent to Mr. Howard on the subject.

In obedience to your Lordship's commands we have the honour to report—

That the suggestion made by Mr. Howard is one which we cannot advise your Lordship to adopt.

The Treaty provides that the decision of the Commissioners upon a claim shall be final. And (it seems to us that) protesting by either Government against a decision would be inconvenient, useless, and contrary to the letter and spirit of the Treaty.

We are therefore of opinion that Mr. Howard should be instructed not to enter a protest in the name of Her Majesty's Government against the decision of the Commissioners.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 334.

*The Attorney-General to the Earl of Kimberley.*

*Temple, September* 10, 1873.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Herbert's letter of the 5th instant, stating that he was directed by your Lordship to transmit to me a copy of a letter from the Foreign Office, inclosing a despatch from Her Majesty's Minister at Washington, with inclosures, upon the subject of the abduction of Samuel Joy, a citizen of the United States.

That your Lordship desired Mr. Herbert to request me to take the papers into consideration, and favour your Lordship with my opinion whether, if the circumstances of the case were such as were described by Mr. Fish, the case was one to call for the release of Samuel Joy, and his restoration to the territory of the United States.

In obedience to your Lordship's commands I have the honour to report—

That assuming the facts stated by Mr. Fish to be correctly stated, and that there is nothing to be added to them which would in any substantial degree qualify them, I am of opinion that the violation of territorial authority of the United States has undoubtedly occurred. On the same assumption, the United States are entitled to reparation for the violation of their sovereignty, and probably the simplest and shortest mode of making such reparation would be by setting Mr. Joy at liberty within the territory of the United States. But I am unable positively to advise this course to be pursued or recommended by your Lordship to the Governor-General of the Dominion to be pursued without more information than I possess as to the means at the command of the Executive of the Dominion for interfering in cases of arrest on civil process.

I have, &c.
(Signed) J. D. COLERIDGE.

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### No. 335.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 15.)

*Temple, September* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us three despatches from Her Majesty's Minister at Washington, in regard to the detention at Fort Garry of certain American citizens, who are charged with having attempted to carry off an Englishman named Gordon by force from Manitoba; and he (Mr. Hammond) was to request us to take the papers into consideration, and report to your Lordship our opinion on the point raised by Mr. Fish as to the capture having taken place to the south of the line of boundary marked out by the Boundary Commissioners, though north of the old acknowledged line, supposing that the facts of the case are as stated by Mr. Fish.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the old acknowledged line must be taken as the boundary, until the new line is officially admitted or declared; unless there be some provisions which make the marking out of the line by the Boundary Commissioners sufficient to change the line without farther action taken by the two Governments.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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### No. 336.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 15.)

*Temple, September* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us a letter from the Board of Admiralty, calling attention to an Article in the United

States' Navy Regulations upon the subject of capture for carrying contraband of war; and he was to request us to take the Article into consideration, and favour your Lordship with our opinion whether it is in accordance with international law.

In obedience to your Lordship's commands we have the honour to report—

That the Article 1014 is obscurely drawn, but as there can be no "contraband of war" carried from one neutral port to another, we think the real meaning of the Article is to provide against a false or pretended destination, in which sense the Article is not contrary to, but is in accordance with, international law.

Your Lordship may, however, properly instruct Sir E. Thornton to apply unofficially to the United States' Government, and ascertain the construction put by that Government upon the Article.

We have, &c.
(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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### No. 337.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received October* 30.)

My Lord, *Temple, October* 30, 1873.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 14th October instant, stating that he was directed by your Lordship to transmit to us a telegraphic correspondence that had passed between your Lordship and Her Majesty's Minister at Washington, upon the subject of the selection of a third Commissioner for the Fisheries Commission at Halifax, and to state to us that, under the XXIIIrd Article of the Treaty of Washington, copy of which was sent therewith for convenience of reference, it appeared to Her Majesty's Government that the Austrian Ambassador in London should be called upon, without delay, to nominate a Commissioner; and Lord Tenterden was pleased further to say that he was to request that we would take the matter into our consideration, and favour your Lordship with our opinion as to whether the terms of the above-mentioned Article are peremptory upon this point.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the terms of the XXIIIrd Article are distinct and peremptory, and that Sir E. Thornton should be instructed to carry out the terms expressed in your Lordship's telegram of the 11th October last.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 338.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 11.)

My Lord, *Temple, November* 10, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 6th instant, stating that he was directed to transmit to us the accompanying correspondence respecting the case of Samuel Joy; and to request that we would take these papers into consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Hamilton Fish was quite justified in making the remark contained in his letter of the 9th October, 1873, to Sir E. Thornton, and that Mr. Joy, having been illegally brought into the Province of New Brunswick, should not have been kept in prison there by detainers.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 339.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November* 18.)

My Lord, *Temple, November* 17, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 11th November instant, stating that, with reference to our Report of the 30th ultimo, he was directed by your Lordship to transmit to us a despatch (No. 435) from Sir Edward Thornton, inclosing copies of correspondence with Mr. Fish on the subject of the appointment of a third Commisioner in accordance with the XXIIIrd Article of the Treaty of Washington, and to request that we would take these papers into our consideration, and report to your Lordship our opinion upon the answer returned by Mr. Fish to Sir Edward Thornton's note of the 24th ultimo.

In obedience to your Lordship's commands we have taken the papers into consideration and have the honour to report—

That, in our opinion, Mr. Fish is in error when, in his letter to Sir E. Thornton, he infers that the right of nomination of a third Commissioner has not passed beyond the control of the two Governments, and that he believes that both the spirit and the letter of the Treaty intended that the nomination should be exercised by them concurrently.

Such undoubtedly was the letter and the spirit of Article XXIII, so long as the three months were unexpired, but the words of the provision that in case the third Commissioner shall not have been named within the three mouths, then the third Commissioner shall be named by the Representative at London of the Emperor of Austria and King of Hungary, are so clear, both in themselves and in connection with the immediately preceding words in the same Article, that Mr. Fish may on this part of his letter be properly answered that Her Majesty's Government cannot agree with his interpretation of the Treaty in this respect.

With regard to that part of Mr. Fish's letter which refers to the proposal to select some Dutch gentleman, we are of opinion that, relating to a matter which is now at an end, no notice need be taken of that in the answer to Mr. Fish.

We suggest, however, for your Lordship's consideration, and as a matter of policy, not of right, that it may be well to answer Mr. Fish that although Her Majesty's Government wholly differs from him in the construction to be put upon the Article XXIII of the Treaty, Her Majesty's Government is willing to agree upon a third Commissioner to be named by the two Governments, but in the event of such agreement not being carried out within a short time, say one month, that Her Majesty's Government will insist on the provisions of Article XXIII being carried into effect.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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### No. 340.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received December* 26.)

My Lord, *Temple, December* 23, 1873.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Whitley and Maddock (October 13), requesting that the claim of Messrs. C. and H. Wilson against the United States' Government may be supported by Her Majesty's Government.

Lord Tenterden also stated that the accompanying papers would show the nature of this claim, which was excluded from the Claims Commission because the seizure of the cotton from which it arose took place after the 9th April, 1865; and he was to request that we would take the case into our consideration, and report to your Lordship our opinion whether it would be proper to forward this claim for the consideration of the United States' Government.

In obedience to your Lordship's commands we have the honour to report—

That we cannot advise your Lordship to forward or support this claim without your receiving further explanation from Messrs. Wilson.

It appears to us that the place where the goods were seized, viz., Mobile, renders

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it probable that they had been acquired in exchange for goods which had been run through the blockade. The time also which was allowed to elapse between the seizure and the claim being first preferred seems to be unaccounted for.

We think that your Lordship should not prefer this claim until Messrs. Wilson have shown to you how and for what consideration they became possessed of the goods, and until they have explained the cause of the delay in bringing their loss to the attention of Her Majesty's Government. Messrs. Wilson should also bring before your Lordship the reasons given by the United States' Government for rejecting the claim preferred by them.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## Venezuela.

### No. 341.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 17.)

*Temple, February* 15, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th instant, stating that, with reference to our Report of the 12th November last, he was directed by your Lordship to transmit to us farther despatches from Her Majesty's Minister in Venezuela relative to the claim of Mr. Agostini to compensation from the Venezuelan Government on account of his arrest and imprisonment in July 1871.

That we would see from those despatches that the Venezuelan Government refused to admit the justice of that claim, maintaining, on the evidence of the police, that Mr. Agostini was justly punished for refusing to appear when legally summoned before a Venezuelan Tribunal, and also for making use of disrespectful language towards the authorities of the Republic. Mr. Agostini, as we were aware, denied that he ever received a summons to appear before a Tribunal, or that he made use of any disrespectful language towards the authorities.

That in these circumstances he (Lord Tenterden) was to request us to take the inclosed despatches into consideration, and favour your Lordship with our opinion as to the course which should now be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That referring to the Report which we had the honour of making to your Lordship on the 12th November, 1872, and the subsequent correspondence between Mr. Middleton and Señor Barrios, we cannot find that Señor Barrios explains, or attempts to explain, the insult offered to the British Government in endeavouring to enforce the order for delivery of a horse after Mr. Middleton's letter to Señor Guzman. Nor does Señor Barrios refer to the continued detention of Señor Agostini, notwithstanding Mr. Middleton's remonstrance.

We are therefore still of opinion that Mr. Middleton may be instructed to press on the Venezuelan Government the necessity of making an apology to the British Government.

And we still think Mr. Agostini is entitled to some compensation.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 342.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 26.)

*Temple, February* 25, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires at Carácas, together with former correspondence, respecting the status of British subjects and the children of British subjects born in Venezuela; and he (Mr. Hammond) was to request us to take the papers into consideration, and favour your Lordship with our opinion upon the particular case of G. Rodriguez, and also upon the instructions which should be given to Mr. Middleton as to the issuing of passports to British subjects about to leave Venezuela, who, while in that country, were considered by its Government as citizens of the Republic.

In obedience to your Lordship's commands we have the honour to report—

That the declaration of Rodriguez forwarded by Señor Barrios to Mr. Middleton shows, in our opinion, that Rodriguez is not in any sense a British subject, and is not entitled to a certificate of British nationality.

In the case of persons born in Venezuela, and who by the law of England would be British subjects out of Venezuela, we are of opinion that Mr. Middleton may be instructed to grant passports to such persons on their leaving Venezuela.

Any difficulty which the Venezuelan Government might raise in such cases may perhaps be got over by inserting in the passport a paragraph reciting how the bearer of the passport is entitled to British nationality.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 343.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 23.)

*Temple, April* 22, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 8th instant, stating that he was directed to transmit to us the accompanying despatch from Her Majesty's Minister at Carácas, inclosing two Decrees issued by the President of Venezuela on the 14th February, relating to the rights and duties of foreigners in that Republic.

That the correspondence in 1869, alluded to in that despatch, was also inclosed, together with a despatch from Mr. Middleton, transmitting the President's Message to Congress, in which allusion was made to the position of foreigners.

Lord Tenterden also stated that he was to request that we would take these papers into consideration, and favour your Lordship with our opinion as to whether any action is called for on the part of Her Majesty's Government with regard to the Decrees of the 14th February last.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Middleton should be instructed to inform the Venezuelan Government that Her Majesty's Government (now, as in 1869) reserves to itself the right, if occasion should require it, of objecting to any claim on the part of the Venezuelan Republic at any future time to have relieved itself by its own Decree from responsibility towards Great Britain in respect to wrongs or injuries done to British subjects, for which the Venezuelan Republic would be liable to make compensation, either under the general law of nations, or under Treaty engagements.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 344.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 26.)

My Lord, *Temple, April* 25, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 23rd instant, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Minister at Carácas relative to the conduct of Señor Jacinto Guttierez, President of the State of Guayana, in sentencing to fine or imprisonment a subject named J. B. Mathison for an alleged want of respect towards authority.

And that he was to request us to favour your Lordship with our opinion as to the instructions that should be sent to Mr. Middleton in reply.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Middleton may, in our opinion, properly be instructed not to proceed farther in support of Mr. Mathison, who brought upon himself the punishment which was inflicted upon him, and to inform Señor Barrios that his explanation of the matter, taken with the evidence, has been received by her Majesty's Government with satisfaction.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 345.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received June* 24.)

My Lord, *Temple, June* 24, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th instant, stating that, with reference to our Report of the 15th February relative to the case of Mr. Agostini, he was directed by your Lordship to transmit to us a further correspondence with Her Majesty's Minister at Carácas, from which we would see that the Venezuelan Government still refused to make any apology to Her Majesty's Government, or to grant any compensation to Mr. Agostini.

The previous papers were inclosed; and he (Mr. Hammond) was to request us to take the case into consideration, and favour your Lordship with our opinion as to the steps that should now be taken.

In obedience to your Lordship's commands we have taken this case into consideration and have the honour to report—

That, in our opinion, a farther and last attempt should be made to obtain satisfaction and compensation from the Venezuelan Government, and we have the honour of submitting, for your Lordship's consideration, the draft of an instruction which might be sent to Mr. Middleton with the view of his once more bringing the case to the attention of the Venezuelan Government. Mr. Middleton may properly be instructed to convey to the Venezuelan Government the satisfaction with which Her Majesty's Government receives the assurances conveyed to Mr. Middleton in M. Blanco's note of the 15th May last, of the good-will, friendship, and cordiality entertained by the Government of Venezuela towards Her Majesty's Government, and Her Majesty's Government would deeply regret that any untoward event should interrupt the good understanding which has hitherto existed between the two Governments.

Her Majesty's Government, however, cannot overlook the occurrences which took place between the 1st and 6th July, 1871.

The order to supply a horse was served on Mr. Agostini, a British subject, contrary to the subsisting Treaty, on the 6th July, 1871. Mr. Middleton at once protested, and notwithstanding that protest, Mr. Agostini was arrested on the 4th July. Mr. Middleton therefore, and on the same day, remonstrated against this arrest, and claimed the release of Mr. Agostini, but the Venezuelan authorities, alleging a public holiday as the sole reason for the delay, did not release Mr. Agostini till the 6th.

Her Majesty's Government regrets that it cannot view this repeated disregard of Mr. Middleton's protest and remonstrance in any light other than that of an insult offered to that Government in the person of the British Representative.

Her Majesty's Government would with still greater regret find itself compelled, by the continued refusal of the Venezuelan Government to offer an apology for this insult, to resort to those measures which must be taken to obtain that apology, and Her Majesty's Government seriously hopes that the Venezuelan Government will reconsider their determination to which it appears to have come, and on further reflection see that it is not inconsistent with its own dignity to make some apology for an insult offered to a friendly Power.

The compensation to be made to Mr. Agostini is a matter of less gravity, but Her Majesty's Government cannot allow the arrest and continued imprisonment of a British subject by the Venezuelan authorities contrary to Treaty and to the protest of the British Representative to have been made, and not insist upon some compensation being made to that British subject.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 346.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received July* 4.)

*Temple, July* 4, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 1st instant, stating that, with reference to our Report of the 24th ultimo, relative to the case of Mr. Agostini, he was directed by your Lordship to state to us that before sending to Her Majesty's Minister at Carácas the instruction proposed by us, your Lordship would be glad to be informed what would, in our opinion, be the next step to be taken in the event of the Venezuelan Government refusing to make an apology to Her Majesty's Government, or to compensate Mr. Agostini.

In obedience to your Lordship's commands we have the honour to report—

That if the Venezuelan Government should refuse to make an apology to Her Majesty's Government, the apology and compensation to Mr. Agostini should, in our opinion, be obtained by the employment of a naval force to blockade the ports of the country.

If, however, the Venezuelan Government should make the apology, but still decline to compensate Mr. Agostini, your Lordship might, in our opinion, not improperly decline to press the Venezuelan Government for the compensation.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 347.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 7.)

*Temple, August* 6, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 25th ultimo, stating that he was directed by your Lordship to transmit to us a despatch which your Lordship had received from Her Majesty's Minister at Carácas, respecting the claim of Mr. O'Callaghan against the Venezuelan Government, together with a memorandum which had been prepared in the Foreign Office, and the previous correspondence which might be required for reference; and that he (Lord Tenterden) was to request us to take these papers into consideration, and favour your Lordship with our opinion as to the instructions which should be issued to Mr. Middleton upon the case.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That Mr. Middleton may, in our opinion, properly be instructed to tell Mr. McCarthy, the agent for the claim of Messrs. O'Callaghan against the Venezuelan Government, that he may either receive the dividend which has been paid on account of the claim, or take any other course which may seem to him expedient, Her Majesty's Government

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declining all responsibility, except as to the sums received as a dividend and now in hand on account of the claim.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 348.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received September* 2.)

My Lord, *Temple, August* 31, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 22nd instant, stating that, with reference to our Report of the 3rd June last year, relative to the seizure by the Colonial authorities at Trinidad of the sloop "Violet," on the suspicion of being intended for the conveyance of warlike stores to Venezuela, he (Mr. Hammond) was directed by your Lordship to transmit to us a farther letter from the Colonial Office, and its inclosures, from which we would learn that the jury in the trial of the "Violet" before the Supreme Court had been unable to agree.

That in these circumstances the Governor of Trinidad proposed to abandon all further proceedings on the part of the Crown, discharging the bail for the vessel, and surrendering the arms to the Messrs. Zurcher and Co., if the claimants, on their part, would undertake to pay the costs which had been incurred.

That he was to request us to take the papers into consideration, together with previous correspondence (inclosed), and favour your Lordship with our opinion as to whether the course suggested to Governor Longden should be approved.

And that your Lordship would be glad to be informed whether we are of opinion that the evidence adduced at the trial was sufficient to make it desirable to call the attention of the Venezuelan Government to the conduct of their Consul-General at Trinidad, Dr. Montbrun.

In obedience to your Lordship's commands we have the honour to report—

That it would, in our opinion, be very difficult to obtain on a new trial a verdict against the "Violet;" and we therefore consider that the course suggested by Governor Longden in reference to that vessel, her cargo, and the costs, may properly be adopted.

We are not without some doubt as to the course to be taken in regard to Dr. Montbrun, but as the proceedings against the "Violet" will have been abandoned, we are of opinion that the most consistent and best mode of dealing with that gentleman's conduct may be to consider the evidence tending to implicate him as insufficient to establish his complicity, and that in this view of the case it is not desirable to call the attention of the Venezuelan Government to his conduct.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 349.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 8.)

My Lord, *Temple, November* 6, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 24th ultimo, stating that he was directed by your Lordship to transmit to us a letter which your Lordship had received from Mr. Bernardo Daly complaining of the course adopted by Her Majesty's Minister at Carácas in the distribution of the money set aside by the Venezuelan Government for the payment of certain British claims. That the former papers in the case were inclosed for reference; and he (Lord Enfield) was to request us to take them into consideration, and favour your Lordship with our opinion as to the answer which should be returned to Mr. Daly.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Daly seems to have been hardly treated in this matter, and though probably Mr. Middleton may have been right in not including Mr. Daly's claim amongst the payments lately made to British claimants, we are of opinion that Mr. Daly was entitled to copies of his papers, that he might be in a position to obtain from the Venezuelan Government the balance of the sum deposited with the house of Boulton and Co., which it appears that the Venezuelan Government took possession of, giving in exchange a security on the Treasury or Customs of Maracaibo, which has proved of no value.

We think, therefore, that the attention of Mr. Middleton should be called to his Report of the 7th September, 1871, and that he should be directed to furnish your Lordship with a further Report, especially on the position in which Mr. Daly stands towards the Venezuelan Government with reference to this balance, and what reasons there may be for not pressing that Government to pay such balance, with interest, to Mr. Daly, and what reason there may be for refusing the copies of papers to Mr. Daly, other than those which he gives in his letter to Mr. Daly, and which do not seem to us sufficient.

And we think that Mr. Daly may for the present properly be answered that his application will be considered, and Mr. Middleton communicated with thereon.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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## No. 350.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received November* 13.)

My Lord, *Temple, November* 12, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 8th instant, stating that he was directed to transmit to us the accompanying papers relative to the circumstances under which the Venezuelan Government have questioned the competence of the Representatives of Great Britain and other Powers to address a remonstrance to that Government with regard to the prejudicial effect upon foreign trade of two Articles of the Venezuelan Financial Code; and to request that we would take these papers into consideration, and favour your Lordship with our opinion as to whether any notice should be taken by Her Majesty's Government of the attitude of the Venezuelan Government in this matter.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government may, in our opinion, notify to the Venezuelan Government that if, in the execution of the two Articles of the Venezuelan Financial Code, the interests of any British subject are damaged, Her Majesty's Government will be obliged to inquire into the facts of the case, and possibly to require compensation from the Venezuelan Government, although the damage may be caused by the operation of a law passed by the Venezuelan States.

Your Lordship may think it advisable to instruct Mr. Middleton to communicate with his colleagues and induce them to make a similar representation to the Venezuelan Government.

We have, &c.
(Signed) J. D. COLERIDGE.
HENRY JAMES.
J. PARKER DEANE.

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# Zanzibar.

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## No. 351.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received August* 29.)

*Temple, August* 29, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 12th instant, stating that he was directed by your Lordship to request that we would take the accompanying despatch from Her Majesty's Agent and Consul-General at Zanzibar into our consideration, and favour your Lordship with our opinion upon the technical points therein raised by Dr. Kirk.

In obedience to your Lordship's commands we have the honour to report—

That in the first case put by Dr. Kirk, of a British Indian shipowner knowingly employing a slave as a sailor on board his ship and receiving the wages earned by such slave, the ship would, in our opinion, be liable to condemnation.

But the ship would not be liable to condemnation in the second case, for the owner was not cognizant, much less guilty, of the offence which the captain had committed.

We have, &c.

(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 352.

*The Attorney-General and Dr. Deane to Earl Granville.*—(*Received September* 27.)

*Temple, September* 27, 1873.

My Lord,

THAT, in our opinion, the provisions of the Treaty should be confined to the export of slaves destined as such for transport, and cannot be extended to slaves following their masters and not intended to be sold, nor to slaves working as seamen, and not intended for sale, on board Arab vessels.

In the case of vessels brought before the Court for adjudication, the description of slave, and the object for which he came or was put on board, must be decided according to the circumstances; but the mere presence on board of a person said or representing himself to be a slave will not be a sufficient ground for condemnation of the ship, nor for any criminal proceeding against the master of the ship or the owner of the slave.

We are also of opinion that at present no additional Article to the Treaty is needed, and we cannot assume that all slave labour afloat is illegal under the Treaty, an assumption which Dr. Kirk appears to make in his letter dated 22nd July, 1873.

In the Coomba Coomba (Case No. 16, 1873) Inclosure No. 1 in letter of 22nd July, the owner should receive damages and costs, there being no pretence for the seizure of the ship.

The same judgment should be given in Case No. 17, Inclosure No. 2 in letter of the 22nd July.

(Signed) J. D. COLERIDGE.
J. PARKER DEANE.

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## No. 353.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received December* 10.)

*Temple, December* 8, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 26th November ultimo, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Dr. Kirk, reporting the trial and conviction of an Indian British subject, named Hadji Omar; and his Lordship was to request that we would take this case into our consideration, and favour your Lordship with our opinion thereon.

In obedience to your Lordship's commands we have taken this case into our consideration and have the honour to report—

That we have considered the case submitted to us, and, whilst we refrain from expressing a decided opinion upon the point, we think it doubtful whether Hadji Omar was a British subject. We also are not in a position to determine how far the evidence justified the conviction, but, assuming that the man was a British subject and that he was guilty, we are of opinion that the punishment was most severe and disproportionate to the offence, and we recommend to your Lordship that the remainder of that sentence should be remitted and the man at once released.

We venture to suggest to your Lordship that it may be advisable to convey to Dr. Kirk the opinion that undue severity and unnecessary interference with the natives with whom he comes in contact will defeat the object of Her Majesty's Government, and render the suppression of the Slave Trade more difficult than if a more considerate course were taken by him in the exercise of his judicial functions.

We have, &c.

(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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# APPENDIX.

## Turkey.

### No. 293 A.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 22.)

*Temple, January* 21, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us a letter, and its inclosures, from Messrs. Emanuel and Co., requesting that instructions might be sent to Her Majesty's Consul at Cairo to send home for identification certain jewellery impounded by him on suspicion of its being stolen property of the firm in question, and he (Lord Enfield) was to request us to take the papers into immediate consideration and favour your Lordship at our early convenience with our opinion as the steps which your Lordship could properly take in consequence of the request of Messrs. Emanuel.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion your Lordship may properly instruct Consul Rogers to detain the jewellery in his custody for the present.

Messrs. Emanuel clearly have some person who can identify the jewellery if it is sent to England, and in our opinion the more proper course would be that Messrs. Emanuel should send that person to identify the jewellery at Cairo.

Should your Lordship, however, be satisfied with the reason given against the adoption of such a course, we are of opinion that the request of Messrs. Emanuel may be complied with in the manner and on the terms mentioned in their letter, and upon their engaging to pay the expenses incident upon the transmission of the jewellery to and from this country.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 293 B.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received March* 17.)

*Temple, March* 17, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant stating, that with reference to our letter of the 24th ultimo, on the subject of the attack made by pirates at Bussorah on the mail steamer "Cashmere," he was directed by your Lordship to transmit to us the accompanying letter, together with its inclosures, from the India Office, and he was to request us to take the farther papers into consideration, and favour your Lordship with such observations as we might have to make thereupon.

Previous papers inclosed for reference.

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In obedience to your Lordship's commands we have the honour to report—

That we are still of opinion that Her Majesty's Government cannot properly address any official or diplomatic request to the Government of the Porte for compensation.

And in our opinion any application to the Government of the Porte on the part of Her Majesty's Government would make a dangerous or at the least an inconvenient precedent.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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# SECOND APPENDIX.

## Zanzibar.

### No. 350 A.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 25.)

My Lord, *Temple, April* 24, 1873.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 10th April instant, stating that he was directed by your Lordship to transmit to us the accompanying private letter from Sir Bartle Frere, containing suggestions for coercing the Sultan of Zanzibar, with the view to compel him to adopt measures for the suppression of the export trade in slaves from his dominions, and to request that we would favour your Lordship with our opinion whether, under the law of nations, the measures suggested by Sir Bartle Frere can properly be carried out for the enforcement of the existing Treaty engagements with Zanzibar for the suppression of the Slave Trade, except as an act of war.

In obedience to your Lordship's commands we have the honour to report—

That Sir Bartle Frere suggests:—

1. That the British Consul, supported by a naval force, shall take possession of the custom-houses and duties of the Sultan, accounting, however, for those duties with one exception, to the Sultan's Exchequer.

2. That until the Sultan shall give satisfactory assurance to Her Majesty's Government that he will effectually prohibit the public sale of slaves, and their transport by sea within his dominions, this possession shall be maintained, and Her Majesty's naval forces shall search all vessels liable to search on suspicion of having slaves on board.

The adoption of these measures would amount, in our opinion, to a possible suspension within his own dominions of the power of the Sultan, to the seizure of, and confiscation of a part of his revenues, and to an interruption of a trade which may be lawful and totally unconnected with the traffic in slaves of his subjects with foreign nations.

And these measures can, consistently with the law of nations, be carried out only as an act of war, justified, however, as an act of war by the Sultan's breach of the stipulations made with Her Majesty's Government.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### No. 350 B.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 26.)

My Lord, *Temple, April* 25, 1873.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 23rd instant, stating, that with reference to his letter of the 10th instant, he was directed by your Lordship to request that, in reporting our opinion in regard to the proposals of Sir B. Frere for placing coercion on the Sultan of Zanzibar, with a view to the abolition of the Slave Trade on the East Coast of Africa, we would at the same time favour your Lordship with our views as to whether the declaration signed by this country and France in 1862, guaranteeing the independence of the Sultan of Zanzibar, affected the right of Her Majesty's Government alone to exercise coercive interference as is recommended by Sir B. Frere.

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In obedience to your Lordship's commands we have the honour to report—

That we have had the honour of reporting to your Lordship that the proposals of Sir B. Frere for placing coercion on the Sultan of Zanzibar would amount to an act of war.

In our opinion Her Majesty's right to enforce the Treaty stipulations by an act or declaration of war is not affected by the joint declaration of Great Britain and France guaranteeing the independence of the Sultan.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PAKKER DEANE.

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## No. 350 c.

*The Attorney-General to Earl Granville.—(Received May 1.)*

*House of Commons, May* 1, 1873.

My dear Lord Granville,

I HAVE received your envelope inclosing Sir Bartle Frere's last correspondence and the Lord Chancellor's Minute thereon. I have had the opportunity of showing them both to Jessel, and we both are clearly of opinion that the directions given Sir Bartle Frere are not authorized by the Treaty nor, as he appears to think, within the scope of its provisions.

We think also that the jurisdiction attempted to be conferred by the Order in Council on the Consul at Zanzibar is beyond any authority conferred on the Queen by the Act of Parliament, and this we understand the Chancellor also to think.

We have already advised and we repeat that the Sultan has, in our opinion, broken the Treaty, and therefore it is competent to the Government to take such steps against him as upon the whole they think best.

Yours, &c.
(Signed) J. D. COLERIDGE.

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## No. 350 d.

### *Memorandum by the Lord Chancellor.*

### *Sir B. Frere's Measures at Zanzibar.*

THE Act 11 and 12 Vict., cap. 128 (following the Treaty of the 2nd October, 1845), authorizes British ships of war to "visit and detain" in any "seas *except within the limits exempted by the IIIrd Article*" (of the Treaty), merchant-vessels "belonging to subjects of the Imaum of Muscat," suspected of being engaged in the Slave Trade, "excepting such only as are engaged in the transport of slaves from one point to another of his own dominions in Africa," within the defined limits between 1° 57′ south latitude and 9° 2′ south latitude, "including the islands of Zanzibar,' &c.

Section 2 of this Act gives jurisdiction, to try and condemn vessels detained under its authority, to "the High Court of Admiralty of England, and all Courts of Vice-Admiralty in any dominions of Her Majesty beyond the seas, including those Courts of Vice-Admiralty within the territories under the government of the East India Company."

By the Order in Council of the 4th November, 1867, section 29, Her Majesty's Consul at Zanzibar is authorized (if the Foreign Jurisdiction Act 6 and 7 Vict., cap. enabled Her Majesty in this case to give such authority) to "have all such jurisdiction as for the time being ordinarily belongs to Courts of Vice-Admiralty in Her Majesty's possessions abroad, *for and within the dominions of the Sultan of Muscat*, and for vessels and persons *coming within those dominions*, and in regard to vessels captured on suspicion of being engaged in the Slave Trade *within those dominions*."

Sections 16 and 23, which authorize deportation to Bombay (*inter alia*) of any person accused "*of engaging in*, or *being accessory to the purchase or sale of slaves, or of having slaves illegally in his possession*" apply to *British subjects only*.

I am not at all clear that it was competent for Her Majesty, by the Order in Council of the 4th November, 1867, to confer upon the Consul at Zanzibar any part of the jurisdiction given by 11 and 12 Vict., cap. 128, to Admiralty and Vice-Admiralty Courts *within the British dominions*. This jurisdiction being regulated by Statute, could only (I am disposed to think) be altered or extended by some other and subsequent Statute; and the Foreign Jurisdiction Act, 6 and 7 Vict., cap. 94, is prior in date, and does *not* say, that Her Majesty may, by Order in Council or otherwise, confer upon Consular or other Courts, in foreign countries within which Her Majesty has the power and jurisdiction there referred to, the same powers, as if such foreign countries were (in the terms of 11 and 12 Vict., cap. 128), part of "Her Majesty's *dominions beyond the seas*." The strong inclination of my mind is, that section 29 of the Order in Council of the 4th November, 1867, is *ultra vires*, and illegal.

I am not satisfied that, *in other respects*, there is any infringement of the Treaty of 1845, or of 11 and 12 Vict., cap. 128, in Sir B. Frere's letter of the 28th March, 1873; *provided* Her Majesty's ships, in the execution of Sir B. Frere's orders, do *not* "visit or detain" any Muscat (or Zanzibar) ships *within the limits defined by* the Treaty, and deal only with ships and persons *actually engaged in the transport of slaves to places not within those limits*.

If there is any visit or detention within the defined limits, or any interference with the transport of slaves *to places* within those limits, I apprehend that it will be illegal under the Statute, as well as contrary to the Treaty.

(Signed) SELBORNE.

30, *Portland Place, May* 1, 1873.

P.S.—I presume the Law Officers will be consulted?

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## No. 350 e.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 3.)*

*Temple, May* 3, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 30th ultimo, stating that with reference to our Report of the 25th ultimo he was directed by your Lordship to transmit to us the accompanying despatch and its inclosures (in print) from Sir Bartle Frere, reporting the measures which he has directed to be taken in view of the Sultan of Zanzibar's refusal to accede to the proposals made to His Highness on the part of Her Majesty's Government for the more complete suppression of the Slave Traffic from his dominions: and Viscount Enfield stated that he was to request that we would take this despatch into consideration, and favour your Lordship with our opinion in regard to the steps taken by Her Majesty's Envoy as reported in that despatch.

In obedience to your Lordship's commands we have the honour to report—

That we assume the Sultan has not fulfilled the stipulations of the Treaty of 1845 with this country, and having had his attention officially called to the breaches of the Treaty on his part, the Sultan has persisted in refusing to act up to his obligations.

We also assume that Her Majesty's Government is prepared, and means to force upon the Sultan the strict observance of the Articles of that Treaty of 1845, and, if necessary, to resort to acts of war for that purpose.

We have already had the honour of reporting to your Lordship that, in our opinion, Her Majesty's Government would, in the circumstances, be justified in resorting to acts of war against the Sultan.

And as we understand Lord Enfield's letter of the 30th April, your Lordship now desires us to make such observations as may occur to us upon the measures proposed by Sir B. Frere to be taken as acts of war by Her Majesty's Government against the Sultan.

In considering the subject, two matters of importance and of difficulty at once suggest themselves.

One, that the independence of the Sultan is guaranteed by Great Britain and France.

The other, that Germany, France, and the United States, and probably other countries, though, to a less extent, carry on a considerable trade with the dominions of the Sultan.

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The measures, consequently, which may be adopted, should interfere as little as possible with the trade of other countries with the dominions of the Sultan, and offer no pretence for saying with truth or effect that the independence of the Sultan under the guarantee is violated.

It would seem from Sir B. Frere's letter to your Lordship of the 23rd April, that Sir B. Frere was acting in consequence of the refusal of the Sultan to sign the Treaty proposed to him; and in his letter to Commander Malcolm of the 28th March, Sir B. Frere uses the expression, "His Highness, &c., having declined to co-operate with Her Majesty's Government in any more effectual measures."

We are not acquainted with the contents of the Treaty proposed to the Sultan, or with the more effectual measures with which the Sultan declined to co-operate. But we suggest, for your Lordship's consideration, that great care should be taken that neither the "proposed Treaty" nor the "more effectual measures" should infringe upon the guaranteed independence of the Sultan.

An act of war to enforce an existing Treaty would be quite consistent with such guarantee, but an act of war to enforce a new Treaty, or more rigorous measures than are provided under the existing Treaty is open to very different considerations.

In our opinion, the measures suggested by Sir B. Frere in the last two paragraphs of his note to the Sultan, and in his letter to Commander Malcolm do impose terms upon the Sultan not imposed by the Treaty of 1845.

In our opinion, therefore, although the steps taken by Her Majesty's Envoy are not free from objection, we would suggest, for your Lordship's consideration, that it may be unwise to recall the instructions and note of Sir B. Frere, and Her Majesty's Government might without delay direct that the Sultan be informed that if he will not keep and enforce the keeping of the Treaty of 1845, Her Majesty's Government will be compelled as an act of war to take temporary possession of his ports and seaboard by an armed force.

We would also suggest that the intention of Her Majesty's Government, and their reasons for any action against the Sultan, should be notified to the French Government as a party to the guarantee, and, if thought fit, to other Powers also.

In making these observations in obedience to your Lordship's commands, we have purposely omitted to refer to Sir B. Frere's letter of instructions to Dr. Kirk.

In our opinion, the substitution of an examination by the British Consul for the system of passes hitherto in practice as directed by those instructions, is not consistent with the guaranteed independence of the Sultan, and may, unless the Consul is supported by an armed force, lead to acts of violence and insult against him in his person and office.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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## No. 350 F.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 22.)*

*Temple, May* 22, 1873.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 21st instant, stating that he was directed by your Lordship to state to us that a question had been raised by the Lords of the Admiralty as to whether, in the event of its being found necessary to institute a blockade of the Island of Zanzibar with the view to compel the Sultan to fulfil his Treaty obligations for the suppression of the Slave Trade, mail-steamers should be allowed to enter or depart; and whether steamers requiring coal to prosecute a voyage were to be permitted to enter the blockaded port for the purpose of obtaining coal.

That their Lordships further asked whether the Vice-Admiralty Court which is established at Zanzibar, under the provisions of the Order in Council of the 4th November, 1867 (copy annexed), could continue to be held there when we are at war with the Sultan; and he (Lord Enfield) was to request that we would take the two questions into consideration, and favour your Lordship with our opinion as to the instructions which it might be advisable to issue for the guidance of the Admiral Commanding Her Majesty's Naval Forces on the East India Station on the points raised by the Admiralty.

That he (Lord Enfield) further requested us to favour your Lordship with our opinion upon the accompanying draft of a letter which your Lordship proposed to address to the Admiralty, in reply to certain questions put by that Department having reference to the Zanzibar blockade.

In obedience to your Lordship's commands we have the honour to report—

That the blockade, to be legal, must be total and not partial; consequently, no mail-steamer should be allowed to enter or depart from a blockaded port, nor are steamers requiring coal to prosecute a voyage to be permitted to enter the blockaded port for the purpose of obtaining coal.

The Admiralty Court established at Zanzibar cannot lawfully continue to be held there whilst Great Britain is at war with the Sultan.

The draft letter answers questions 1 and 2 sufficiently. In reference, however, to answers 3, 4, and 5, we suggest to your Lordship that the words "but until" to "*de facto* one" at the end of the answer be omitted, and that no *de facto* blockade be established before the notification.

Question 6 we have already reported on above, and in a sense contrary to the inclination of your Lordship as expressed in the draft letter.

Question 7. We are of opinion that the ships of war should be allowed to communicate in the manner suggested in the question.

Question 8. Upon the answer to the 8th question we have no observation to make.

Question 9. The answer to Question 9 seems to us open to the objection that the Admiral may think the answer prohibits his acting in a hostile manner against the ships of the Sultan, unless they are breaking the blockade. We therefore suggest to your Lordship that the answer may be as follows:—"That the Admiral will be authorized to act in a hostile manner against the Sultan of Zanzibar and his dominions, and especially in maintaining the blockade."

Question 11. This 11th question we have reported upon above.

The remaining answers do not, in our opinion, require any observation from us.

We have, &c.
(Signed) J. D. COLERIDGE.
G. JESSEL.
J. PARKER DEANE.

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### Annex.

*Draft of Letter to the Secretary to the Admiralty.*

(As amended after reference to the Law Officers.)

Sir, *Foreign Office,* , 1873.

I have laid before Earl Granville your Confidential letter of the 17th ultimo, stating that the Lords Commissioners of the Admiralty would be glad to receive directions for the guidance of the Admiral Commanding Her Majesty's Naval Forces on the East India Station, with reference to the instructions conveyed to Dr. Kirk by the telegram of the 15th instant, directing a blockade of the Island of Zanzibar under certain contingencies.

The points upon which their Lordships ask for instructions are—

1. Whether the establishment of a blockade is to be considered as an act of war, and whether, if their Lordships are right in thinking that it would be so, the existing Treaty of 1845 with Zanzibar would be *ipso facto* at an end.

2. Their Lordships assume that, after the declaration of a blockade, vessels under the Zanzibar flag carrying slaves would be seized as prizes belonging to an enemy, and not under the Treaty of 1845, which would have lapsed, owing to an act of war.

3. Their Lordships ask what notice is to be given of the establishment of the blockade, and in what manner.

4. Whether all vessels under any colours are to be warned off, and their papers endorsed.

5. What time is to be given for neutral vessels to leave the port of Zanzibar, and whether they are to be allowed to bring out cargo.

6. Whether the mail-steamers are to be allowed to enter or depart, and whether any steamers requiring coal to prosecute a voyage are to be permitted to enter the blockaded port for the purpose of obtaining a supply.

7. Whether foreign ships of war, say American or French, will be allowed to pass

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to communicate with their Consuls, as English ships did in the southern ports of the United States during the last American war.

8. Their Lordships further call Lord Granville's attention to the point that the blockade being established a question will arise as to our ships obtaining coal and supplies, the present depôt being at Zanzibar, as England being at war with Zanzibar through such blockade, would be excluded from the island, except by use of force or possession; and their Lordships presume that the Admiral would be at liberty to insure supplies by landing men, or by such other means as he may deem expedient.

9. Their Lordships ask generally whether the Admiral will be authorized to act in a hostile manner against the Sultan of Zanzibar and his dominions.

10. Their Lordships presume that, as regards the extent of the blockade, the Admiral will have to exercise his own judgment. They observe that the island is 47 miles long, and that though vessels could scarcely land on the eastern side, owing to the absence of harbours, they do not think it would be advisable to declare the blockade on that side.

Their Lordships are of opinion that it would be advisable to limit the blockade to the port of Zanzibar and 5 miles on each side, and also that the Admiral should be directed to declare so much of the island blockaded as he can efficiently deal with with the forces at his command.

11. Their Lordships further state their opinion that instructions should be sent to the Admiral as to the condemnation of prizes, and as to the disposal of liberated slaves, observing that if the new Treaty is signed captured dhows, it is presumed, would be taken as hitherto before the Vice-Admiralty Court at Zanzibar, but their Lordships ask, should captured slaves be landed at Zanzibar as formerly.

And if the Treaty is not signed, how are slaves taken in captured ships to be dealt with.

Their Lordships state that a decision on this point is indispensable, observing that the slaves would have to be landed and fed somewhere, and that difficulty would be found during the south-west monsoon in sending them to Johanna, whilst there may be hundreds to provide for.

As regards the first and second points, I am to state that, as a question of law, there can be no doubt that the establishment of a blockade is an act of war which would annul the existing Treaty, and that, therefore, vessels under the Zanzibar flag carrying slaves would be seized as prizes of war, and not under the Treaty of 1845.

In reply to the third, fourth, and fifth queries, I am to state that the Admiral should proceed in the usual manner, and in the most lenient way in regard to the time to be given to neutral vessels to leave the port of Zanzibar and to bring out cargo.

I am to add that as soon as the result of the demand, if unfavourable, is known, a public notification of war will be issued, accompanied with a notification of blockade But no *de facto* blockade should be established before the notification.

Sixth.—Upon the question raised as to whether mail-steamers are to be allowed to enter and depart, and whether steamers requiring coal to prosecute a voyage are to be permitted to enter for the purpose of procuring coal, I am to state that the blockade, to be legal, must be total and not partial, and that, consequently, no mail-steamer should be allowed to enter or depart from a blockaded port, nor are steamers requiring coal to prosecute a voyage to be permitted to enter the blockaded port for the purpose of obtaining coal.

The seventh question is one of discretion, and not of law, but Lord Granville is of opinion that the ships of war should be allowed to communicate with their Consuls, as suggested in your question.

The eighth question, Lord Granville is of opinion, must be answered in the affirmative.

In reply to the ninth query, Lord Granville is of opinion that the Admiral should be authorized to act in a hostile manner against the Sultan of Zanzibar and his dominions, and especially in maintaining the blockade, and that unless in case of necessity the Admiral should confine his action to a blockade.

The points suggested in the tenth query, I am to state, must be left to the discretion of the Admiral.

Eleventh.—Upon the question as to whether a Prize Court can be held at Zanzibar whilst at war with the Sultan, I am to state that the Admiralty Court established at Zanzibar cannot lawfully continue to be held there whilst Great Britain is at war with the Sultan.

As regards the question of the disposal of captured slaves, I am to state that this matter might, in Lord Granville's opinion, be left to the discretion of the Admiral and of Dr. Kirk, who will be better able on the spot than the authorities in this country to come to a decision as to the manner in which these slaves should be dealt with.

I am, in conclusion, to state, that the above replies to the questions contained in yours of the 17th instant, are in conformity with the opinion of the Law Officers of the Crown, who have been consulted in this matter.

I am, &c.

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*Printed for the use of the Foreign Office. November 1880.*

CONFIDENTIAL.

# REPORTS

FROM

# LAW OFFICERS OF THE CROWN.

1874.

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| 43 | Law Officers and Dr. Deane | 13, | As to the law issued by the French Assembly providing for the increase of certain indirect taxes, especially affecting mineral oils. The complaint of Messrs. Young that this Bill will be contrary to the IVth Article of the Treaty of Commerce with Great Britain is reasonable, but the question might be more satisfactorily disposed of by the Board of Trade | 30 |
| 44 | Law Officers and Dr. Deane | 14, | As to the Decree of the Cour de Cassation in Paris, which reverses the decision of the Courts of Réunion giving the wages of labourers a preference over other claims. Her Majesty's Government should not make any representation to the French Government on the subject upon the materials furnished by the Secretary of State for India | 31 |
| 45 | Law Officers and Dr. Deane | 17, | Further relative to the claims of the Mineral Oil Companies before the Mixed Commission at Paris, and their intention to hold Her Majesty's Government liable if their claims are rejected. Course Her Majesty's Government should pursue | 31 |
| 46 | Law Officers and Dr. Deane | 17, | Complaint of M. Alexandre Dumas that an attempt had been made to pirate a drama of which he was the author. Her Majesty's Government cannot act in the matter, and M. Dumas must apply to the proper Court for protection | 32 |

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| 47 | Law Officers and Dr. Deane | Feb. 3, 1874 | Further relative to the French law imposing excise duties on French mineral oils on the provisions of the Treaty of the 23rd July, 1873. The law is not inconsistent with Article IV of the Treaty, unless the British importer is subject to a differential duty. In that case the attention of the French Government might be called to the injurious effect of the new law | 33 |
| 48 | Law Officers and Dr. Deane | 4, | Bill before the French Chamber on the liability of sons of foreigners to military service in France, and the modifications proposed in the Bill. As to the course Her Majesty's Government should pursue | 33 |
| 49 | Law Officers and Dr. Deane | 6, | On interpretation placed by the French Government on the word "value" in the IVth Article of the Treaty with France of the 23rd January. Adhere to former opinion as to the word "value" meaning the time when the goods were supplied by the manufacturer in England, and not the English value at the time of import into France. Agree with French Government with respect to the words "admission effective" in Article V | 34 |
| 50 | Law Officers and Dr. Deane | 11, | Further relative to the case of Mr. James Wilson. Supplies of goods at Nantes during war between France and Germany. Instructions that should be sent to Captain Clipperton, Her Majesty's Consul at Nantes | 35 |
| 51 | Law Officers and Dr. Deane | 11, | French Government desire to know whether there was anything incompatible with the Treaty engagements between France and foreign Powers relative to the "surtaxe de pavillon" in a law granting to shipbuilders a premium of so much per ton for each ton built. Payment of bounties would not be inconsistent with the provisions of the Treaties of 1860 and 1873 provided they were paid from national sources | 35 |
| 52 | Law Officers and Dr. Deane | 17, | On claim of the owners of the "Lochinvar" against the French Government on account of the collison with the French vessel "Loiret." Representations might be made to the French Government on the subject of the trial on a point of injustice | 36 |
| 53 | Law Officers and Dr. Deane | Mar. 4, | On request of Mr. Elmore, Her Majesty's Consul at Nice, to know if he could celebrate marriages at his new Consulate to which he is appointed. He must have a fresh warrant before he can do so | 36 |
| 54 | Law Officers and Dr. Deane | 7, | A person acting for a British Vice-Consul furnished with a marriage warrant cannot legally celebrate marriages unless he has one himself | 37 |
| 55 | Law Officers and Dr. Deane | 11, | It is expedient that Consul Elmore should not celebrate marriages at Nice any longer, as he has been appointed to a new post, although he is still acting as Her Majesty's Consul at Nice | 37 |
| 56 | Law Officers and Dr. Deane | Apr. 9, | On the escape of Rochfort and other Communist prisoners from New Caledonia and their arrival at Sydney. As to the course to be pursued in case the French Government demanded the surrender of these persons | 38 |
| 57 | Law Officers and Dr. Deane | 13, | As to a case at St. Pierre des Calais of claim for exemption from military service in France, and the Bill of M. de Rotour before the Chambers should not be publicly noticed in this country as proposed by Mr. Treitt. In any particular cases occurring redress should be sought for from the proper French authorities | 38 |
| 58 | Law Officers and Dr. Deane | 13, | As to the question of military conscription at St. Pierre des Calais. No reason for altering opinion already given | 40 |
| 59 | Law Officers and Dr. Deane | May 5, | On the proposals submitted to the French National Assembly for imposing duties on gas, threads of cotton, jute, &c., and coals and coke. Duties are already levied on salted provisions. It is a question whether these duties are contrary to the Treaties of Commerce with England of 1860, 1873, and 1874 | 40 |

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| 60 | Law Officers and Dr. Deane | May 6, 1874 | As to the extra duties to be levied on salted meats imported into France from other countries. The French Government is entitled to do this under Article III of the Convention of 1860 | 41 |
| 61 | Law Officers and Dr. Deane | 23, | On claims by French Government to property of Mr. Cleave, formerly British Chaplain at Ajaccio. Her Majesty's Government should not take any steps in the matter, as it must be decided by either the French or the Corsican Tribunals | 42 |
| 62 | Law Officers and Dr. Deane | 26, | Further relative to the compensatory duties on import of salted meats into France. The French Government has not the right to levy these duties on imports from this country | 42 |
| 63 | Law Officers and Dr. Deane | 26, | Further relative to the duties newly levied on the import of burning oils into France, and the statement of the Scotch Mineral Oil Association. No reason to alter opinion that the French Government were justified in levying the duties | 42 |
| 64 | Law Officers and Dr. Deane | June 2, | Complaint of Mr. Clements on the detention of his daughter in France by his wife. Her Majesty's Government cannot interfere, and he must appeal to the proper legal Tribunals in France | 43 |
| 65 | Law Officers and Dr. Deane | , | Trial of the crew of the "Mongol" at Rouen and conviction of eight British seamen for mutiny on board. Her Majesty's Government cannot interfere further than to desire Lord Lyons to ask the French Foreign Minister to use his good offices to obtain their release as soon as the law would allow | 43 |
| 66 | Law Officers and Dr. Deane | 26, | Reply to be given to Mr. E. Blount on the French law relative to the succession duty to be levied on property held out of France by foreigners domiciled in that country. Her Majesty's Government cannot properly take exception to the law passed in 1871, and Mr. Blount might be told so, and no instructions need be given to Lord Lyons | 44 |
| 67 | Law Officers and Dr. Deane | 26, | Further relative to the question of succession duty on property held out of France by foreigners domiciled in that country, and Report of Mr. Treitt, Counsel to British Embassy in Paris, referring to a Convention between France and Russia for regulating the administration of property of deceased persons. This Convention does not affect the question of succession duties imposed by the French law | 45 |
| 68 | Law Officers and Dr. Deane | Aug. 25, | Further relative to the liability of foreigners to military service in France. Modifications in the law made on the representations of Lord Lyons. Approves his intention not to make further objection | 45 |
| 69 | Law Officers and Dr. Deane | 27, | On certain judgments pronounced by the Court of Appeal in Paris relative to suits brought against the exporters of mineral oils in France, whose claims had formed the subject of discussion in the Mixed Commission in Paris. Case of Namshauer *v.* Young's Mineral Oil Company. All cases decided by the Commission should not be reopened | 46 |
| 70 | Law Officers and Dr. Deane | 27, | Further relative to the compensatory duty levied on salted meats imported into France, and observations having reference to the duties levied under the Franco-Portuguese Treaty. The argument of the Duc Decazes, that the duties levied by the Law of the 21st March, 1874, are made applicable to all nations alike, and therefore excluding the "most-favoured-nation" clause, cannot be maintained | 47 |
| 71 | Law Officers and Dr. Deane | Oct. 6, | As to the proposal for the British Consular Office at Nice or Marseilles to become *ex officio* the trustee of the British Church Establishment there. Reply that should be sent to the Committee is, that Her Majesty's Government is unable to assent to the nomination of any Consular Officer as trustee | 48 |

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| 72 | Law Officers and Dr. Deane | Oct. 15, 1874 | Reply that should be given to the represention of Mr. Maude on behalf of Major Blood for compensation to be obtained for the loss of property through his forcible removal from Paris. No sufficient ground for complaint on the part of Her Majesty's Government | 48 |
| 73 | Law Officers and Dr. Deane | Nov. 9, | On question of ship brokerage in France, and the practice adopted by the Customs authorities at Bordeaux on the subject, and the Treaties between France and foreign Powers on the subject. The Treaty position of this country depends on the construction of Articles I and II of the Treaty of the 23rd July, 1873. Before representation is made to French Government, should know what are the official duties of French Government brokers on a British ship entering a French port in distress obliged to discharge her cargo | 49 |

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| 75 | Law Officers and Dr. Deane | Apr. 9, | Further relative to the marriages of naturalized British subjects abroad. Acts of Parliament as to present mode of facilitating the legalization of marriages of British subjects. Proposed measures in a new Act of Parliament | 53 |
| 76 | Law Officers and Dr. Dane | May , | As to reply to Messrs. Druce and Jackson on subject of the refusal of the Foreign Office to grant a passport to M. Uhtoff, born in Mexico, and his father only being a naturalized British subject | 54 |
| 77 | Law Officers and Dr. Deane | July 4, | Conference at Brussels to discuss the rules of military warfare. Approves the proposed instructions to Her Majesty's Representatives abroad | 54 |
| 78 | Attorney-General and Dr. Deane | July 22, | Further relative to the proposed Conference at Brussels on the rules of military warfare and conditions on which Her Majesty's Government would send a Delegate. Assurance of Russian Government too vague to be satisfactory; but as a Delegate is only to be sent, the Russian Government need not be called on for fresh explanations | 55 |
| 79 | Law Officers and Dr. Deane | 24, | Approval of draft instructions to Sir A. Horsford on his appointment as a Delegate to the Conference at Brussels on rules of military warfare | 56 |

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| 81 | Dr. Deane .. | Sept. 8, | As to the mode of submitting the claim of Her Majesty to the Brunswick succession before the Emperor of Germany | 57 |
| 82 | Law Officers and Dr. Deane | Nov. 2, | Futher relative to the claim of the Underwriters against the German Government for insurance on capture of the "Turandot" during the Franco-German war | 58 |
| 83 | Law Officers and Dr. Deane | Dec. 29, | Further relative to the claims of Her Majesty and Royal Family of England to the Brunswick succession to be brought before the Emperor of Germany. Mode in which the claim should be presented | 58 |

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| 86 | Law Officers and Dr. Deane | Mar. , | On steps taken by the Italian Government to levy income tax on the profits of certain British steamers. Though not satisfactory to British shipowners, they should act under legal advice as to their position | 62 |
| 87 | Law Officers and Dr. Deane | Apr. 13, | On claim of Mr. Mercer for compensation on account of his arrest by Italian carabinieri and torture at Castlemare. He should apply to the Italian Courts for redress | 62 |
| 88 | Law Officers and Dr. Deane | 18, | On the case of collision between the English vessel "Oberon" and the Italian ship "Chiavari," when the latter was sunk in the Irish Channel. Insufficient sentence against the captain of the "Oberon," and the captain should be further prosecuted as he proceeded on his course without ascertaining the damage done to the Italian vessel | 63 |
| 89 | Law Officers and Dr. Deane | 27, | Further relative to the income tax levied by the Italian Government on British steamers trading with Italian ports. The Liverpool Association cannot be supported, as the Italian Government have the right to impose any tax on those who resort to their ports for the purposes of trade | 64 |
| 90 | Law Officers and Dr. Deane | May 15, | On the application of the Italian Consul at Malta for the extradition of an Italian subject named Mendolia, accused of having committed homicide in 1864, who, though had been admitted to bail not putting in an appearance, was sentenced in *contumaciâ* to imprisonment. The Malta Ordinance should be amended, but the Italian Government should come under reciprocal obligations | 65 |
| 91 | Law Officers and Dr. Deane | June 30, | Further relative to the case of Mr. Mercer, arrested in Italy by carabinieri, tortured, and subjected to legal proceedings. No reason to alter former opinion on the subject | 66 |
| 92 | Law Officers and Dr. Deane | Aug. 12, | As to the claim of the Rev. E. Douglas on the Italian Government for the expropriation of his property at Rome. Her Majesty's Government cannot properly support the claim; but a leading Italian lawyer might be consulted as to the law Italy on the subject of the purchase of the Villa Caserta estate | 66 |
| 93 | Law Officers and Dr. Deane | 27, | Want further information before deciding on subject of the bequest made by M. Gerolamo Ponti to the Acadamica delle Scienze di Londra. As there is no Society known by that name, had better advertise the gift publicly, and inform the Italian Legation what has been done | 68 |
| 94 | Attorney-General. | Sept. 15, | Further relative to the will of M. Gerolamo Ponti of Milan. Approves draft notice to public papers with respect to the legacy to Academy of Science of London | 69 |
| 95 | Law Officers and Dr. Deane | 25, | Further relative to the application for the extradition of an Italian accused of homicide in 1864, which was refused by the Malta authorities. Law of extradition in this country. The Malta Ordinance not in conformity with the Extradition Act of 1870 and Treaty with Italy, and question whether it should not be altered | 69 |

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| 97 | Law Officers and Dr. Deane | 25, | Further relative to income tax charged on British Shipping Companies in Italy. No reason to modify views already expressed on the subject .. .. .. .. | 73 |
| 98 | Law Officers and Dr. Deane | Oct. 6, | Complaint of Messrs. Newman, Dale, and Shetton on behalf of an English Mining Company at Val Barbina, North Italy, for losses alleged to have been inflicted on them by the Council and Prefect of Novara in prohibiting the smelting of ores in that neighbourhood. Works reopened, but compensation demanded on the illegality of the proceeding. Her Majesty's Government should not interfere in the matter .. .. .. .. .. .. | 73 |
| 99 | Law Officers and Dr. Deane | 14, | On application of M. de Rosaz for permission to see documents in Foreign Office relative to the property of Antonio Mangini from 1781 to 1862. He may be supplied with this information .. .. .. .. .. | 74 |
| 100 | Law Officers and Dr. Deane | Oct. 20, | Further relative to the claim of the Italian Revenue authorities to tax the profits of freights on the British Navigation Companies, although the Court of Appeal had given an adverse decision; but the Provincial Court of Genoa had decided against the French Company and other Court had reversed the decisions of Courts in favour of the Companies. No reason therefore to alter former opinions .. .. | 74 |
| 101 | Law Officers and Dr. Deane | 27, | Further relative to the application of M. de Rosaz for information with respect to the property of the late Antonio Mangini. No objection for him to see the correspondence in question .. .. .. .. .. | 75 |
| 102 | Law Officers and Dr. Deane | Dec. 7, | As to claims of certain religious establishments (English, Scotch, and Irish Colleges) in Rome to protection of Her Majesty's Government on being threatened with expropriation. These colleges cannot claim greater privileges than accorded to purely Italian establishments .. .. | 75 |
| 103 | Law Officers and Dr. Deane | 18, | Further relative to the case of Mr. Mercer, arrested by Italian carabineiri. The Italian Advocate's opinion is no doubt well founded upon the facts as given to him, and Her Majesty's Government cannot well bring the case again before the Italian Government .. .. .. | 78 |

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| 105 | Law Officers and Dr. Deane | 14, | Proposed Code of Quarantine Regulations agreed on by foreign Representatives and the Japanese Government are right and proper, but penalties should be inserted so as to enforce those regulations .. .. .. .. | 79 |
| 106 | Law Officers and Dr. Deane | Mar. 31, | On the marriage law promulgated in Japan, and observations thereon. An Englishwoman marrying a Japanese would become amenable to Japanese jurisdiction when in Japan, but this would be contrary to Treaty, so that the law would be inoperative as regards British subjects .. .. | 80 |
| 107 | Law Officers and Dr. Deane | June , | Japanese expedition to Formosa. Course pursued by Sir H. Parkes relative to the employment of British vessels as transports may properly be approved. Measures should be taken to prevent any breach of the Foreign Enlistment Act .. .. .. .. .. .. | 80 |

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| 109 | Law Officers and Dr. Deane | May 9, | As to form of notice to British and British Indian subjects warning them of the penalties they are subject to if they are implicated in slave-dealing .. .. .. | 82 |

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| 111 | Law Officers and Dr. Deane | Aug. 19, | Further relative to the sale of land belonging to the British Church Establishment at Monte Video, and to claims to the British cemetery property there; whether Her Majesty's Consul is responsible. The land being vested in Her Majesty's Representative, he would be liable to any action for the recovery of the land, but the Monte Videan Government should grant an indemnity as having conveyed the land .. | 83 |
| 112 | Law Officers and Dr. Deane | Sept. 5, | Further relative to the land of the British cemetery at Monte Video. No reason to alter former Report on the subject .. | 83 |

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| 114 | Law Officers and Dr. Deane | May 12, | Complaint of Messrs. Morris and Co. against conduct of Her Majesty's Minister at Morocco and several Consular Officers for not having protected their interests and asking for redress, principally in the case of a Moor named Oshaib, whose house they leased. No reason to censure Her Majesty's Minister at Tangier or obtain redress for petitioners, and they might be told that Sir D. Hay had reported that they might inspect his reports on the subject .. .. | 85 |
| 115 | Law Officers and Dr. Deane | 18, | Further relative to the suit between Oshaib and Messrs. Morris and Co. No reason to alter former Report on the subject .. .. .. .. .. .. | 86 |
| 116 | Law Officers and Dr. Deane | Sept. 28, | Further relative to the suit of Messrs. Morris and Co. against the Moor Booshaib, and their complaint against Sir D. Hay. Explanation of former Report as to the trial between the parties. Fifteen days is the term fixed by Order in Council for presentation of an appeal .. .. .. | 86 |
| 117 | Law Officers and Dr. Deane | Oct. 16, | As to the question of overcrowding of pilgrim ships. The views of the Board of Trade confirm their opinion .. | 87 |
| 118 | Law Officers and Dr. Deane | 27, | On measures taken by the Morocco Board of Health to prevent the spread of plague, and proposal that foreign Consular Officers should refuse to deliver bills of health to pilgrims from the Hedjaz to Morocco. Her Majesty's Government has not the power to authorize Consuls to refuse bills of health to vessels carrying pilgrims as passengers .. .. .. .. .. .. | 87 |

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| 118* | Law Officers and Dr. Deane | Nov. 4, | Further relative to the jurisdiction of the Supreme Court of Gibraltar over British Consular officers and British subjects in Morocco. Former case, Haire *v.* Stokes, a case of trespass against British Vice-Consul whilst in the execution of his duty, but the present is unconnected with Mr. Lapene's Consular duties. Her Majesty's Government should not interfere. The Court of Gibraltar no power to issue process against persons not within its jurisdiction | 87 |
| 119 | Law Officers and Dr. Deane | 9, | As to length of time to elapse before notice could be given in suits between British and Moorish subjects. Neither the Treaty of 1856 or the Order in Council of 1857 fix the time for appeals to be brought, but the limit is left to the discretion of the Tribunal of Appeal | 88 |
| 120 | Law Officers and Dr. Deane | 9, | As to the competency of the British Consular Courts in Morocco to try suits between foreigners and Moorish subjects. Proposed Order in Council on Consular jurisdiction. It should not be issued until there is an agreement between the several foreign Powers | 89 |
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| 122 | Law Officers and Dr. Deane | 21, | Further relative to British Consular jurisdiction in Morocco, and the suggestions with respect to the proposed Order in Council. Suits between Moorish subjects and foreigners. Case of the "Laconia" considered | 90 |

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| 124 | Law Officers and Dr. Deane | July 3, | British Church Establishment at Rotterdam, and the grant of Queen Anne's Bounty towards its expenses, which was surrendered for the benefit of the Consular Act, and claim for restoration of the grant on the withdrawal of support of Her Majesty's Government to churches abroad. That Church Establishment has no equitable claim to compensation | 93 |
| 125 | Law Officers and Dr. Deane | Nov. 14, | As to the mode of the working of the Prize Law by the Netherlands authorities in Batavia in cases of vessels charged with breach of blockade of the ports of Acheen. Complaint on the detention of vessels and delays in settling the trials. A representation might be made to the Dutch Government on the subject, but a belligerent has the right to detain for a reasonable time neutrals captured accused of breach of blockade | 94 |

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| 126 | Law Officers and Dr. Deane | Mar. 18, 1874 | Proposed new laws for the Navigators' Islands, and as to the opposition of a British subject to them and proceedings of Commander Goodenough on the communication of those laws by the Governors of the Samoan Islands to the foreign Consuls. Not expedient for Her Majesty's Government to approve them. Britith subjects may be told Her Majesty's Government will not support them in resisting them. The Consul should report from time to time | 95 |

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| 128 | Law Officers and Dr. Deane | Apr. 28, | On request of Mr. Hill, executor to the property of the late Mr. Alison, that Mr. Thomson might act as Special Commissioner to the Court of Chancery, and examine witnesses at Tehran in the case of Hill *v.* Ongley. May act unofficially | 96 |
| 129 | Law Officers and Dr. Deane | May 9, | On the alleged ill-treatment of Mr. Oswald, agent to the British Indian Steam Navigation Company at Bunder Abbas by certain pilgrims, and a counter complaint. Mutiny on board the "Patna." The Persian Government cannot be held responsible, and they or the pilgrims are entitled to the compensation, but Mr. Oswald was entitled to protection | 97 |

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| 130 | Law Officers and Dr. Deane | Apr. 9, 1874 | As to the right of the Peruvian Government to establish a monopoly in the sale of nitrate of soda, and request of Messrs. Dawson, Bryant, and Co., for reconsideration of the decision against the complaint of Messrs. Clark, Eck, and Co. No reason to alter former Report. Her Majesty's Government cannot interfere with the legislation of a foreign country | 98 |
| 131 | Law Officers and Dr. Deane | July 11, | On the subject of the claim of Mr. Watson against the Peruvian Government for arrest and imprisonment as the bearer of letters for conspirators against the Peruvian Government. His imprisonment was justifiable, and his claim cannot be supported | 99 |
| 131* | Law Officers and Dr. Deane | Aug. 27, | Case of Swann *v.* Vines. No reason for further investigation of the case of the latter, as he resigned when his commission was about to cancelled | 99 |
| 132 | Law Officers and Dr. Deane | Sept. 4, | Further relative to the claim of Mr. F. Watson against the Peruvian Government for imprisonment. Nothing to induce them to alter former opinion on the subject | 100 |
| 133 | Law Officers and Dr. Deane | 29, | Case of Lawrence Higginson, who was taken out of the steamer "Santiago," in the Bay of Callao, by order of the Captain of the Port, and thrown into prison, and approval of steps taken by Mr. Nugent to obtain his release, as it was a gross outrage towards Mr. Higginson, and remonstrance should be made and compensation demanded | 100 |
| 134 | Law Officers and Dr. Deane | Oct. 6, | Case of Captain Hall, commander of the Pacific Steam Navigation Company's steamer "Arequipa," arrested on a charge of murder. Peruvian Government have jurisdiction in the case, and although delay has occured Her Majesty's Government cannot interfere | 101 |

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| 135 | Law Officers and Dr. Deane | Feb. 3, 1874 | No authority could be given to Her Majesty's Consul at Lisbon to arrest an alleged fugitive criminal on board a British ship. If it was a ship of war no surrender could take place in Portugal, but the fugitive (German swindler) might be brought to England and tried under the Extradition Acts. If a merchant-ship, the public authorities must act on their own responsibility, and the British Consul must not interfere | 102 |

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| 136 | Dr. Deane .. | Feb. 4, 1874 | As to the offer of Mr. H. Nourse to place in the hands of Her Majesty's Government his uncle's journal of entries relating to Delagoa Bay. No necessity to accept the offer, as the information is detailed in Captain Owen's work in two volumes | 102 |
| 137 | Law Officers and Dr. Deane | 17, | On the question of the taxation of British subjects in Portugal. The Decima Industriel in 1842 modified by Law of 1860. Want further information respecting the terms of the law before giving opinion | 103 |
| 138 | Law Officers and Dr. Deane | 17, | On letters from Mr. Hutchinson and Mr. Payne on the claim of the Presbyterian community in Madeira to receive a portion of the funds of the British cemetery when the British Church Establishment ceased to be supported by Her Majesty's Government. Objections to distribute the fund rateably among particular denominations. Suggestions as to the appropriation of the burial fees | 103 |
| 139 | Dr. Deane .. | Mar. 10, | An offer of Mr. Thompson to communicate information relative to the disputed claim of Delagoa Bay. Will be glad to meet him | 104 |
| 140 | Law Officers and Dr. Deane | Apr. 20, | Further on subject of the industriel tax levied upon British subjects in Portugal. It is the same as that levied under the Treaty of 1842. British subjects are, therefore, entitled to limit their contributions to that Tariff. Sir C. Murray should be instructed to state that Her Majesty's Government cannot agree to the interpretation put on the Treaty of 1842 by the Portuguese Government | 104 |
| 141 | Law Officers and Dr. Deane | May 15, | On the alleged infraction of Article XIII of the Anglo-Portuguese Treaty through the exaction of duties on English bonded goods at the Cape de Verde Islands. Words of the Article not very clear. Sir C. Murray should mention what is the construction put on the Article by the British Customs authorities | 105 |
| 142 | Dr. Deane .. | June 6, | Suggesting alterations in the French translation of British Counter-Case in the Delagoa question | 105 |
| 143 | Dr. Deane .. | 30, | On despatch from Her Majesty's Ambassador at Paris relative to the French translation of the British Counter-Case of the Delagoa question. Suggest another alteration, and that the Case be printed | 106 |
| 144 | Dr. Deane .. | July 13, | The Delagoa Bay question. Despatch from Governor of Cape of Good Hope on the subject, and other papers were given to him for preparation of the Case. Remarks on the position of the claim. If the Portuguese wanted to purchase in 1870 the Island of Inyack it is important, and he was wrong in not having relied on that fact | 106 |
| 145 | Dr. Deane .. | 29, | The Delagoa question. The fact of the Portuguese Government wishing to purchase the Island of Inyack from the native Chief, as well as the occupation by Mr. Straker and Mr. Corkingdale, might be of use, but should not be used in support of the British Case | 107 |
| 146 | Dr. Deane .. | Aug. 11, | Delagoa Bay question. The Counter-Case ready to be forwarded to Paris | 107 |
| 147 | Law Officers and Dr. Deane | Oct. 19, | Further relative to the question of taxation of British subjects in Portugal. The right interpretation has been put on the Treaty in the draft of the 15th July. British subjects cannot be taxed beyond 20 per cent., though Portuguese subjects may be. Question might be considered in any new Commercial Treaty with Portugal | 108 |

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| 148 | Law Officers and Dr. Deane | Jan. 17, 1874 | On request of Mr. H. C. Lawton to be furnished with a certified copy of a contract between Mr. Baxter and himself in 1865 in the hands of Messrs. Easton and Amos. Consul Stephens, of Nicolaieff, should inform Mr. Lawton of the Act 19 and 20 Vict., cap. 113 | 108 |
| 149 | Law Officers and Dr. Deane | Nov. 24, | As to further intervention in favour of Messrs. Fenwick and Co., who complain of the inadequacy of the award granted by the Russian Government for services to a Russian gunboat by the British steamer "Ernest." As a salvage award it was insufficient, but they are bound to accept it, as it was left to the generosity of the Russian Government | 109 |
| 150 | Law Officers and Dr. Deane | Dec. 14, | As to the mode of dealing with the estates of British subjects dying intestate in Russia, and proposed Convention for a reciprocal arrangement on the subject. The Vth Article of the proposed Consular Convention with the United States might serve as a model. Draft of amended Article | 109 |

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| 152 | Law Officers and Dr. Deane | 7, | As to the seizure of arms and ammunition found on board the "Village Bride" by the Jamaica authorities. The case in some way connected with that of the "Virginius." The difficulty has arisen from the issue of the Proclamation forbidding the export of arms from a British Colony, contrary to the rule for the United Kingdom. The Proclamation should either be withdrawn by the Jamaica authorities or no licence should be given to M. de Cordova, the consignee | 111 |
| 153 | Law Officers and Dr. Deane | 16, | Further relative to the case of the "Virginius." Expected arrival of Henry King, the engineer, in London. Her Majesty's Government would not be justified in taking any action on that account in the matter | 112 |
| 154 | Law Officers and Dr. Deane | 19, | On the suspected expedition of the British vessels "Deerhound" and "Edith" against the *de facto* Government of Spain, and Her Majesty's Customs authorities informed not sufficient reason at present to detain these vessels, but they should be watched and proceeded against, if necessary, under the Foreign Enlistment Act | 113 |
| 155 | Solicitor-General and Dr. Deane | 26, | As to the proceedings of the Spanish authorities at Sulu and the captures of the German vessels "Marie Louise" and "Gazelle." Treatment of British subjects on board the former a question for consideration. Demand should be made for reparation, and a protest made against authorities at Manila | 113 |
| 156 | Law Officers and Dr. Deane | 29, | As to instructions to be given to Mr. Layard on the expected condemnation to death of Peters, the Englishman who was concerned in the insurrection at Carthagena. Request should be made to Spanish Government to grant him the means of defence | 115 |
| 157 | Law Officers and Dr. Deane | 30, | On accusation of Mr. Palmer, who states he is an Agent of the Spanish Government, against certain persons said to be Carlist agents, who are conspiring to obtain by fraud a British register for the French brig "Malfilâtre," so that they might ship arms, &c., on board for the Carlists. No steps should be taken, but the vessel might be watched | 115 |

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| 158 | Law Officers and Dr. Deane | Feb. 4, 1874 | Further relative to the case of the "Malfilâtre," and the arms, &c., at Newport, said to be for the use of the Carlists, and offer of Mr. Palmer to give evidence against the suspected agents. No reason to alter former opinion .. | 116 |
| 159 | Law Officers and Dr. Deane | 5, | Further relative to the case of the "Malfilâtre" and arms at Newport suspected for the Carlists. Although the Board of Trade will not prosecute the suspected parties, the Foreign Office need not take any further steps in the matter at present. Mr. Palmer to be informed any further communications he may send will be considered .. .. | 116 |
| 160 | Law Officers and Dr. Deane | Feb. 6, | On the blockade of the north coast of Spain, so as to prevent supplies reaching the Carlists by sea, and the course Her Majesty's Government should pursue, the Carlists not having been acknowledged as belligerents. The Madrid Government could not establish a municipal blockade of its own ports or coast. Such a course must lead to the issuing of a Proclamation of neutrality by the Spanish Government .. .. .. .. .. | 117 |
| 161 | Law Officers and Dr. Deane | , | Further relative to the British vessels "Deerhound" and "Edith," suspected for use of the Carlists. The vessels should be watched by the Customs authorities, and should act under the 24th section of the Foreign Enlistment Act, if found necessary .. .. .. .. .. | 117 |
| 162 | Law Officers and Dr. Deane | 11, | On further communication from Mr. Palmer relative to the "Malfilâtre" and arms, &c., at Newport, suspected of being intended for the Carlists. No reason to alter former opinion, but any further communication from him should be made through the Spanish Minister, as no reliance can be placed on his statements .. .. .. .. | 118 |
| 163 | Law Officers and Dr. Deane | 12, | As to the conduct of the authorities at Manila on the imprisonment of a British subject, Michie, a seaman, without the intervention of Her Majesty's Consul, Her Majesty's Government would be justified in demanding the Spanish Government to order the British seaman to be handed over to the British Consul. No complaint against Spanish authorities for the detention of Michie at the request of the captain of the British vessel, but he should have been given up to the Consul when his release was demanded .. .. | 118 |
| 164 | Law Officers and Dr. Deane | 14, | Further relative to the case of the "Virginius," and as to the right of Her Majesty's Government to claim compensation for the families of the British subjects executed at Santiago de Cuba. Not to ground the complaint on the seizure of the vessel or the detention of the passengers, but the illegal execution of British subjects after an irregular court-martial .. .. .. .. | 119 |
| 165 | Law Officers and Dr. Deane | 14, | Further relative to the blockade of the north coast of Spain and Regulations issued by the Spanish Government in 1864. No objection to them if the Carlists are to be considered as belligerents by a declaration of belligerent blockade; but other points should be protested against, such as the re-capture of neutral vessels from the enemy, and that relating to contraband, as well as the claim to condemn the ship and cargo on the ground of carriage of official despatches .. .. .. .. .. | 120 |
| 166 | Law Officers and Dr. Deane | 20, | On complaint of the late Spanish Minister of Foreign Affairs against the British High Court of Admiralty having taken cognizance of the suit instituted against the "Murillo" by owners of the "Northfleet." Reply that should be sent to Señor Sagasta .. .. .. .. .. | 121 |
| 167 | Law Officers and Dr. Deane | 25, | On claims of Messrs. Ruthven, Whitman, and Co., against the Government of Cuba. Her Majesty's Government should not interfere, although Mr. Whitman seems to have been greatly prejudiced by suspension of payment of specie by the bank .. .. .. .. .. | 121 |
| 168 | Law Officers and Dr. Deane | Mar. 31, 1874 | On the claim of Mr. Kynock, agent of Figueredo Brothers, against the Spanish Government for compensation on account of the seizure of his property arising out of the Cuban insurrection. Doubtful whether Her Majesty's Government should interfere, except, as Consul Dunlop states, American claims under similar circumstances have been settled. Case of Messrs. Baring referred to .. | 121 |
| 169 | Law Officers and Dr. Deane | Apr. 10, | As to steps to be taken relative to the murder of James Roberts, a British subject at Huelva. Her Majesty's Government should not demand compensation for the widow on account of her sufferings and poverty .. .. | 122 |
| 170 | Law Officers and Dr. Deane | 18, | Further relative to the case of the "Virginius." Report of the Governor of Jamaica on the subject connected with the "Edgar Stuart." The case one of great suspicion, but had the "Virginius" been arrested a conviction could not have been obtained. The Governor's conduct should be approved .. .. .. .. .. .. | 123 |
| 171 | Law Officers and Dr. Deane | 29, | As to the claim of Pedro Cazacaro against the Spanish Government on account of double duty charged on some silver lead which he paid to the late revolutionary Junta at Carthagena. Her Majesty's Government should not support the claim, as the payment appears for permission to remove his property from one place to another .. .. | 123 |
| 172 | Law Officers and Dr. Deane | 30, | Instructions might be sent to Her Majesty's Minister at Madrid to bring the case of the "Conflict," wrecked on the coast of Mindanao in 1864, before the Spanish Government, but cannot make a claim on that Government for restoration of the merchandize in Custom-houses of Manila and Langoa .. .. .. .. .. | 124 |
| 173 | Law Officers and Dr. Deane | May 8, | Complaint against the Spanish authorities at Porman for sending the British steamer "Robert Ingham" to Port Mahon to perform quarantine, although provided with a clean bill of health. Her Majesty's Government should claim compensation on account of her detention and the misconduct of the Spanish officials .. .. .. | 125 |
| 174 | Law Officers and Dr. Deane | 9, | As to the claims of British subjects arising out of the recent bombardment of Carthagena. Her Majesty's Government cannot represent the case of British subjects in a more favourable light for compensation than Spanish subjects similarly situated. No Government can be held responsible for injuries to persons and property of foreigners resident in the country during insurrection .. .. .. | 125 |
| 175 | Law Officers and Dr. Deane | 9, | Further relative to claims of British subjects against the Spanish Government on account of losses during the insurrection at Carthagena, and of those made by German and Italian subjects. No reason to alter former opinion, although the claims of the German and Italian subjects have been recognized by the Spanish Government .. .. | 126 |
| 176 | Law Officers and Dr. Deane | 16, | On the seizure and detention of arms, &c., found on board the "Village Bride" by the authorities at Jamaica. The conduct of the Governor of Jamaica should be approved .. | 126 |
| 177 | Law Officers and Dr. Deane | 26, | As to the proceedings of Spanish revenue vessels and officers at Gibraltar, and orders of Spanish Government relative to seizure of vessels suspected of smuggling. Cases of the "Sol" and "Jesu Nazareno," and "Fuen Santa." Remarks on the course pursued by the Spanish Government on the various recent claims of owners of British vessels brought before them, and the position of such. The "Deerhound," "Virginius," "Marie Louise," and "Gazelle" .. .. .. .. .. | 127 |
| 178 | Law Officers and Dr. Deane | 26, | On the claim of Messrs. Pirie, Foote, and Co., for compensation for seizure and condemnation of certain goods belonging to them shipped on board the "Sol," seized near Gibraltar suspected of smuggling. The vessel was a Spanish vessel, and was captured outside British waters, and affords no ground of complaint against the Spanish Government .. .. .. .. .. | 129 |

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| 179 | Law Officers and Dr. Deane | May 26, 1874 | As to the claims of Spain to sovereignty over the Sulu Archipelago, and various questions arising out of the claim, such as the prohibition to British and German vessels engaged in trade there. Her Majesty's Government justified in taking steps to secure protection for persons and property of British subjects | 129 |
| 180 | Law Officers and Dr. Deane | June 1, | Her Majesty's Minister at Madrid might be instructed to protest against the liability of British subjects being called on to pay over again to the Republican Government taxes and contributions already exacted by the Carlists, but not to resist those cases of voluntary payment or where no protest was made against conduct of the Carlists | 131 |
| 181 | Law Officers and Dr. Deane | 5, | On request of Mr. McLachlan to be furnished with copies of despatches received at the Foreign Office from Her Majesty's Consul at Bilbao relative to disturbance affecting trade there. Her Majesty's Government should not so serve private interests as to comply with his request, as being prejudicial to the public service | 132 |
| 182 | Law Officers and Dr. Deane | 26, | As to the seizure and condemnation of the British trading vessel "Maria Tadeo" by Spanish authorities at Algeciras. Conduct of Her Majesty's Minister at Madrid should be approved | 132 |
| 183 | Law Officers and Dr. Deane | July 4, | Approves draft instruction to Her Majesty's Minister at Madrid relative to the proceedings of Spanish Customs cruizers near Gibraltar. Case of the "Volta," and claim to the right of searching vessels of any nationality within 7½ miles from the Spanish coast | 132 |
| 184 | Law Officers and Dr. Deane | 4, | Further relative to the case of the "Jesu Nazareno." The representation made by Her Majesty's Minister at Madrid on the question should be approved | 133 |
| 185 | Law Officers and Dr. Deane | 10, | Further relative to the case of the "Sol," and reply that should be sent to Messrs. Pirie, Foote, and Co., to whom their former Report was communicated. Her Majesty's Government cannot interfere in their behalf, as the ship was a Spanish ship and beyond British waters at the time of seizure | 133 |
| 186 | Law Officers and Dr. Deane | 13, | On claim of Messrs. Beynon and Co. on Spanish Government for value of coal shipped on board the Spanish vessel "Teresita," bound from Cardiff to Barcelona. It should not be supported by Her Majesty's Government | 134 |
| 187 | Law Officers and Dr. Deane | 13, | Further relative to the case of the murder of Mr. J. F. Roberts at Huelva. Her Majesty's Government should take no further steps in the matter | 134 |
| 188 | Law Officers and Dr. Deane | Aug. 6, | On claim of Mr. Marcella, owner of the British vessel "Criticado," captured off Cadiz in 1860, and accused of being engaged in an illegal enterprize. No representation should be made in this case to the Spanish Government, but instructions should be sent to Mr. Layard to state to the Spanish Government that Her Majesty's Government will be compelled to secure a proper indemnity in every case where a British vessel has been illegally seized on the high seas | 135 |
| 189 | Law Officers and Dr. Deane | 8, | Further relative to the claim of Mr. Pedro Cazacaro to be reimbursed the export duty levied on cargo of lead shipped by him from Escomberras, which was already paid to the Carthagena insurgents. The attention of the Spanish Government might be called to the claim, so as to know on what grounds the duty was levied a second time | 136 |
| 190 | Law Officers and Dr. Deane | 14, | Further relative to the claim of Mr. Kynoch on the Government of Cuba, and Report of Her Majesty's Consul-General at the Havana on the subject. Her Majesty's Government may properly support this claim | 137 |

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| 191 | Law Officers and Dr. Deane | Aug. 14, 1874 | Further relative to the claim of Messrs. Beynon and Co. on the Spanish Government, on account of goods shipped by them in the "Teresita" being seized by Carlists at Bermeo, on coast of Biscay. Approves proposed reply to Messrs. Beynon and Co., on grounds of refusal to entertain this claim | 138 |
| 192 | Law Officers and Dr. Deane | 27, | As to the proceedings of the Spanish Customs authorities near Gibraltar, in searching British vessels beyond the recognized limits of 3 miles from the Spanish coast, and their claim to search vessels within the distance of 6 miles. Her Majesty's Government should refuse to recognize such a right of maritime jurisdiction, and if still persisted in, and a British vessel be seized beyond the 3-miles limit, orders should be given for the seizure and detention of Spanish vessels wherever found, until full compensation be made for the insult to the British flag, and compensation be granted to the owners of the British vessels | 138 |
| 193 | Law Officers and Dr. Deane | Sept. 25, | On certain Consular fees levied by Spanish Consular Agents in England on export of British merchandize to Spain. The Spanish Government has the right to require certificates for goods shipped from England to Spain, and to demand a fee which should not be confounded with a tax on exports. The question might be brought unofficially to the notice of the Spanish Government, and to point out the impolicy of the proceeding. Parties might be told the question will be inquired into | 140 |
| 194 | Law Officers and Dr. Deane | 29, | Further relative to the claim of Messrs. Pirie, Foote, and Co., on account of condemnation of their goods shipped on board the Spanish vessel "Sol." Approves draft reply to them on the ground of refusal to support their claim | 141 |
| 195 | Law Officers and Dr. Deane | Oct. 5, | On the alleged statement of Mr. Palmer that the vessel "Notre Dame de Fourvières" is sailing under a false register with a cargo of arms, &c., for the Carlist forces in Spain. There is not sufficient evidence to prove the vessel not being entitled to a British register, but Her Majesty's Consuls and naval officers might be instructed to watch her proceedings | 141 |
| 196 | Law Officers and Dr. Deane | 8, | Further relative to the claims of British subjects arising out of the proceedings of the Carthagena insurgents, and the desire of the Spanish Government to settle them. The payment should be calculated on similar principles as granted to Italian and German subjects | 142 |
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| 198 | Law Officers and Dr. Deane | Nov. 2, | On question raised by Mr. Ricketts, Her Majesty's Consul at Manila, as to the validity of the will of Mr. Honiss, a British subject. It would not be valid unless he had an English domicile at the time of his decease. As to his property in Manila, question of domicile would have to be decided by the Spanish Courts, but if he had no personal property in England Probate in an English Court would be useless. Consul Ricketts' letter to Mrs. Gee might properly be sent to her | 143 |
| 199 | Law Officers and Dr. Deane | 7, | On complaint of Mr. W. H. Ross relative to certain taxes levied in Island of Cuba for the purpose of suppressing the insurrection there, and claim of British subjects to exemption from them. These taxes cannot be considered as a forced loan or war contribution, and all inhabitants being equally liable to them, British subjects cannot claim exemption | 143 |
| 200 | Law Officers and Dr. Deane | 9, | Further relative to the vessel "Notre Dame de Fourvières" and landing of arms on the coast of Spain for the use of the Carlists. No sufficient evidence produced that would justify the prosecution ot the registered owner of the vessel | 144 |

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| 201 | Law Officers and Dr. Deane | Dec. 7, 1874 | As to the claims of certain British firms at Bilbao for compensation for losses occasioned by the civil war in Spain, partly caused by the Carlists and partly by Spanish Government troops. They have no claim on Spanish Government unless Spanish subjects are reimbursed their losses .. | 145 |
| 202 | Law Officers and Dr. Deane | 9, | On question of the detention of the British vessel "Lindsay" in quarantine at Cadiz though the ship left Liverpool before the order for quarantine was issued. The Spanish Government should be called on to explain, and compensation be demanded if not satisfactory.. .. .. .. | 145 |
| 203 | Law Officers and Dr. Deane | 19, | On subject of the taxes levied by the Municipality of Bilbao on export of iron ore from that place. Her Majesty's Government cannot properly press the matter any further on Spanish Government .. .. .. .. | 146 |
| 203* | Law Officers and Dr. Deane | 31, | Further relative to the Spanish Consular fees levied in England, and the views of the German Government on the subject. Inexpedient to say anything as to the legality of these charges until the table of fees are finally settled by the Spanish Government.. .. .. .. | 146 |

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| 205 | Law Officers and Dr. Deane | Apr. 9, | Further relative to the case of Messrs. Elmslie, Forsyth, and Sedgwick, and legal decision of Norwegian Courts with regard to the "Esmeralda." No reason to alter decision of former Law Officers .. .. .. .. | 147 |
| 206 | Law Officers and Dr. Deane | June 4, | On refusal of the Swedish Government to entertain the claim of the Tyne and Wear Iron Steam-ship Insurance Association for damages to the steam-vessel "Stagshaw" by collision with the Swedish frigate "Vanadis." The Association should be informed that Her Majesty's Government cannot interfere, as it is a question for legal proceedings .. | 148 |

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| 208 | Law Officers and Dr. Deane | Oct. 6, | Proposed Protocol to be added to the Extradition Treaty with Switzerland is sufficient to cancel the portion of the XVIth Article of the Treaty not in accordance with the Extradition Act of 1870 .. .. .. .. .. | 149 |

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| 211 | Law Officers and Dr. Deane | Sept. 24, | On subject of the overcrowding of the pilgrim ships at the port of Alexandria, and the views of Consul Stanley as to the legal powers of Her Majesty's Consuls under "The Foreign Jurisdiction Act, 1843," "The Passengers' Acts, 1855 and 1863," and Order in Council relative to Consular Jurisdiction. To detain British vessels on that account. The measures adopted by the Board of Trade of more efficacy to prevent the evil .. .. .. .. | 152 |
| 212 | Law Officers and Dr. Deane | Nov. 9, | As to the proposed scheme for judicial reform in Tunis, and reply to be given to the Italian Chargé d'Affaires on the question of the rights of territorial jurisdiction .. .. | 153 |

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| 214 | Attorney- and Solicitor-General | 19, | As to the expulsion of G. P. Costello, a Maltese subject, from the Ottoman dominions by order of the Consular Court at Alexandria, and whether the order should be maintained or rescinded according to the opinion of Sir P. Francis. Do not agree with him that Her Majesty's Government have no power to relax the sentence. Effect may be given to the opinion of Mr. Lane. Serious questions often arise as to the legality of deportation .. .. . | 154 |
| 215 | Law Officers and Dr. Deane | Feb. 4, | On letter from Lord Henry Scott relative to the claim of Miss Harriss for compensation for damage to her house by the explosion of gun cotton stored by the authorities at Alexandria. Opinion given in 1871 on the similar claim of Mr. Wilson. Her Majesty's Consul-General may present Miss Harriss's petition unofficially for favourable consideration .. .. .. .. .. .. | 155 |
| 216 | Law Officers and Dr. Deane | 17, | As to the fees payable in the Consular Courts in the Levant, and memorandum on the subject by Mr. Reilly. Suggests alteration of the fees by Order in Council, but cannot dispense with them altogether after an Order in Council has been issued. With respect to marriage and other fees. Want further Minute on those questions .. .. | 155 |
| 217 | Law Officers and Dr. Deane | 17, | On the proposed imposition of a stamp duty in Turkey, and if in contravention to stipulations of the Treaty with Great Britain. It would not be so if levied equally on the subjects of other countries and on English subjects.. .. | 156 |
| 218 | Law Officers and Dr. Deane | Apr. 25, | On request of the Austro-Hungarian Ambassador for information as to the course adopted by captains of British vessels relative to the payment of Suez Canal dues. Instructions should be given to the captains of Her Majesty's ships, in the event of any opposition to their transit through the Canal, except on payment of dues on the gross tonnage. They should not pay the dues under protest unless the vessel is compelled to continue her voyage. Notification should be made to British vessels as to the dues fixed by the International Commission .. . | 156 |

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| 219 | Law Officers and Dr. Deane | Apr. 25, 1874 | As to the decision of the International Tonnage Commission with respect to the Suez Canal dues, and whether Captains of Her Majesty's ships could claim from the Company the sums paid under protest on the gross tonnage on passing through the Canal. Captains of Her Majesty's ships could claim from the Company the dues paid under protest from the date when the dues were first raised; but if the Company oppose the transit of their ships, except on payment of the dues, the Captains should not force the passage, but immediately communicate with Her Majesty's Consul-General | 157 |
| 220 | Law Officers and Dr. Deane | 25, | On the threat of M. de Lesseps to render the passage of the Suez Canal unpracticable should the International Commission's decision be enforced. If he were to carry out his threat, it would be a violation of the terms of his concession, and the Khedive might assume the management of the Canal, as he would have the right to do if the Canal was not in good repair and working order | 158 |
| 221 | Law Officers and Dr. Deane | 27, | On the letter of Mr. Turner, inclosing the petition of Mrs. Madeleine Rassam, for the intervention of Her Majesty's Government, relative to her alleged divorce from, and relative to the estate of her late husband. The case is one in which the rights of Turkish subjects are concerned, and Mrs. Rassam is about to take legal proceedings in the case, so that no diplomatic aid should be given, but the case might be watched by Her Majesty's Consul, though Mrs. Rassam is a Turkish subject | 158 |
| 222 | Law Officers and Dr. Deane | May 27, | As to the claim of Captain Vella against the Egyptian Government for alleged wrongful dismissal from his employment. Her Majesty's Government should not support this claim, as, by the terms of his contract, he was subject to immediate dismissal | 159 |
| 223 | Law Officers and Dr. Deane | June 4, | On charges levied by the Suez Canal Company on certain vessels employed as tenders to Indian troop-ships passing through the Canal, assuming that they were used as tugs. The Company had no right to levy a toll on the tenders "Prompt" and "Hasty" above 10 francs a ton | 159 |
| 224 | Law Officers and Dr. Deane | 13, | Proceedings of the Suez Canal Company on the new Tariff issued by the recommendation of the International Tonnage Commission. They insist on measuring the vessels instead of taking the ships' registers as a basis for calculating the dues. The tonnage certificates delivered by the competent Government authorities should be the guide; if not provided with these the ships' papers showing the net tonnage would be sufficient. Approves draft instructions to Her Majesty's Ambassador at Constantinople | 160 |
| 225 | Dr. Deane | 19, | The Attorney- and Solicitor-General agree with him that the Suez Canal Company is not entitled to re-measure ships passing through the Canal when the ships are regularly certified to and in accordance with the country to which the ship belongs | 161 |
| 226 | Law Officers and Dr. Deane | 24, | As to the instructions to be given to Her Majesty's Agent and Consul-General in Egypt relative to the trial against the Suez Canal Company on account of overcharges by them, and to which tribunal the suit should be taken. The Civil Court of Egypt would be the right Court. If any difficulty might arise General Stanton should inform Her Majesty's Government and suggest a remedy | 161 |
| 227 | Law Officers and Dr. Deane | July 10, | As to the piratical attack at Bussorah on the steamer "Cashmere," and request of Mr. W. Bradford, an officer belonging to that vessel, for a reconsideration of his claim to compensation. No reason to alter opinion of former Law Officers in 1873 | 162 |
| 228 | Law Officers and Dr. Deane | 13, | As to further instructions to be sent to Her Majesty's Ambassador at Constantinople relative to the recent action of the Porte towards the Danube and Black Sea Railway and Kustendje Harbour Company. The case should be offered to arbitration, or a Mixed Commission to settle the point in dispute with regard to the Convention of 1870 | 162 |
| 229 | Law Officers and Dr. Deane | July 13, 1874 | As to the effect on the export trade by the new regulations in Turkey respecting the manufacture and sale of tobacco, and whether any claim could be made for restoration of the duty levied on the manufacture. The duty is not within the Anglo-Turkish Treaty, therefore cannot be claimed | 163 |
| 230 | Law Officers and Dr. Deane | 16, | On proposals made for the settlement of outstanding claims against the Egyptian Government. Her Majesty's Government should accede to the proposal | 163 |
| 231 | Law Officers and Dr. Deane | Aug. 25, | As to the project of the Ottoman Government for imposing a tax on trading licences. Agree with Sir P. Francis that this would be under the Capitulations an infraction of the Treaty rights of Great Britain | 164 |
| 232 | Law Officers and Dr. Deane | 25, | As to the instructions to be given to Sir Philip Francis relative to the fee levied on the personal estate of the late Mr. C. J. Hanson. The fee on probate or letters of administration under the Order in Council is not a tax or duty, the stamp duty in England being merely for the purpose of fixing the amount of the fee | 164 |
| 233 | Law Officers and Dr. Deane | 27, | On the amended scale of fees leviable in the Consular Courts in the Levant as proposed by Sir J. Francis may be properly adopted | 165 |
| 234 | Law Officers and Dr. Deane | Sept. 25, | Further relative to the Danube and Black Sea Railway Company, and observations on the points at issue with the Porte. Offered to arbitration. The new points of difference cannot prejudice the rights of the company to a settlement of the former questions | 165 |
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**ARTHUR WALMISLEY.**

*Foreign Office,*
*November* 20, 1880.

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ARTHUR WALMISLEY.

*Foreign Office,*
*December* 1880.

## Africa.

### No. 1*.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 20.)

My Lord, *Lincoln's Inn, August* 20, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 12th August instant, stating that he was directed by your Lordship to acquaint us that he had received from the Archbishop of Canterbury the inclosed Memorial, addressed to the Queen, praying for Her Majesty's licence, under the Act 5 Vict., cap. 6, in order to enable his Grace to consecrate the Reverend E. Steere, LL.D., to be Bishop of the Church of England in Central Africa; and that he, Lord Tenterden, was also to transmit to us the draft of a licence to the effect prayed for by the Archbishop; and to request that we would take the same into our consideration, and report to your Lordship our opinion whether there is any objection to the licence being issued.

That, as bearing upon the subject, Lord Tenterden was pleased to say that he was to refer us to two Reports addressed by Her Majesty's Law Officers to Her Majesty's Secretary of State for the Colonial Department, under date of the 5th October and 20th December, 1858, relative to the consecration of the late Bishop Mackenzie; and more especially to the Reports of Her Majesty's Law Officers to your Lordship's Department dated the 13th and 29th January, 1863, relative to the consecration of Bishop Tozer (whom Mr. Steere is to succeed) and Bishop Twells.

That your Lordship would be glad to receive our Report at our earliest convenience, as it is desired by the Archbishop that the consecration should take place on the 24th instant.

In obedience to your Lordship's commands we have the honour to report—

That we have perused the proposed licence, and consider that it is in proper form, and that there is no objection to its being issued.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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*Printed for the use of the Foreign Office. November* 1880.

CONFIDENTIAL.

# REPORTS BY THE LAW OFFICERS OF THE CROWN: 1874.

## Africa.

### No. 1.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 25.)

My Lord, *Lincoln's Inn, May* 23, 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us the accompanying papers* on the subject of the position of Austrian and Italian ships in regard to the right of trading in the River Gambia, and he, Mr. Bourke, was to request that we would take these papers into our consideration, and favour your Lordship with our opinion on the points raised by the Administrator of the Gambia, and by the French Minister, in this matter.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion Austrian and Italian vessels would not be admitted to the Gambia navigation under a most-favoured-nation clause, nor because they happened to be chartered by French subjects.

We submit for your Lordship's consideration that it would be advisable to obtain a new Ordinance extending the right of trading in the River Gambia, and in the meanwhile to continue the use of special permits to vessels requiring such.

And that the Administrator of the River Gambia and the French Minister may properly be informed to that effect.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* M. Gavard, April 7; Colonial Office, April 8; Memorandum, April 28.

## Argentine Confederation.

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### No. 2.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 4.)

*Temple, February* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 24th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Minister at Buenos Ayres, relative to the imprisonment at Mendoza, in the Argentine Confederation, of two British subjects named Dudley and Gibbs, and that he was to request that we would favour your Lordship with our opinion as to whether any, and if so, what steps should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that Her Majesty's Government can take no further steps than to direct Her Majesty's Minister at Buenos Ayres to see that the trial is fairly conducted, and that he has proper opportunities for offering his defence.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 3.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 9.)

*Lincoln's Inn, July* 7, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd June last, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Williams respecting his claim against the Argentine Government, and that he was also to transmit to us the previous papers connected with the case, and to request that we would take the case into our consideration, and favour your Lordship with any observations we might have to offer upon it.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the claim of Mr. Williams against the Argentine Government cannot be further urged by your Lordship.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 3*.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 29.)

*Lincoln's Inn, October* 28, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 17th instant, stating that he was to transmit to us a despatch from the Acting British Consul at Buenos Ayres, requesting to be informed if the local Courts of that country could claim a right to sequestrate any pension or portion of a pension granted by Her Majesty's Government, and that he was to request that we would favour your Lordship with our opinion regarding the instructions to be given to the Acting Consul in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the local Courts of a foreign country cannot claim (in the sense of exercise and enforce) a right to sequestrate any pension, or portion of a pension, granted by Her Majesty's Government, and in the hands of the person intrusted with the payment by Her Majesty's Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 4.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 30.)

*Lincoln's Inn, October* 30, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us the accompanying copy of a despatch from Her Majesty's Minister at Buenos Ayres, with its inclosures, respecting the claim of Mr. Cranwell, a British subject established at Monte Video, against the Government of the Oriental Republic of Uruguay; and that he, Mr. Lister, was to request that we would take the papers into our consideration, and favour your Lordship with any observations we might have to offer thereupon; and that he was, at the same time, to transmit to us the correspondence, as marked in the margin,* from which we should gather the causes which led to the suspension of diplomatic relations between Her Majesty's Government and the Government of Uruguay in 1871, and which had not as yet been resumed.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully considered the circumstances upon which, according to his own statement, the claim of Mr. Cranwell is founded, and, in our opinion, the goods were voluntarily supplied by him, on credit. If this be so, it seems to us that the failure of the debtor, even though the debtor be the State, affords no reason for the intervention of Her Majesty's Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 5.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 7.)

*Lincoln's Inn, December* 5, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Buenos Ayres, requesting instructions as to the claim of British subjects to exemption, under the IXth Article of the Treaty of the 2nd February, 1825, from military exactions or requisitions in the Argentine Republic.

That a copy of the Treaty was sent therewith, together with the other papers referred to in Mr. West's despatch; and that he, Lord Tenterden, was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the instructions that should be given to Mr. West upon the subject.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion the words of the last sentence in Article IX of the Treaty of the 2nd February, 1825, are express, and Her Majesty's subjects are thereby exempted from all military exactions or requisitions.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Señor Perez Goman, November 14, 1872, and March 21, 1874.

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### No. 6.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 15.)

My Lord, *Lincoln's Inn, December* 14, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st November ultimo, stating that he was directed by your Lordship to transmit to us a correspondence, as marked in the margin,* from Her Majesty's Minister at Buenos Ayres, having reference to the interference of the Local Courts in regard to a dispute as to the wages due to a seaman of a French ship by the master. A previous despatch from Her Majesty's Consul at Rosario, referred to in the course of the correspondence, was likewise inclosed; and Lord Tenterden was to request that we would take the matter into our consideration, and favour your Lordship with our opinion as to the instructions which should be sent to Mr. West, in the event of interference, such as that exercised in the case of the French ship being claimed by the Local Courts over similar disputes affecting the discipline of British ships.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That in our opinion the Courts of the country in which the ship may be have, in the absence of any Treaty or Convention to the contrary, a jurisdiction over questions of wages on board such ships.

It has been the practice in England, where a suit for wages has been brought in the Admiralty Court by a foreign seaman against a foreign ship, to direct that notice be given to the Consul; but this has been a matter of courtesy, and not required to give the Court jurisdiction.

The law applicable to the case would, as a general rule, be the law of the country to which the ship belonged, and under which the contract for wages was made.

Apart from Treaty or Convention, we believe that a Consul has no claim to a jurisdiction over the subjects of the country whose officer he is in disputes relating to wages or affecting the ship's discipline; and that the only instructions which can properly be sent to Mr. West are that, in the event of the Local Courts claiming to interfere in disputes affecting the discipline of British ships, the exercise of that jurisdiction should be carefully watched.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## Austria.

### No. 7.

*The Law Officers of the Crown and Dr. Deane to Earl Granville*—(*Received January* 16.)

My Lord, *Temple, January* 14, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 28th November, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Ambassador at Vienna, No. 63, Commercial, relative to a question which has arisen before a Tribunal of that capital as to whether the name of a firm is included among the marks and designations of goods protected by Article IX of the Anglo-Austrian Treaty of the 16th December, 1865 ("Hertslet's Treaties," vol. xii, p. 169), and he was to request that we would take the same into our consideration, and favour your Lordship with such observations as we might have to offer thereupon.

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* Mr. West, No. 8, Consular, September 14; ditto, No. 10, Consular, September 15; to Mr. West, No. 4, Consular, October 28; Mr. West, No. 12, Consular, September 23, 1874; Mr. Joel, No. 7, July 8, 1872.

In a postscript Mr. Lister stated that he was further to transmit to us, for convenience of reference, copies of the German texts of the Austrian laws of the 7th December, 1858, and of the 15th June, 1865, relative to the protection of trade marks, which had been received at the Foreign Office since the foregoing letter was written.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion, so far as we are able to form an opinion upon a question of Austrian law, Messrs. Atkinson are not legally entitled to protection for their trade name, unless they proceed to register it in the manner prescribed by the Austrian Law of the 7th December, 1858, for the registration of trade marks.

That Law applied in the first instance only to natives of Austria. It provided for the protection both of trade marks ("gewerblichen marken")*, and of trade names ("bereichnungen"),† such as the name of a firm. Under its terms trade marks were required to be registered, but not trade names.

Then the Austrian Law of June 1865 provided for applying the Law of 1858 to foreigners by reciprocal Commercial Treaties, provided that the foreigners, in order to obtain protection "for their trade marks and trade names must have them registered with a Chamber of Commerce and Industry." The same words as in the Law of 1858 are used to describe trade marks and trade names respectively.

Lastly, the Treaty of 1865 provided that "the subjects of the one of the two contracting parties shall, in the dominions of the other, enjoy the same protection as native subjects in regard to the rights of property in trade marks and other trade names, as well as in patterns and designs for manufactures."

If this Treaty had stood alone, it would have warranted Messrs. Atkinson's contention; but we think that it cannot override the express requirement of registration which is contained in the Law of 1865.

The same remark applies to this case as to others in which we have observed that the legal and commercial experience available in the Board of Trade would dispose of such questions in a manner far more satisfactory than any resources at the disposal of the Law Officers can enable them to do.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

### No. 8.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 11.)

*Temple, March* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 28th ultimo, stating that he was directed by your Lordship to transmit to us a letter from Mrs. Levy, stating that her husband was undergoing a sentence of imprisonment in Austria, and that she understood that when he was released he was to be again arrested and given up to the Italian and German Governments on other accusations, and that Mr. Bourke was to request that we would take that paper into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government could take any action in that matter.

In obedience to your Lordship's commands we have the honour to report—

That we think that Mrs. Levy does not make out a case for interference or remonstrance upon which your Lordship could act.

Mr. Levy is undergoing sentence of imprisonment which will not expire for some time. A part of the sentence is that, at the expiration of the imprisonment, he be expelled from the Austrian dominions, and if, when carried over the frontier, he is again arrested for crimes committed within the territory in which he is found, he has no ground for complaint. It is suggested by Mrs. Levy that she hears from "undeniable sources" that an order has been given that Mr. Levy should, at the expiration of the sentence, be deported to a country in which he will at once be arrested again for offences committed in that country.

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* *e.g.*, Bass' red triangle.

† *e.g.*, Bass and Co.'s Burton Ales.

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If such be the case we think that this cannot be made ground for remonstrance. In the execution of the sentence the Austrian Government may determine for itself into what neighbouring country the prisoner shall be taken, in order to carry into execution the decree for expulsion.

Again, Mrs. Levy suggests that if Mr. Levy should be pardoned by the Austrian Government (an event which appears to be very improbable) he is to be illegally arrested again, in order that he may be captured under authority issued from Munich.

Whether this course could be taken under any existing Treaty of Extradition between the two countries we know not, but we think that it should not be assumed that the Austrian Government is contemplating an illegal act, and that Mrs. Levy should be informed that no remonstrance can be addressed to the Austrian Government upon such representations as those contained in her letter.

The utmost that could properly be done would be to ascertain from Her Majesty's Representative at Vienna what is the true state of facts as regards this Mr. Levy, but upon such information as that furnished by Mrs. Levy, we would suggest that your Lordship may think that this is not a course which at present, at all events, should be adopted.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 9.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 6.)

*Lincoln's Inn, August* 6, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th of July ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Vienna, together with a letter from the Board of Trade, relative to a proposal on the part of the Austrian Minister of Finance that the customs duties in that country should be paid in gold instead of silver; and that Lord Tenterden was to request that we would take those papers into our consideration and favour your Lordship with our opinion as to how far the substitution of a gold instead of a silver currency in payment of the customs dues was in accordance with the provisions of the Anglo-Austrian Treaty of Commerce of the 10th December, 1865.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion there is nothing in the Anglo-Austrian Treaty of Commerce of the 10th December, 1865, which is directly contrary to the proposal of the Austrian Minister of Finance.

We would, however, suggest to your Lordship that Her Majesty's Ambassador at Vienna may properly be instructed to inform you if the proposal is proceeded with, in order that Her Majesty's Government may be in a position to protect British interests if indirectly affected, either by an infraction of Article XI of the Anglo-Austrian Treaty (the most-favoured-nation clause), or by the operation of the agio on gold.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Belgium.

### No. 10.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 24.)

*Temple, April* 18, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th April instant, stating that he was directed to transmit to us the accompanying letter from the Post Office, with its inclosures, relating to the arrest of the Belgian mail-packet "Prince Bandorn," from which we perceive that a question is raised in the letter from Mr. Knocker, which forms inclosure No. 2 in the Post Office letter, as to whether the Convention which was concluded between Her Majesty and the King of the Belgians on the 19th October, 1844, of which a copy is inclosed, overrides the statute law of the realm; and Lord Tenterden was pleased to request that we would be so good as to favour your Lordship with our opinion on the matter, and whether any legislation on the subject is desirable.

For convenience of reference Lord Tenterden was pleased to transmit the papers relating to the case of the "Prince Bandorn," as well as a Law Officers' Report which was given on a previous instance of a similar nature.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That we are disposed to think that if the question were solemnly discussed it might be open to grave doubt whether this ship could be considered, by reason either of her character or of the Convention, a public ship to all intents and purposes, so as to be entitled to be released in the event of her being arrested by means of process of the Admiralty Court; but we think that this question may not be one of very great importance, inasmuch as we believe that the practice followed in this case of at once releasing the ship is one that has been universally adopted by the Court of Admiralty, and, under these circumstances, we think that legislation is not necessary.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 11.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 16.)

*Lincoln's Inn, May* 14, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 5th instant, stating that the Belgian Minister had, in the inclosed note, requested the Foreign Office to transmit to certain individuals in this country a sentence passed upon them by default by the Tribunal of Commerce of Antwerp, and also stating that your Lordship presumed that the Foreign Office would not be justified in serving upon British subjects sentences of foreign Tribunals; but Mr. Bourke was directed by your Lordship to request that we would be good enough to favour your Lordship with our opinion on the point, and, further, that we would enable you to state to the Minister what is the mode of procedure that should properly be adopted by him.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion the Foreign Office would not be justified in serving upon British subjects the sentences of foreign Tribunals.

The Belgian Minister may be told that the persons who have obtained the Judgment of the Belgian Court may sue upon that Judgment, in an English Court, the persons against whom they hold the Judgment, but that it does not follow necessarily that they will recover in such suit, since objections may be taken to, and

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sustained against, the Judgment, which is, by the law of England, only evidence of a debt.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 12.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 25.)

*Lincoln's Inn*, *August* 25, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 7th August, stating that he was directed by your Lordship to transmit to us therewith a letter which your Lordship had received from Mr. J. Matthews complaining of the detention of his vessel, the "Marguerite," by direction of the Belgium bankruptcy authorities, and soliciting the intervention of Her Majesty's Government; and Lord Tenterden further stated that he was to request that we would favour your Lordship with such remarks as we might have to make as to the steps, if any, which should be taken in the matter.

Lord Tenterden was also pleased to forward to us a further letter, dated the 18th instant, stating that, with reference to his letter of the 7th instant, he was directed by your Lordship to transmit to us a further letter, with its inclosures, from Mr. J. T. Matthews, relative to the detention of the steamer "Marguerite" at Antwerp, and to request that we would take these papers into consideration, together with those already before us.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship cannot, in our opinion, take any steps in the matter submitted to you by Mr. J. Matthews, since the Belgian Tribunals are competent to, and it is to be presumed will, properly decide all questions between the several parties interested.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 13.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 4.)

*Lincoln's Inn*, *November* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 5th ultimo, stating that he was directed by your Lordship to transmit to us papers relative to a marriage celebrated by the British Vice-Consul at Ostend between parties who had not resided within the town of Ostend itself, though they had resided within what might have been properly considered the limits of the Consular district before the appointment of the present Vice-Consul.

That we should perceive that a question had been raised in connection with that case as to whether the Secretary of State has power, under the Consular Marriage Act, to authorize Consular Officers to celebrate marriages beyond the limits of their districts as defined in their commissions or letters of appointment.

That Mr. Lister was to request that we would take those papers into our consideration, and favour your Lordship—(1) as to the legality of the marriage celebrated by Mr. Vice-Consul D'Arcy; (2) whether the Secretary of State could legally authorize the celebration of marriages beyond the Consular district proper; and (3), if the Secretary of State had that power, whether any, and if so what, alteration should be made in the warrant in cases where it might be considered necessary to exert that power.

In obedience to your Lordship's commands we have the honour to report—

1. That, in our opinion, as Mr. D'Arcy was appointed Vice-Consul "at Ostend" only, he had no authority to celebrate a marriage between parties resident at Furnes, a place out of his district; but although the marriage in question was, in our view, unlawfully celebrated by the Consul, still, considering the provisions of the 13th section of 12 and 13 Vic., cap. 68, we doubt whether it can now be impeached.

2. After considerable hesitation we have come to the conclusion that, by the 19th section of the above-mentioned Act, the Secretary of State may authorize the celebration of marriages beyond the Consular district proper.

Both the points just referred to, however, present so much difficulty that we are induced to suggest that, whenever a Bill is introduced in Parliament relating to Consular marriages, clauses should be inserted with a view to set at rest the questions which have arisen.

3. We think the authority to celebrate marriages out of the district proper should be conferred on the Consuls and Consular Agents by special warrants directing and authorizing them to solemnize and register marriages in certain places specified in the warrant.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Brazil.

### No. 14.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received January* 15.)

*Temple*, *January* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd instant, stating that he was directed by your Lordship to state to us that, before giving effect to the opinion of the Law Officers, signified in their Report of the 16th August last, that Consuls levying fees on behalf of Her Majesty's Government were entitled to retain marriage fees on their own account, your Lordship was anxious to submit two points for our consideration, viz.:—

1. That it was not probable that the framers of the Act 12 and 13 Vic., cap. 68, desired to attach any special significance to the word "have" therein made use of as distinguished from the word "take" used in the Order in Council of the 1st May, 1855, and the words "take, accept, and receive" employed in the Act 6 Geo. IV, cap. 87, because as late as the time when the last in point of date of those enactments was passed, and, indeed, not until some years afterwards, there was no such thing in the General Consular Service as levying fees on account of Her Majesty's Government, but that all fees whatsoever, whether shipping, notarial, or marriage fees, were had, taken, received, and retained by the Consuls as part of their emoluments. That it was not until the year 1859 that, in conformity with the recommendation of the Select Committee of the previous year on the Consular Service, the system was initiated, which had since become general, of levying fees on account of Her Majesty's Government.

That the employment of the word "have" in the Act 12 and 13 Vic. might be regarded, therefore, as purely casual; but even assuming that we did not concur in that view, and should consider that the word "have" must necessarily be understood as having had a special signification separate and distinct from the words to be found in the Act 6 Geo. IV, cap. 87, and in the Order in Council of the 1st May, 1855, Lord Tenterden was—

2. To call our attention to the terms of the letter of appointment now sent to every Consul who was instructed to collect fees on account of Her Majesty's Government. That those terms, which were very broad and comprehensive, were as follows:—"All fees by law leviable by Her Majesty's Consuls are to be collected on account of

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Her Majesty's Government;" and that Lord Tenterden was to inquire whether it was not open to Her Majesty's Government to make that a condition of appointment; and whether, if a Consul accepted an appointment subject to such a condition, he was not bound by it, the word "have" in the Act 12 and 13 Vic., cap. 68, notwithstanding.

That under those circumstances it would seem to be open to the Government to enforce that condition by dismissing a Consul who, after accepting an appointment subject to the condition, should refuse to be bound by it.

That the previous papers were returned therewith.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion there is no substantial difference between the title of the Consuls to the fees leviable under 6 Geo. IV, cap. 87, s. 4, and the marriage fees demandable under 12 and 13 Vic., cap. 68. Both Acts appear to us to contemplate the receipt of these fees by the Consuls for their benefit in the first instance.

But we can see no reason why the Consuls, instead of being remunerated by fees, should not be paid by salary and called upon to account for their fees to the Government. In our opinion any Consul appointed on the terms mentioned in draft appointment sent to us is bound to account for marriage as well as other fees as fees collected on account of Her Majesty's Government.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.

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### No. 15.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May* 14.)

*Temple, May* 12, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd March last, stating that, with reference to the Report of the Law Officers of the 23rd June last, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Rio de Janeiro respecting the case of the Queen Insurance Company.

That he was also to transmit to us the previous correspondence connected with that case, and that he was to request that we would take those papers into our consideration and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the real difficulty in obtaining any compensation for the Company is correctly stated in the despatch of Mr. B. Matthews (No. 2, 8th January, 1874), that is, that the several Tribunals in Brazil have given unfavourable decisions against the Company.

This difficulty, which would in most cases be almost insuperable, is, in the case of the Company, made still more serious by the fact that the Company by its constitution in Brazil was made in Brazil subject to the law of Brazil, and the defence was entrusted to an incompetent advocate by the agent, who voluntarily absented himself during the greater part of the proceedings.

So far, therefore, as the Company is concerned, we are of opinion that the compensation and its amount must be left entirely in the hands of Mr. B. Matthews, who may be instructed to do the best he can, but officiously, with the Brazilian Government.

The opinion of the Council of State that the orders against Messrs. Taylor and Lyde were illegal and unjust, referred to in Mr. B. Matthews' despatch (No. 8, 8th January, 1874), afford, we think, a sufficient ground for instructing Mr. Matthews to press the claims of those British subjects upon the Brazilian Government.

We are unable to form any opinion upon the amount of compensation which should be asked for Messrs. Taylor and Lyde.

Possibly, if they had appeared instead of absenting themselves they might have suffered little or no inconvenience, for instance, by being admitted to bail, or possibly released at once without bail or imprisonment.

At all events the sums which they name seems to us extravagant in amount, and we see no reason to doubt the accuracy of the estimate of compensation given in all three cases by Mr. B. Matthews in his despatch No. 9, 29th January, 1874.

Mr. Taylor and Mr. Lyde should, however, be informed, before any application is made on their behalf, that Her Majesty's Government cannot urge their claims upon the Brazilian Government unless those gentlemen will bring the amount within a reasonable limit.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 16.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received September* 3.)

*Lincoln's Inn, August* 31, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th April last, stating that he was directed by your Lordship to transmit the accompanying papers* upon a question which had been long pending between this country and Brazil, relative to the claims of British subjects against Brazil and the claims of Brazilian subjects against Great Britain.

That the main points of the question are treated of in the printed papers, but the volumes of manuscripts were also sent in case we should wish to refer to any of the documents contained in them.

That we would see from the papers that both Brazilian and British claims are of long standing and of various dates; that the British claims are on account of debts due to, and injuries done to, British subjects; that they are fifty-one in number, and amounted in 1858 to 380,190*l.* 4*s.* 0½*d.* That Mr. Thornton, however, who examined these claims in 1867, did not consider that more than 47,559*l.* 17*s.* 1½*d.* ought to be paid (exclusive of interest).

That the Brazilian claims are, as far as is known (with one exception), on account of the alleged illegal capture of Brazilian vessels on suspicion of being engaged in the Slave Trade, and the subsequent proceedings in regard to those vessels.

That they are ninety-eight in number, and amounted in 1858 to 1,500,000*l.*

That Her Majesty's Government were not in possession of a complete list of the Brazilian claims, but a full account of twenty-eight selected cases would be found in the printed Report by Messrs. Wylde and Rothery of the 8th February, 1871; that various estimates had been made as to the amount of the Brazilian claims which could be maintained; that in 1867 Mr Thornton estimated them at 300,000*l.*, but in August of the same year he received a confidential communication to the effect that the Brazilian Government were prepared to take the sum of 230,000*l.* as a basis for negotiation; that in 1870-71, however, twenty-eight of these claims were most carefully examined by Mr. Wylde and Mr. Rothery, who came to the conclusion that only five were admissible, and that the amount justly due on them was 5,082*l.* 15*s.* (exclusive of interest).

That in 1858 a Convention was concluded between Great Britain and Brazil for the settlement of these claims by a Mixed Commission, but that Commission was suspended in April 1860, in consequence of the requirement of the Brazilian Government that cases already decided by Mixed Commission Courts should again be examined, a requirement to which Her Majesty's Government declined to accede.

That in 1862, and again in 1867, attempts were made to come to an agreement upon the subject, but without success; that more recently further negotiations have taken place, the details of which would be found in the accompanying printed papers, and a definite proposal for a new Convention had been received from the Brazilian Government, which proposal was then under the consideration of Her Majesty's Government.

That the points in that proposal which appear to Her Majesty's Government to be objectionable are fully stated in the printed memoranda of the 16th February and the 4th March, and may be thus briefly recapitulated:—

1. The omission of any assurance that the whole of the Brazilian claims, amounting to 1,500,000*l.*, without interest, will not be again brought forward.
2. The omission of any stipulation in the Convention that the validity of the

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* Three volumes, five printed memorandas, Aberdeen Act.

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Aberdeen Act shall not be called in question, and the generally unsatisfactory nature of the language used by the Brazilian Minister for Foreign Affairs upon this point.

3. The refusal of the Brazilian Government to furnish to Her Majesty's Government, for previous investigation, a list of cases decided by British Admiralty Courts, which it is intended to submit to the proposed Commission.

4. A similar refusal in regard to cases decided by Mixed Commission Courts, and the vague and unsatisfactory terms used as to claims of this description which it is intended to bring forward.

5. The unsatisfactory explanation given as to certain old claims which it is intended to present.

6. The omission of the Brazilian Government to examine preliminarily their own claims.

7 The announcement of the intention to submit to the proposed Commission the claims unfavourably reported on by Messrs. Rothery and Wylde, without any attempt to refute the conclusions come to by those gentlemen, after the most laborious and minute investigation.

Lord Tenterden added that, under these circumstances, he was to request that we would take the accompanying papers into our consideration, and favour your Lordship with our opinion specifically upon the points above enumerated, and generally upon the whole subject.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we have considered the several papers transmitted to us with the letter from Lord Tenterden, but, before answering the questions proposed to us in that letter, we desire to submit to your Lordship the following observations upon the proceedings under the Treaties with Brazil and the Aberdeen Act, and upon the correspondence which has passed between Her Majesty's Government and that of Brazil:—

1. As regards the proceedings under the Treaties, we are of opinion that all the decisions which have been come to by Tribunals established by, and sitting by, virtue of the Treaties (whether those decisions finally condemned or released the ships, or indemnified or refused indemnification to the owners of and others interested in those ships), should be deemed and taken to be final, and not open to a rehearing before the new Commission Court or Court of Arbitration. To allow such a rehearing would be to defeat the very object for which the two countries established the original Mixed Commission Courts, viz., that the decisions should be final and without appeal, except in very exceptional instances.

2. As regards proceedings under the Aberdeen Act (8 and 9 Vict., cap. 122), if the question were unaffected by what has passed between the two Governments, we should be inclined to agree with the view taken by Mr. Rothery, in p. 5 of his Report of the 8th February, 1871, as to decisions given by the British Admiralty and Vice-Admiralty Courts, and to think that, as regards cases before those Courts in which the Brazilian owners did not submit to the jurisdiction, or were not heard in their defence by reason of their not having had opportunities of being so heard, provision should be made for revision of the Decrees, but that such revision should be granted only on the terms that the claimants who should fail to establish their claims should pay all the expenses of the investigation, and should be required to deposit a sufficient sum to answer those expenses, as a proof of their good faith.

We gather, however, from the correspondence that Her Majesty's Government were prepared to assent to a proposal made by the Brazilian Government that any case which had been decided by an Admiralty or Vice-Admiralty Court should be open to rehearing by the proposed Mixed Commission Court or Court of Arbitration, if such proposed Tribunal should think it a case proper to be reheard: provided (1) that the validity of the Aberdeen Act should in no respect be called in question; (2) that Her Majesty's Government should be provided beforehand with a complete list of all the cases which it was intended to bring before the Tribunal; and (3) that the Tribunal should be guided in its deliberations by the same Treaties and laws of the respective countries as were in force at the times when the claims were originally adjudicated upon.

We further gather from the correspondence that the Brazilian Government have in effect declined to accede to the conditions upon which alone Her Majesty's Government were prepared to assent to the proposal so made to them. We do not, however, understand that Her Majesty's Government have in any way withdrawn the conditional assent which they have so given to the proposal.

3. The correspondence on the part of the Brazilian Government is of a very unsatisfactory character, and we cannot avoid inferring from it that it has been in many respects framed with a view to ulterior objects, to which it is not at present deemed expedient by that Government to more particularly allude.

We proceed now to answer the questions more particularly indicated by Lord Tenterden.

1. We are of opinion that the Brazilian Government should be informed that Her Majesty's Government cannot consent to the proposed Convention unless all claims arising out of final adjudications before the Mixed Commission Courts be withdrawn, and unless the rehearing of cases decided by British Admiralty and Vice-Admiralty Courts be limited, either as indicated by Mr. Rothery, in manner above mentioned, or to the cases deemed fit by the proposed Tribunal for rehearing, and that, in either case, the three conditions already insisted upon by Her Majesty's Government must be acceded to by the Brazilian Government.

If these terms are acceded to, the original claim of 1,500,000*l*. will be materially reduced, and, with submission, this course appears to us preferable to requiring a stipulation that the whole Brazilian claim shall not be again brought forward.

2. We think it essential that the Brazilian Government should in the clearest terms recognize, at any rate for the purposes of the proposed Convention, the validity of the Aberdeen Act. We think this the more important, as the language of that Government, in their later correspondence, is suggestive of an intention on their part to question the validity of that Act in every mode which is not in the most express terms provided against by the Convention. We may particularly allude to the following passage in the translation of the letter of the Visconde de Caravellas, of the 15th November, 1873, in which he refers to the Aberdeen Act as "a British law always upheld on the one side, and on the other, *and even now*, repelled with the deepest conviction of injustice."

3. In our opinion the Convention should not be agreed to, unless the Brazilian Government consents to furnish to Her Majesty's Government, for previous investigation, a list of the cases decided by British Admiralty Courts which it is intended to submit to the proposed Commission.

There is no inconvenience to be apprehended from this condition being satisfied; the claims must be known to the Brazilian Government, and a list of them can easily be supplied. They have, doubtless, some object which they are unwilling to avow for thus refusing to supply the list, and Her Majesty's Government may very properly take care that this object be not attained.

4. We have already observed upon the claims arising out of cases before the Mixed Commission Courts. Should your Lordship agree with the result of those observations, no case, speaking generally, can properly be brought forward under this head, and, therefore, no list will be requisite.

It has, however, been suggested, and it is possible that there may have been cases before the Mixed Commission Courts in which there has been a failure of justice, or an actual injustice, so great that the persons injured may have a claim to a rehearing, which Her Majesty's Government could not well refuse to acknowledge. In such extreme cases, therefore, and they must be very few, we think a rehearing before the new Mixed Court or Court of Arbitration might be properly granted; but as this concession would be entirely *ex gratiâ* and a matter of favour, we are of opinion that, almost as a matter of necessity, a list of the cases should be submitted to Her Majesty's Government for previous investigation.

5. It seems to us that a limit should be fixed beyond which old claims should not be allowed to be brought forward. Probably, however, this condition will be unnecessary if the lists of claims are obtained.

6. So, if the lists are obtained, the Brazilian Government will, to some extent at least, be obliged to examine, preliminarily, their own claims.

7. We think the Brazilian Government were quite at liberty to bring forward again the claims unfavourably reported on by Messrs. Rothery and Wylde. Those gentlemen were acting on behalf of Her Majesty's Government, and, however conclusive their reasoning may be, the Brazilian Government was not called upon to argue the matter, still less to agree with the result to which those gentlemen, as it seems to us, most properly came.

Upon the whole subject we are of opinion that, whether the proposed Convention be desirable or not, the terms should be stated upon the points which we have noticed, in the most clear, precise, and definite language, and nothing left to inference.

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We presume that the nature of the Court, if established, and the places of sitting and other matters of procedure need not now be reported upon by us.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Central America.

### No. 17.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May 4.)*

*Lincoln's Inn, May , 1874.*

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th April ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Honduras Minister at this Court, in reply to one addressed to him by Earl Granville, under the advice of the late Law Officers of the Crown, on the 31st December last, upon the subject of the bombardment, in August last, of the Castle of Omoa, in the Republic of Honduras, by Her Majesty's ship "Niobe," Commander Sir Lambton Loraine; and Lord Tenterden also stated that he was to transmit to us the previous correspondence upon the subject, and the draft of the answer which your Lordship proposes to return to Señor Gutierrez; and to request that we would take the same into our consideration, and favour your Lordship with our opinion as to whether the proposed answer is a proper one.

In obedience to your Lordship's commands we have taken the same into our consideration, and have the honour to report—

That, in our opinion, the proposed answer of your Lordship to the letter of Señor Gutierrez is a proper one.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 18.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received August 28.)*

*Lincoln's Inn, August 27, 1874.*

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us the accompanying statement which had been forwarded to your Lordship by the Honduras Inter-Oceanic Railway Company, Limited, setting forth the grounds upon which they considered themselves entitled to the assistance of Her Majesty's Government in obtaining information respecting the expenditure of the proceeds of certain loans, amounting to 7,000,000*l.* or 8,000,000*l.* sterling, raised by the Honduras Government for the ostensible purpose of constructing the railway, but a large portion of the proceeds of which the Company believed to have been misappropriated.

That Lord Tenterden was also to inclose previous correspondence, showing the course that had hitherto been followed by Her Majesty's Government with regard to the Honduras Railway; and that he was to request that we would take those papers into our consideration and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in giving the Company the assistance they required.

### Annex to Law Officers' Report of May 1874 (No. 17).

*Draft of Letter to Señor Gutierrez.*

*Foreign Office,* , 1874.

M. le Ministre,

I HAVE the honour to acknowledge your letter of the 30th March, in which you express your regret that Her Majesty's Government should have approved the conduct of Sir Lambton Loraine, Commander of Her Majesty's ship "Niobe," in bombarding the Castle of Omoa in August last. You cite various cases as precedents with the view of showing that Sir L. Loraine acted wrongly, and you urge that the matter should be submitted to arbitration.

In reply, I have the honour to state to you, M. le Ministre, that Her Majesty's present Government, after careful consideration, entirely concur with their predecessors in approving the conduct of Sir L. Loraine, and they do not consider that the case is one that can properly be referred to arbitration.

With regard to the cases cited by you as precedents, they appear to me to be of so totally different a character from the one now under discussion that I must beg you to excuse me from making further reference to them.

With regard to your arguments upon the question at issue, they appear to be—

1. That the alleged ill-treatment of British subjects, and robbery of British property at Omoa by General Streber and the troops under his command, which led to the acts of which you complain, rest upon statements made by interested persons, whose evidence is untrustworthy; and

2. That even supposing the statements in question to have been well founded, redress should have been sought through Her Majesty's Minister in Central America, instead of being extorted by force. In support of this latter argument you quote the instructions to Her Majesty's Consuls, as given in the "Règlements Consulaires des principaux États Maritimes de l'Europe et de l'Amérique," by De Cussey.*

In reply to the first of these arguments it will be sufficient for me to point out that even your own letter,† to which I have now the honour to reply, shows that there was ample evidence of the ill-treatment of British subjects, and the destruction of British property, and, moreover, that there was good reason to fear further outrages. This evidence consists of the formal declarations of several citizens of Honduras, and of letters from British merchants and from the Consular officers of Spain and Portugal. You allege that all these persons were interested and their evidence untrustworthy, but where there is such a concurrence of testimony from different sources, Her Majesty's Government must hold that that testimony cannot be discredited without direct and conclusive proof of its untrustworthiness, and no such proof has as yet been brought before them.

With regard to your second argument, M. le Ministre, I have the honour to state that, in the opinion of Her Majesty's Government, the proceedings of Sir L. Loraine were fully justified by the exceptional nature of the case. Those proceedings were rendered necessary not only by the past acts of General Streber but by the immediate apprehension of further acts of the same nature, and it is manifest that, in view of the distance from Guatemala, where Her Majesty's Minister resides, and the difficulty of communication caused by the disturbed state of the country, to have waited for the action of the Central Government would have been to expose British subjects and property to the most imminent danger. Regulations such as those which you quote are intended for peaceful times and normal circumstances, and for countries under firmly established Governments, who can be appealed to without difficulty; they cannot always be strictly followed in times of civil war, and when communication with the Central Government is practically impossible. In such circumstances, the lives and property of British subjects being in serious and immediate danger, it becomes the duty of Her Majesty's officers to take such steps as may be in their power to protect them.

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* This passage quoted is a fair translation of paragraph 10 of the Consular Instructions.

† See 8vo., 1636, Foreign Office Library.

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You have already been made aware, M. le Ministre, by Earl Granville's letter of the 31st December last, that the Guatemalan Government have also complained of the proceedings of Sir Lambton Loraine in bombarding the Castle of Omoa, and you have been furnished with a copy of the reply which was returned to the Guatemalan Minister at this Court upon the subject.

I have now the honour to inform you that, in a despatch dated the 21st February, Her Majesty's Minister in Central America reports that the views of the Guatemalan Government in regard to this affair have been materially altered in consequence of the light he has been able to throw upon the conduct of General Streber at Omoa, with which they were very inaccurately acquainted, and also since they have received, from their own sources of information, reports of General Streber's proceedings, enlightening them as to his true character and conduct. The Guatemalan Government have accordingly determined not to pursue the matter further.

Allow me to express the hope that your Government, after careful investigation, will form a similar opinion on the conduct of General Streber.

In conclusion I have the honour to repeat that Her Majesty's Government can see nothing in your letter which would induce them to differ from the view taken by their predecessors—that the proceedings of Sir Lambton Loraine in bombarding the Castle of Omoa were fully justified by the circumstances—and that they must hold the Government of Honduras bound to pay the compensation to British subjects stipulated for in the bond given to Sir L. Loraine by General Streber.

I have, &c.

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In obedience to your Lordship's commands we have the honour to report—

That there is nothing in the case of the Honduras Inter-Oceanic Railway Company, so far as the circumstances of the case appear upon the papers before us, which distinguishes it from that of other companies or individuals who have, upon speculation, advanced their money upon foreign undertakings; and we are not aware of any similar case in which, since the memorandum of Lord Palmerston, when Foreign Secretary, Her Majesty's Government has interfered.

We are therefore of opinion that Her Majesty's Government cannot properly give the Company the assistance which they require.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 19.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October 21.*)

*Lincoln's Inn, October 20, 1874.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 7th September ultimo, stating that, with reference to our Report of the 27th August, he was directed by your Lordship to transmit to us further papers* which had been communicated to him by the solicitor to the Honduras Railway Company, relative to the wish of that Company to obtain the assistance of Her Majesty's Government in certain proceedings connected with the Honduras Railway and Honduras Loans.

That he (Mr. Lister) was to request that we would be good enough to inform your Lordship whether there is anything in the inclosed papers which would induce us to modify the opinion expressed in our above-mentioned Report.

That the previous papers† were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That there is nothing in the inclosed further papers which induces us to modify the opinion which we expressed in our Report of the 27th August.

The matter at issue lies between certain British subjects and either the Honduras Government or the agents of the Honduras Government. Your Lordship is asked to bring a pressure upon the Honduras Government in order to obtain an account from that Government, or from its agents who received the funds for the speculation, or from both, of the way in which the moneys subscribed have been expended.

This request we are of opinion that your Lordship cannot properly comply with. The speculation in a foreign undertaking has, we believe, according to the rule adopted by the Foreign Office, no (even "moral") right to receive the assistance of Her Majesty's Government, if from mischance or fraud the speculation fails.

Should the Honduras Government ignore or refuse to yield to the pressure which your Lordship is asked to apply, Her Majesty's Government could not properly make the refusal a ground for measures of compulsion, and would therefore be in a very undignified position.

The Treaty has nothing to do with the matter. It guarantees the neutrality of the line when completed, and guarantees no more.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* In Mr. Beddall's letter, August 25, 1874.

† List.

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# Chile.

## No. 20.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 17.)

*Lincoln's Inn, May* 16, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 14th May instant, stating that he was directed by your Lordship to transmit to us the accompanying papers, as marked in the margin,* relative to the arrest on board a British mail-steamer, in the Chilean harbour of Lota, of Mr. William Hyde, master of the steam-ship "Tacna," which vessel foundered at sea off the coast of Chile on the 8th March last.

That we would see from the papers that Mr. Rumbold, Her Majesty's Minister at Santiago, has protested against the arrest of Mr. Hyde, and had demanded his release on the ground, first, that the loss of the "Tacna" took place out of Chilean jurisdiction, and that the master is therefore not amenable to a Chilean Court on any charge connected with her loss; and, secondly, that the arrest on board a British mail-steamer was a violation of the privileges usually accorded to vessels of that class. Lord Tenterden further stated that he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the legality of the arrest of Mr. Hyde, and with any observations we might have to offer upon the case.

That the question of the privileges of mail-steamers had been on several occasions referred to the Law Officers of the Crown, whose Reports thereon would be found at the places marked in the accompanying volumes.†

Copies were also inclosed of the Treaty of 1864 between Great Britain and Chile, and of the Instructions to Her Majesty's Consuls issued by the Board of Trade and by the Foreign Office.

In obedience to your Lordship's commands we have the honour to report—

That in our opinion there is nothing, either in the Treaty between Great Britain and Chile, or in the general principles of international law, which would make the arrest of Mr. Hyde on board a British mail-steamer in a Chilean harbour illegal, assuming Mr. Hyde to have committed within Chilean jurisdiction any act for which he would be amenable to Chilean law.

It appears from the papers that the British Naval Court, duly constituted for that purpose, found that the loss of the ship "Tacna" was due to excessive loading of her decks, and that Mr. Hyde, the master of the ship, was primarily responsible for such overloading.

It further appears that the ship was loaded in a Chilean port, and bound from Valparaiso to another Chilean port, and that several Chilean subjects lost their lives through her foundering.

It is probable also that there may have been at the same time a considerable loss of Chilean property.

It also appears that the Chilean authorities, with the consent of the British Consul, made some preliminary inquiry into the facts, and that proceedings were consequently taken. Whether the consent of the Consul was necessary or not is immaterial to the present consideration. Under these circumstances we are of opinion that, if the loss of the "Tacna," consequent upon her overloading, had taken place within Chilean waters, no doubt could have been entertained as to the right of the Chilean Government to arrest Mr. Hyde. Whether, having regard to the fact of the loss of the ship having occurred outside Chilean waters, any offence has been committed by Mr. Hyde of which the Chilean Courts have cognizance, is a question dependent upon the state of the Chilean law upon the subject; but, in the absence of more information than we at present possess as to the precise nature of the charge against

him, we are unable to say that his arrest to answer such charge was illegal, and necessarily called for the intervention of the Consul. Under these circumstances we respectfully suggest to your Lordship that Mr. Rumbold should be instructed to watch the proceedings against Mr. Hyde with the greatest care, and to enter his protest against any attempt to prosecute Mr. Hyde in respect of any matter not properly cognizable by the Chilean Tribunals.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 21.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 13.)

*Lincoln's Inn, June* 13, 1874.

My Lord,

WE are honoured with your Lordship' commands signified in Mr. Lister's letter of the 29th May ultimo, stating that, with reference to our Report of the 16th May ultimo, respecting the case of the British vessel "Tacna," Mr. Lister was directed by your Lordship to transmit to us, together with the previous papers,* the accompanying despatches from Her Majesty's Minister resident in Chile upon the same subject.†

Mr. Lister was also to transmit to us a letter of the 29th May ultimo received from the Board of Trade in regard to this case; and Mr. Lister was to request that we would take these papers into our consideration, and favour your Lordship at our earliest convenience with any observations we may have to offer thereupon, and as to whether the steps taken by Mr. Rumbold in the matter may properly be approved.

We are also honoured with a letter from Lord Tenterden of the 9th June instant, stating that, with reference to Mr. Lister's letter of the 29th May ultimo, Lord Tenterden was directed by your Lordship to transmit to us a letter from the Board of Admiralty, forwarding a report from the Captain of Her Majesty's ship "Scout," in regard to the arrest by the Chilean authorities of Captain Hyde, of the British vessel "Tacna;" and Lord Tenterden was to request that we would take these further papers into our consideration, together with those now before us, relating to the same subject.

We are also honoured with a further letter from Lord Tenterden of the 11th June instant, stating that with reference to his letter of the 9th instant, Lord Tenterden was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Santiago, reporting the further proceedings that have taken place with regard to the case of Captain Hyde, of the "Tacna," and Lord Tenterden was to request that we would take this despatch into our consideration, together with the papers already before us.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That Mr. Rumbold appears to have acted with great energy and decision in reference to the arrest of Captain Hyde; but, notwithstanding his very able reply to the Chilean Minister, and the great success with which his proceedings have been apparently attended, we think it desirable that any decided expression of opinion on the part of your Lordship as to those proceedings should be postponed until your Lordship is in possession of the full particulars, which Mr. Rumbold has stated his intention of forwarding by the mail of the 2nd May, and the receipt of which may be expected in the course of the next few days.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Rumbold (Telegraphic), April 7; to Mr. Rumbold, May 2; Mr. Rumbold, No. 19, April 3; ditto, No. 20; ditto, No. 12, Consular, March 26; Mr. D. Hay, No. 2, Consular, March 15; ditto, No. 18, Consular, April 3, 1874.

† Law Officers' Reports, 1861, 1862, 1863, 1865, and 1866.

* List.

† Nos. 26 and 27.

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## No. 22.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 22.)

*Lincoln's Inn, June , 1874.*

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 15th June instant, stating that, with reference to our Report of the 13th instant, upon the subject of the arrest in Chile of Mr. Hyde, late master of the "Tacna," Lord Tenterden was directed by your Lordship to transmit to us the accompanying further correspondence, as marked in the margin,* relative to the same subject.

The previous papers were also inclosed,† and Lord Tenterden was to request that we would favour your Lordship, at our earliest convenience, with our opinion as to the steps that should now be taken in the matter to which they relate.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That your Lordship may, in our opinion, properly instruct Mr. Rumbold to inform M. Ibanez that Her Majesty's Government is willing to believe in the friendly sentiments of the Chilean Government, and in the existence of the earnest desire of the Chilean Government to draw together more and more the good relations which unite Her Majesty's Government and that of Chile.

That those friendly sentiments and earnest desires, however, can only be shown by a due regard to the strict observance of the laws which prescribe the obligations and duties of the one country towards the other, and by a strict compliance with the rules adopted by civilized nations in questions of international law.

That Her Majesty's Government regrets that, in the case of the British subject, Captain Hyde, the Chilean Government has broken the universally recognized rule of international law, which says that a country has no jurisdiction over a foreign ship on the high seas, and has illegally permitted the arrest and trial of the British subject, Captain Hyde, for an act which from the first the Chilean Government must have known was committed on the high seas.

So long as a doubt could possibly exist anywhere, either as to the facts or the law, Her Majesty's Government was unwilling to press the matter upon the Chilean Government.

Since the highest Tribunal in Chile has now found, both on the facts and the law, that Captain Hyde was never amenable to Chilean jurisdiction, Her Majesty's Government cannot be satisfied with a mere assurance of friendly sentiments and the expression of a wish for the maintenance of good relations between the respective countries. Her Majesty's Government is bound by every obligation of self-respect and a sense of the duty of protection which it owes to British subjects, to insist upon an apology being made to Her Majesty's Government for the institution of proceedings against one of Her Majesty's subjects for his alleged conduct on board a ship under the British flag, and on the high seas, out of Chilean jurisdiction; and Her Majesty's Government further requires that ample compensation be made to Captain Hyde for his illegal arrest and imprisonment.

Your Lordship may, we respectfully submit, now approve of the conduct of Mr. Rumbold in this matter of the "Tacna."

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 23.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

*Lincoln's Inn, July* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 9th instant, stating that, with reference to our Report of the 22nd ultimo, relative to the arrest and imprisonment in Chile of Mr. Hyde, late master of the "Tacna," he was directed by your Lordship to transmit to us drafts of two despatches which your Lordship proposed to address to Her Majesty's Minister at Santiago upon the subject, and to request that we would favour your Lordship at our earliest convenience with our opinion as to whether the proposed despatches may properly be sent.

Lord Tenterden was pleased to inclose a letter from the Board of Trade upon the subject, and stated that he was to add that your Lordship proposed to submit the inclosed drafts for the consideration of that Board.

In obedience to your Lordship's commands we have the honour to report—

That the despatches, of which the drafts were inclosed in Lord Tenterden's letter, may, in our opinion, properly be sent.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 24.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 25.)

*Lincoln's Inn, July* 24, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th July instant, stating that he was directed by your Lordship to transmit to us the accompanying papers, as marked in the margin,* relative to the request of Messrs. Parker, Lee, and Haddock, Solicitors to M. Mannequin, to be furnished with certain original documents which are required in connection with a suit in Chancery to which M. Mannequin is a party.

We see that certain documents, which appear to be those required by Messrs. Parker and Co., have been forwarded privately by Her Majesty's Minister at Santiago to Her Majesty's Consul at Paris, who has transmitted them through Her Majesty's Ambassador to the Foreign Office.

It does not appear from Messrs. Parker and Co.'s letter what right they have to demand the surrender to them of the original documents for which they ask; and as it is the custom of the Foreign Office to avoid giving to one party in a suit information which is not also given to the other party, Lord Tenterden stated that your Lordship proposes to inform Messrs. Parker and Co. that certain papers, which appear to be those for which they have applied, have now been received, but that they can only be given up on an Order from the Court of Chancery, or on a subpœna *duces decum.*

Before sending this answer, Lord Tenterden stated that your Lordship will be glad to be favoured with our opinion upon the subject.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we do not understand how the papers in question are officially in the possession of the Foreign Office; they seem to us to be affidavits made in a cause between two private individuals, and sworn before the British Consul, whose official concern with them ceased when he had administered the oath.

We think that, as they have by some means reached the Foreign Office, Messrs. Parker may properly be answered that they can only be given up on an Order from the Court of Chancery, or produced to the Court on a subpœna *duces tecum.*

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Rumbold, No. 30, April 26; ditto, No. 32, April 30.

† List.

* Messrs. Parker, Lee, and Haddock, June 6; to Messrs. Parker, Lee, and Haddock, June 10; Lord Lyons, No. 611, June 25, 1874.

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## No. 25.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 7.)

*Lincoln's Inn, September* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st August last, stating that, with reference to our Report of the 24th ultimo, he was directed by your Lordship to transmit to us further correspondence, as marked in the margin,* relative to the request of Messrs. Parker, Lee, and Haddock, that certain affidavits in possession of the Foreign Office, connected with the Chancery suit of "De Mora *v.* Concha," might be given up to them, or sent to the Record and Writ Clerks' Office, to be filed. That the previous papers were also sent therewith,† and that he, Lord Tenterden, was to request that we would take the same into our consideration, and favour your Lordship with our opinion as to the answer that should be returned to Messrs. Parker, Lee, and Haddock's last application.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we have considered the letters of Messrs. Parker, Lee, and Haddock, and see no reason to alter the opinion expressed by us in our Report of the 24th ultimo. We are still of opinion that, as a general rule, affidavits which have, even by misapprehension, reached the Foreign Office, should not be given up on the application of either party interested in the subject-matter of such affidavits, nor should the Foreign Office transmit such affidavits to the Record and Writ Clerks' Office.

In the present case, however, as it now appears that all parties consent to the affidavits being delivered to Messrs. Parker, we see no objection to that course being adopted.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 26.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 7.)

*Lincoln's Inn, September* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 7th August ultimo, stating that he was directed by your Lordship to transmit to us herewith a correspondence with the Board of Trade,‡ from which we see that the Solicitor to the Treasury having been requested by that Department to advise whether proceedings could be taken against Mr. Hyde, master of the "Tacna," for the loss of that vessel, a case has been submitted by the solicitor for the opinion of Mr. Poland, who advises that no such proceedings could be successfully instituted.

Lord Tenterden stated that it appears to your Lordship that, looking to the finding of the Naval Court held at Santiago, of which a copy is inclosed in Mr. Rumbold's despatch No. 12, Commercial, of the 26th March, it would be a failure of justice if, while Her Majesty's Government protested against the Government of Chile taking cognizance of Mr. Hyde's conduct, they were themselves not to attempt any proceedings in the matter.

Lord Tenterden stated that your Lordship therefore requests that we would be good enough to take the case into our consideration, and favour your Lordship with our opinion whether we concur in the opinion held by Mr. Poland.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we think it probable that Captain Hyde may not be convicted. But, on the other hand, the view which your Lordship takes of the case, as between this country and Chile, is, in our opinion, if we may say so, correct; and, although we agree with Mr. Poland in the general view of the case taken by him, we are of opinion that the Government of Chile would have reason to complain of Her Majesty's Government if Captain Hyde's conduct were not in some manner inquired into. We would, however, suggest that it might, perhaps, be more desirable to institute an inquiry under the Merchant Shipping Act, 1854 (see sections 432-438), than to proceed against Captain Hyde in a Criminal Court.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* To Messrs. Parker and Co., July 21; Messrs. Parker and Co., August 1; to Messrs. Parker and Co., August 7; Memorandum, August 13; Messrs. Parker and Co., August 19, 1874.

† Messrs. Parker, Lee, and Haddock, June 6; to Messrs. Parker, Lee, and Co., June 10; Lord Lyons, No. 611, June 25; to Law Officers, July 6; Messrs. Parker, Lee, and Haddock, July 16; Law Officers, July 24, 1874.

‡ List.

## No. 27.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 29.)

*Lincoln's Inn, October* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Minister Resident in Chile* respecting the circumstances connected with the forcible removal from the British vessel "Alacama" of two of her crew by the Chilean authorities at Valparaiso, and that he (Mr. Lister) was to request that we would take the case into our consideration and favour your Lordship with any observations we may have to offer thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That it appears that one at least of the persons required as witnesses refused to leave the ship unless he were taken by force.

The whole transaction, from the murder down to the arrest and release of the witnesses, and of the man suspected of the murder, took place in Chilean territory; and, in our opinion, no further notice, beyond approving of Mr. Rumbold's conduct, need be taken of the matter.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 28.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 3.)

*Lincoln's Inn, November* 2, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 12th ultimo, stating that, with reference to our Report of the 4th September, respecting the case of the "Tacna," he was directed by your Lordship to transmit to us a letter which had been received from the Lords of the Privy Council for Trade, to whom our Report was referred, with respect to proceedings being taken against Captain Hyde; and that he (Mr. Lister) was to request that we would take that letter into our consideration and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we adhere to the opinion expressed by us in our Report of the 4th September, that the Government of Chile would have reason to complain if the conduct of the master of the "Tacna" were not, in some manner, inquired into in this country.

As the Board of Trade (for reasons with which we are unable to concur (decline, under the circumstances, to institute an inquiry under the provisions of Part VIII of the "Merchant Shipping Act, 1854," it appears to us that no course remains open to the Government except to prefer an indictment, either for manslaughter at common law, or for neglect of duty tending to the destruction of the ship, under section 239

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* Mr. Rumbold, No. 53, August 14; ditto, No. 54, August 18, 1874.

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of the above-mentioned Act, though we think it probable, as we have expressed in our previous opinion, that a conviction may not be obtained.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 29.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received December 22.)*

*Lincoln's Inn, December* 19, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd November ultimo, stating that, on receipt of our Report of June last, he addressed to Her Majesty's Minister at Santiago a despatch,[*] draft of which was inclosed, instructing him as to the reparation which Her Majesty's Government expected from that of Chile, on account of the arrest and detention of Captain Hyde, of the "Tacna," and that he, Lord Tenterden, was then to transmit to us a letter from the Chilean Minister at this Court,[†] containing arguments in justification of the proceedings of the Chilian authorities in the matter, tendering a modified expression of regret, and expressing a hope that the statements contained in his letter would induce Her Majesty's Government to modify their resolution with regard to the claim for indemnity.

Lord Tenterden further stated that he was to request that we would take Señor Blest Gana's letter into our consideration,[‡] together with the former papers, which were also inclosed, and that we would favour your Lordship with any remarks we might have to make thereon, and with our opinion as to the extent to which the claim for indemnity should be insisted on.

We were also honoured with a further letter from Lord Tenterden of the 24th December instant, stating that, with reference to his letter of the 23rd ultimo, he was directed by your Lordship to transmit the accompanying despatches from Her Majesty's Minister in Chile,[§] respecting the case of the "Tacna," and that he was to request that we would take these further papers into our consideration, together with those now before us, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we have read and considered the letter of Señor Blest Gana, and also that addressed by Señor Ibanez to Mr. Rumbold, under date the 3rd October last, and are of opinion that the circumstances of the case, even as explained in these letters, fully justify the very moderate suggestion made by your Lordship in your despatch to Mr. Rumbold on the 14th July, and that as those suggestions, so far as compensation to Captain Hyde is concerned, have not been acceded to, your Lordship would be fully justified in pressing the matter further upon the Chilean Government.

The expressions of regret which have been tendered by Señor Blest Gana will probably be accepted by your Lordship as sufficient.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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[*] To Mr. Rumbold, No. 26, July 14, 1874.
[†] Señor Blest Gana, November 14, 1874.
[‡] List.
[§] Mr. Rumbold, No. 69, October 6; ditto, No. 70, October 17, 1874.

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# China.

### No. 30.

*The Attorney- and Solicitor-General to Earl Granville.—(Received January* 16.)

*Temple, January* 12, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd instant, stating that, with reference to our Report of the 26th ultimo, he was directed by your Lordship to inclose, for our information, the draft of a despatch which your Lordship had addressed to Mr. Wade, instructing him to withdraw the Regulations which had been issued for the management of the prison at Shanghae.

That Lord Tenterden was to request that we would report to your Lordship our opinion whether Her Majesty should be advised to give her assent to those Regulations, and, if so, that we would prepare a clause making express provision for the enforcement of Rules 40, 41, and 42, for insertion in the revised Order in Council.

That the former papers were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That we have prepared amendments in the draft Order in Council making express provision for the enforcement of Rules 39, 40, 41, and 42 for the Shanghae prison.

The clause annexed to Mr. Medhurst's letter of the 12th August, 1873, providing for the appointment of visiting Justices, should be inserted in the Prison Rules, after Rule 74, and the consequential alterations noted in the last page annexed to the draft Rules should be inserted in the text of the different Rules to which they refer.

Having regard to the observation made by Mr. Wade in his letter of the 3rd September to Mr. Medhurst, we think that in Rule 59 the words "to the Coroner of the district to which the prisoner belongs, and" should be omitted.

Before, however, finally approving this draft, we should like to be further informed as to the authority upon which the powers of deportation contained in cap. 14 are considered to be founded, and whether there is any other authority than that conferred by the Foreign Jurisdiction Act 6 and 7 Vict., cap. 94, and the Chinese Act 6 and 7 Vict., cap. 80. As we consider it very doubtful whether these Acts would justify the detention on board an English ship of any person on the high seas, we should be glad to be furnished with any opinions of the Law Officers which have previously been given on this point, particularly as we observe that similar Regulations are contained in Order in Council of 1864, applicable to the Ottoman Empire.

We inclose the amendments on a separate paper.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.

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### Annex.

*Suggested Amendments in Draft Order in Council.*

Section 85 (p. 80), after "friendly relations between British subjects and Chinese subjects and authorities," insert—

"And for the governance, visitation, care, and superintendence of prisons in any Consular district in China, and for the infliction of corporal or other punishment upon prisoners guilty of offences against the rules or discipline of any such prison."

Same section, at the end, add as a new paragraph—

So much of this section as defines the penalties for offences, and the provisions of the two following sections relating to the printing, publication, and sale of regulations, shall not apply to regulations to be made respecting prisons and offences by prisoners.

H. J.
W. V. H.

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## No. 31.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 30.)

My Lord, *Lincoln's Inn, June* 30, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th instant, stating that he was directed by your Lordship to transmit to us a draft Order in Council constituting Shanghae as a port of registry for British shipping under the Merchant Shipping Act, 1873, which had been prepared by the Board of Trade in communication with the Officers of Customs and the Registrar of Seamen; and to request us to take the draft into our consideration, and to report to your Lordship our opinion whether the Order in Council may properly be issued.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the Order in Council may properly be issued.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 32.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 24.)

My Lord, *Lincoln's Inn, July* 23, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd June ultimo, stating that he was directed by your Lordship to transmit to us an extract from a Report by the late Law Officers of the Crown, suggesting doubts as to the legality of the detention on board a British ship on the high seas of any person who might be deported from China or Japan under the provisions of a revised Order in Council which was submitted to them for their approval.

That the provisions in question, which we should find in chapter 14 of the draft Order in Council transmitted therewith, were similar to those contained in the Order in Council for China and Japan of 1865, which is now in force, and in the following Orders in Council:—

Africa, 27th February, 1872; Madagascar, 4th February, 1869; Morocco, August 27th, 1857; Muscat, 4th November, 1867; Siam, 28th July, 1856, and 12th September, 1863; Zanzibar, 9th August, 1866.

That a Report on the subject had, at the request of your Lordship, been drawn up by Mr. F. S. Reilly, who had been employed on several occasions in the preparation of various Orders in Council, and that he, Lord Tenterden, was to transmit to us his Report, and to request that we would take the matter into our consideration, and report to your Lordship whether we agreed with the late Law Officers and Mr. Reilly as to the illegality of the system of deportation, and, if so, what steps we would advise should be taken for placing it upon a legal footing.

That copies of the Orders in Council referred to above were inclosed for our information.

In obedience to your Lordship's commands we have the honour to report—

That we agree with the late Law Officers and Mr. Reilly as to the illegality of the system of deportation and the detention on board a British ship on the high seas of any person who may have been put on board such ship, under the Orders in Council referred to in Lord Tenterden's letter, for the purpose of being deported.

We think that the best means of supplying the defect which there now is in the powers of the Crown, and for placing the system of deportation upon a sound and legal footing, will be to adopt, as regards the past, the course indicated by Mr. Reilly in paragraph 13 of his memorandum, and, as regards the future, the first of the four forms of legislation suggested by him in paragraph 16 of his memorandum.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 33.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 22.)

My Lord, *Lincoln's Inn, August* 21, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 27th July ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relative to the municipal rates levied under the Land Regulations and Bye-laws of the foreign settlement at Shanghae upon the Supreme Court and British Consular offices at that port;* and Lord Tenterden was to request us to take the papers into our consideration, and report to your Lordship our opinion whether the buildings in question, not being residences nor places of trade, are liable to assessment by the Municipal Council under the 9th section of the Land Regulations, of which a copy is inclosed in Mr. Medhurst's despatch No. 4 of the 11th March. We would find in the 8th inclosure in the same despatch the observations of Her Majesty's Minister at Peking on the subject, and in the 1st and 2nd inclosures in Mr. Medhurst's No. 6, the view taken of the question by Mr. Boyce, who is employed by the Office of Works to superintend the Consular buildings in China, and by Her Majesty's Consul at Shanghae.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, the buildings of the Supreme Court and British Consular offices at Shanghae are liable to the payment of municipal rates.

We have not been able to find anything in section 9 of the Land Regulations and Bye-laws which would guide our opinion upon this subject; but whilst we find no express exemptions of public buildings from the payment of municipal rates, we think that section 1 of the Land Regulations must be taken to show that such buildings as those of the Supreme Court and Consular offices shall be subject to their share of the public burden and municipal taxes.

We agree also with that part of the correspondence which suggests the expediency of not claiming the exemption.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 34.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 16.)

My Lord, *Lincoln's Inn, October* 16, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, forwarding a despatch from the Governor of Hong Kong relative to a communication made to him by Her Majesty's Consul at Canton, at the request of the Chinese Viceroy, as to the passage through the waters of the Colony of Chinese troops enlisted for service in Formosa; and that Mr. Lister was to request us to take that despatch into our consideration, and report to your Lordship our opinion as to the course which the Governor should be instructed to follow in regard to the passage of such troops, in the event of war breaking out between China and Japan.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Governor of Hong Kong should be instructed that the passage of Chinese troops through the waters of that Colony cannot be allowed in the event of war breaking out between China and Japan.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Wade, No. 31, Consular; ditto, No. 47, Consular; Mr. Medhurst, No. 4; ditto, No. 6.

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## No. 35.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 3.)

*Lincoln's Inn, November* 2, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 10th ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, requesting that certain points which had been raised by the Attorney-General of Hong Kong in regard to the execution at Shanghae, under the Order in Council for China and Japan, of a warrant issued at Hong Kong for the arrest of a sailor named Walter Jackson, might be referred to us.

That Mr. Lister was accordingly to request that we would take that letter, with the accompanying Report from the Attorney-General of Hong Kong, into our consideration, and report to your Lordship our opinion on the questions raised therein.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, a telegram from the Hong Kong police to the Shanghae police, directing the latter to apprehend a felon or misdemeanant, is not "a warrant or order of arrest issued by a competent authority in Her Majesty's dominions," within the meaning of the 66th section of the Order in Council of the 9th March, 1865.

We are further of opinion that a telegram, conveying information that a felony has been committed and that a person indicated is suspected, would be in law sufficient to justify a British constable, or other officer of a British Court of Justice having the powers of a constable, in apprehending the alleged offender, and detaining him until the arrival of a proper warrant.

We agree with the Attorney-General of Hong Kong in thinking that, in the case of a foreign national, who arrives at a Treaty port, and is there charged with an offence committed on board a British ship, the British Consul can deal with it, under the 268th section of the Merchant Shipping Act, 1854, provided such procedure shall be with the express or implied sanction of the Government to which such foreign national shall belong.

We further agree with him in the opinion that a citizen of the United States could not be surrendered to the Hong Kong authorities by an American Consul at a Treaty port under the Extradition Treaty of 1842; and we think that his view of the application of this principle to the case of Walter Jackson is correct. It does not appear to us that the particular case is affected by the distinction between "piracy *jure gentium*" and piracy by the law of any particular State.

We agree with the views expressed by the Attorney-General of Hong Kong in his Supplemental Report on the case of Walter Jackson, but with this limitation, that the crime with the commission of which the fugitive is charged shall have been committed within the jurisdiction of the United States.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 36.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 26.)

*Lincoln's Inn, November* 25, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 11th instant, stating that, with reference to our Report of the 16th ultimo, he was directed by your Lordship to transmit to us the accompanying further letter from the Colonial Office,* together with its inclosures, respecting the passage of Chinese troops through Hong Kong waters in the event of war breaking out between China and Japan; and that he (Lord Tenterden) was to request that we would take that paper into our consideration, and favour your Lordship with our opinion thereupon.

That he (Lord Tenterden) was likewise to transmit to us, for convenience of reference, with the previous papers in the case, a map showing the localities mentioned.

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* Colonial Office, November 6, 1874.

In obedience to your Lordship's commands we have the honour to report—

That we agree throughout with the Report of our predecessors, and we are of opinion that the whole of the water between the shores of that part of Kowloon which was ceded to Her Majesty and Hong Kong is exclusively under British jurisdiction, and a part of the territorial waters through which belligerent troops or ships should not be allowed to pass.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 37.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 30.)

*Lincoln's Inn, December* 29, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relating to an attack made by Chinese pirates on the British steamer "Spark,"* and to request us to take the papers into our consideration, and to report to your Lordship our opinion on the case, with reference to the claim for compensation which Mr. Mundy requests your Lordship to prefer on his behalf against the Chinese Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship cannot properly bring Mr. Mundy's claim for compensation to the notice of the Chinese Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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# Egypt.

## No. 38.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 13.)

*Temple, February* 12, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit to us the papers, as marked in the margin, relative to the proposals of the St. Mark's Building Association at Alexandria towards obtaining an extension of the lease under which they held a portion of land the property of the Church Establishment.

That the last paper gave the history of the tenure of the land in question, and that to avoid future complications when the time arose for severing the connection of Her Majesty's Government with British Church Establishments abroad, Mr. Lister was to request that we would favour your Lordship with our opinion whether, in view of the manner in which the land was conveyed to trustees for the benefit of the British community, trustees other than British Representatives could properly hold the land.

In obedience to your Lordship's commands we have the honour to report—

That the subject matter being land in Egypt, the question may involve Turkish as well as English law. But from the fact that the site of the Scotch Chapel is stated to be held in trust for the Scotch congregation by the Moderator and the Chief

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* Colonial Office, November 3, 12, and 13; Mr. Mundy, November 27; to Mr. Mundy, December 2; Mr. Mundy, December 9, 1874.

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Clerk of the Assembly for the time being, we presume that a similar arrangement would be legal in the case of the English community.

As a question of policy, we think that there are serious objections to any plan of permanently vesting the land in question in the British Representatives as trustees for any religious denomination.

A so-called Church of England congregation in Alexandria would not be bound by any ecclesiastical laws or customs in force in this country, or by the decisions of any Tribunal of ecclesiastical jurisdiction, and in our opinion it is undesirable that the British Representatives should permanently accept a trust which may involve the determination by them, or by the Consular Court, or possibly even by an Ottoman Tribunal, of the question which of two contending theological parties is entitled to be considered as representing in Egypt the Church of England, and we therefore think that the necessary steps should be taken for vesting the land in question in private trustees.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 39.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 12.)

My Lord, *Temple, May* 11, 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 25th ultimo, stating that he was directed by your Lordship to transmit to us a letter from Mr. Reilly, inclosing a draft of an Order in Council to enable the Judge of the British Consular Court of Alexandria to hold the rank of Consul, which he was precluded from doing by the terms of the Levant Order in Council of the 12th December last, a copy of which was also inclosed.

That Mr. Bourke was also to request that we would take the matter into our consideration, and favour your Lordship with our opinion as to whether the draft Order is right and proper.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft Order in Council is right and proper.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 40.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 26.)

My Lord, *Lincoln's Inn, June* 26, 1874.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch, and its inclosures, from Her Majesty's Consul-General at Alexandria, together with previous papers, as marked in the margin,* relative to a question which had arisen in regard to the authority of Mr. Borg, Acting British Consul at Cairo, to solemnize marriages at that place; and that he (Lord Tenterden) was to request that we would favour your Lordship, at our early convenience, with our opinion as to what answer should be returned to Colonel Stanton upon the subject.

In obedience to your Lordship's commands we have the honour to report—

That, assuming Mr. Rogers was authorized to solemnize marriages under the 12 and 13 Vict., cap. 68, we are of opinion that Mr. Borg, who is acting and who is legally authorized to act (see draft of the 15th May, 1874) as Her Majesty's Consul, may, under 31 and 32 Vict., cap. 61, sec. 3, legally solemnize marriages at Cairo, and that General Stanton may be informed to that effect.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Colonel Stanton, No. 29, June 8; Acting Consul Borg, April 29; to Acting Consul Borg, No. 1, Consular, May 15, 1874.

## No. 40*.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 25.)

My Lord, *Lincoln's Inn, August* 25, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us the papers noted in the margin* relative to the circumstances under which payment of duty of 8 per cent. has been recently enforced by the Egyptian authorities in the case of coal imported to Port Saïd for the purpose of supplying steamers passing through the Suez Canal; and Lord Tenterden was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the course which should be adopted by Her Majesty's Government with regard to this matter.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That, in our opinion, the Egyptian authorities are justified in exacting the duty on coal imported to Port Saïd for the purpose of supplying steamers passing through the Suez Canal, and that Her Majesty's Government cannot properly object to the imposition of such duty, provided it is equally imposed on coals imported for similar purposes by the subjects of other States.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 41.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 7.)

My Lord, *Lincoln's Inn, September* 4, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 15th August ultimo, stating that he was directed by your Lordship to forward to us the inclosed letter from Mr. Tinney respecting the claim of the Alexandria and Ramlé Railway Company upon the Egyptian Government. That the claim appeared to be one to recover the right over certain lands ceded to the Company by Mustapha Pasha for the purpose of rectifying an obnoxious curve in the line of railroad, the right over which land had been denied by the present Khedive.

That this case, although pending since 1860, only came to the notice of Her Majesty's Government in 1873, and was then laid before the Law Officers of the late Government, whose Report we would find in p. 4 of the inclosed print. That in that Report we would perceive that the Law Officers decided that Her Majesty's Consular Court had no jurisdiction in the matter, and that General Stanton could not officially deal with the case.

Lord Tenterden was pleased further to say that he was now to request that we would take Mr. Tinney's further statement into our consideration, and report whether we see reason to differ from the opinion previously pronounced on the case, and that the previous papers were annexed for reference if required.

In obedience to your Lordship's commands we have the honour to report—

That we have taken into our consideration Mr. Tinney's letter of the 4th ultimo, as also the previous papers, and see no reason to differ from the opinions given in this case by our predecessors, under date the 5th June, 1873, and the 4th November, 1873. And we think that your Lordship may properly decline to give Mr. Tinney the assistance which he asks for.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Colonel Stanton, No. 26, Commercial; Law Officers, June 7; to Colonel Stanton, No. 9, 1872; Messrs. Cory, July 27; Messrs. Burness, July 28; to Colonel Stanton, July 29; Colonel Stanton, July 30; Messrs. Cory and Burgis, August 5, 1874.

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## France.

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### No. 42.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 15.)

*Temple, January* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Consul at Nantes, relative to certain judicial proceedings which have been undertaken in France with regard to a Mr. Wilson, in connection with a claim on the part of that gentleman to share in a contract entered into with the French Government during the late war by a French subject named Ferrand; and he (Mr. Lister) was pleased to request that we would take these papers into our consideration, and favour your Lordship, at our early convenience, with our opinion as to whether this case is one respecting which a representation should be addressed to the French Government.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That, in our opinion, so long as Mr. Wilson fails to submit himself to the French Tribunals on the mere apprehension of harsh treatment, no representations can properly be made on his behalf.

We think that he should be informed that Her Majesty's Representative at Paris will, upon his surrendering himself in due course, take such measures as may appear to be proper for his protection.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 43.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 15.)

*Temple, January* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us the despatches, noted in the margin,* from Her Majesty's Ambassador at Paris, together with their inclosures, relative to a law which had been passed by the French Assembly, providing for the increase of certain indirect taxes; and that he was to request that we would take the same into our consideration, together with the inclosed further despatch from Lord Lyons, and letter from the agent of Young's Paraffin Oil Company and the Coatbridge Oil Company, with especial reference to that part of the law which affects mineral oils; and that we would favour your Lordship with our opinion as to whether there was anything in the law in question which was in contravention of the Treaty of the 23rd July, 1873, of which a copy was also inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

1. That, in our opinion, the Bill of the 29th December, 1873, if not necessarily inconsistent with the IVth Article of the Treaty, is at any rate capable of being applied so as to defeat the purpose of the Treaty, and that explanations should be sought on this question, especially with reference to the 3rd Article of the Bill.

The contention of the Messrs. Young appears to us to be substantially correct. At the time when the Treaty was framed, it must be assumed to have been known that the mineral oils imported into France from England are imported not as crude but as refined oil. In this state they will necessarily be subject to the higher rate of excise. The privilege, therefore, which is given to the French manufacturers to pay the excise on the French oil whilst it is in the crude state, and so subject to the proposed lower duty, will almost necessarily operate as a penalty on the importation of refined oil.

2. With respect to the Bill of the 30th December, 1873, we are unable, upon the information before us, to determine whether the customs duties as fixed by Article IV, would or would not exceed the limit of 5 per cent. *ad valorem* which is prescribed by the Treaty.

3. With respect to the Decree of the 30th December, 1873, limiting the ports for the importation of mineral oils, we cannot say whether the Decree affords any ground for remonstrance. It appears to us to be a question of fact whether the limitation to particular ports will materially check the importation of mineral oils without any substantial justification on the ground of fiscal convenience.

We have answered the questions asked of us to the best of our ability, but the matters inclosed are not questions of law. They are such as, we venture to submit, would be far more satisfactorily dealt with by the Board of Trade, who are really conversant with the subject, on which the Law Officers have no means of information.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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* Lord Lyons, Nos. 480 and 482 of 1873, and 1 and 2 of 1874.

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### No. 44.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 16.)

*Temple, January* 14, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us a letter from Her Majesty's Secretary of State for India, inclosing a letter from the Colonial Office regarding a recent Decree of the "Cour de Cassation" in Paris, reversing decisions of the Courts of Réunion, which gave the wages of Indian labourers a preference over other claims on estates, and that your Lordship would be glad to be favoured with our opinion whether Her Majesty's Government would be borne out in making that matter the subject of a representation to the French Government.

That the copy of the Convention of 1861, relative to the emigration of Indian coolies to French Colonies, was inclosed for reference if required.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government would not be borne out in making this matter the subject of a representation to the French Government upon the materials furnished by the Secretary of State for India.

Assuming that Mr. Gorrie correctly describes what has taken place, it appears that the first ground of the judgment of the "Cour de Cassation" was that the Court at Réunion had not ascertained the facts to which the law was to be applied. The French Government might therefore properly answer that it cannot consider the necessity for altering the law until the effect of the law has been determined.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 45.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 19.)

*Temple, January* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 10th instant, stating that, with reference to previous correspondence on the subject of the claims preferred by Mineral Oils Companies before the Mixed Commission at Paris, he was directed by your Lordship to transmit to us two letters from the

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Coatbridge Oil Company announcing their intention to hold Her Majesty's Government responsible for the satisfaction of such claims as might remain unsatisfied or might be rejected by the Commission; and alleging that certain claims might be so rejected, not on account of insufficient proof of the existence of the contracts, but because proceedings had not been initiated against the Company.

That as regarding the question of the responsibility of Her Majesty's Government in regard to those claims, Mr. Lister was also to call our attention to the concluding paragraph of the letter from Young's Paraffin Oil Company (therewith inclosed) to which reference was made in our Report of the 12th ultimo.

That Mr. Lister inclosed at the same time despatches, as noted in the margin, from Mr. Kennedy, reporting the proceedings of the Commission in regard to those claims, together with a copy of the Treaty of the 23rd July, 1873; and that he was to request that we would take the same into our consideration, and favour your Lordship, at our earliest convenience, with our opinion as to the answer which should be returned to the above-mentioned Companies, or to other parties who might be desirous of fixing responsibility upon Her Majesty's Government for the non-satisfaction of claims in respect of mineral oil contracts.

That Mr. Lister was moreover to request that we would take into our consideration the statement contained in the Coatbridge Oil Company's letter of the 31st ultimo, as to the reason for which certain claims might be rejected by the Commission; and having regard to the Report contained in Mr. Kennedy's despatch No. 149 of the 26th ultimo, of the proceedings of the Commission with respect to claims which had not yet formed the subject of legal proceedings, that we would report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the letters from the Coatbridge Oil Company and Young's Paraffin Oil Company may properly be answered by a mere acknowledgment of their receipt. And it would not be expedient on the part of Her Majesty's Government to enter now into any explanation or defence of the line of conduct in respect to any claims of those Companies taken by the Commission.

In reference to the despatch No. 149 from Mr. Kennedy of the proceedings of the Commission with respect to claims which have not yet formed the subject of legal proceedings, we are of opinion that the basis of awards of "dommages-intérêts" given by the French Tribunal, before which Tribunals the proceedings would probably if not necessarily be brought, was the proper rule to adopt.

Further, the decision of the Commission in respect to evidence, under the operation of which rule one claim of Young's Company and eight claims of the Coatbridge Company were disallowed, seems to us the right decision, for the notice of the 7th November, 1873, invited further representations, and those persons who did not, for the reasons stated by the agent of the Coatbridge Company or for any other reason, avail themselves of the opportunity put before them, must take the consequence of being without proper evidence in support of their claims.

Again, as in seven out of the eight instances brought forward by the Coatbridge Company, mere statements were made in the certificates, and no claim made nor interest alleged to exist on the part of the French purchaser, the decision under that head appears to us right.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 46.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 19.)

My Lord, *Temple, January* 17, 1874.

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Paris,* relating to an application which had been addressed to his Excellency by M. Alexandre Dumas respecting an alleged attempt to pirate in this country a drama of which he was the author, and he (Lord Enfield) was pleased to request that we would take the same into our consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Lord Lyons in regard to this matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Lord Lyons may properly be instructed to inform M. A. Dumas that Her Majesty's Government cannot take any step to prevent the attempt to pirate his drama, and that M. A. Dumas must apply to the proper Court for protection.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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* Lord Lyons, No. 13, Commercial.

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## No. 47.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 5.)

My Lord, *Temple, February* 3, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 22nd January ultimo, stating that, with reference to our Report of the 18th of that month, he was directed by your Lordship to transmit to us a further despatch, with its inclosures, from Her Majesty's Ambassador at Paris, relative to the bearing of the new French law imposing excise duties on French mineral oils upon the provisions of the Treaty of the 23rd July, 1873.

Mr. Lister also stated that the former papers on the subject were likewise inclosed, and that he was to request that we would take the same into consideration, and favour your Lordship with such further observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the new French law does not in terms appear to us contrary to or inconsistent with Article IV of the Treaty.

If, however, as Mr. Kennedy suggests in his letters of the 6th and 17th instant, the practical result of the working of this law will be to impose upon the British importer a differential duty, this result will, in our opinion, be so contrary to the true spirit and intent of Article IV that your Lordship may, in our opinion, properly call the attention of the French Government to the injurious effect of the new law as pointed out by Mr. Kennedy, and request from that Government either an explanation of the working of the new law if Mr. Kennedy is wrong, or a modification of the law if Mr. Kennedy is right, so that the Treaty may have a true application.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 48.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 5.)

My Lord, *Temple, February* 4, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 29th January, stating that, on the 15th July last, we favoured your Lordship with our Report on certain matters connected with M. de Rotour's Bill on military service in France, as affecting the liability of sons born in France of foreign parents to such service, and an instruction in conformity with our opinion on this subject was addressed to Her Majesty's Ambassador at Paris, having reference to the question of the privileges to be accorded to British subjects born in France to divest themselves of their French nationality.

Lord Tenterden also stated that he was now to transmit to us a further despatch from Lord Lyons, inclosing a copy of the Report of the Committee on M. de Rotour's Bill, from which we would see that the Committee suggest as a modification of the original scheme of the Bill that the presumption that the sons born in France of foreign parents are Frenchmen shall be limited, as it is at present, to the second generation, that is to say, to the sons born in France of fathers also born in France,

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and they set aside altogether the proposal to require proof that the obligations of foreign recruiting laws have been fulfilled.

Lord Tenterden further stated that it appears to your Lordship that, in view of the modifications which the Committee propose to introduce into the new law, the same grounds for remonstrance do not now exist as were suggested by the law in its original form, as the present measure is only an amendment of the Law of 1851 requiring proof of the nationality of origin with the power to select French nationality during minority.

Lord Tenterden also stated that it would be observed, however, that the new law only gives a power of choosing the nationality of origin "devant l'autorité municipale du lieu de sa résidence," whereas the law of this country confers a power of declaring alienage both at home and abroad. In the case of a young man having a double nationality contemplated by the French law, he could apparently only make his declaration of alienage in France, and supposing, therefore, that he were in any distant country at the time of attaining his majority, there would be no means of his getting rid of his French nationality, and in the event of his coming to France again he might be claimed as a Frenchman, and might even be held to be a Frenchman in other countries.

Lord Tenterden also stated that this objection, it appears to your Lordship, might be remedied at once by authorizing the declaration to be made also at the various French Consulates abroad.

Lord Tenterden further stated that he was now to request that we would take Lord Lyons' despatch, together with the previous papers which are annexed, into our consideration, and that we would inform your Lordship whether we are of opinion that in the altered circumstances of the case it is still desirable that Lord Lyons should make the representation suggested in your Report of the 15th July last, and which has for the time been suspended; and, secondly, whether we consider that it would be useful or desirable that his Excellency should point out to the French Government the difficulty above referred to in the matter of declaration of alienage.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship may properly instruct Lord Lyons to represent to the French Government, but unofficially, the great inconvenience which may result if the declaration claiming foreign or rather British nationality should in future be required to be made before the French municipal authorities exclusively, and that out of France power should be given to make such declaration before the French Diplomatic or Consular Agents.

In other respects we are of opinion that no representations should be made to the French Government on any of the alterations now contemplated.

We have, &c.  
(Signed) HENRY JAMES.  
W. V. HARCOURT.  
J. PARKER DEANE.

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## No. 49.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 7.)*

My Lord,

*Temple, February* 6, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 22nd ultimo, stating that, with reference to our Report of the 31st ultimo, he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Ambassador at Paris,* relative to the interpretation placed by the French Government on the meaning of the word "value" in the IVth Article of the Treaty of the 23rd January.

Mr. Lister further stated that a copy of the Treaty in question was likewise inclosed, together with the previous papers on this subject, and he was to request that we would take the same into our consideration, and favour your Lordship, at our early convenience, with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we adhere to the opinion expressed in our former Report that the value intended by Article IV of the Treaty is the English value at the time when the goods are supplied in England by the manufacturer, and not the English value at the time of importation into France. We agree with M. Ozenne that Article IV of the Supplementary Convention is not conclusive on this point, but we think that it confirms what appears to us to be the natural interpretation of the Treaty itself, for the manufacturer's invoice price is relevant to an inquiry to the value of the goods when supplied by the manufacturer, though it would but slightly affect an inquiry as to their value at some subsequent and uncertain time when they are imported.

If M. Ozenne's contention were correct, it would have been more natural to have required the manufacturer's price current at the time of importation than his invoice price.

Upon the second part submitted to us, it seems that the difficulty arises from the use of the words "admission effective" in Article V of the Convention of the 12th October, 1860, translated by the words "actual entry;" and inconvenient as it may be to have one test of value on goods not warehoused, and another test of value on goods warehoused, we are of opinion that there is no escape from that inconvenience, which is the clear result of the wording of Article V, that Article appearing to have been framed for the very purpose of making the distinction. We are unable, therefore, to advise your Lordship that the construction of the French Government is wrong; on the contrary, we think it right.

We have, &c.  
(Signed) HENRY JAMES.  
W. V. HARCOURT.  
J. PARKER DEANE.

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* Lord Lyons, No. 29, Commercial, January 17.

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## No. 50.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 12.)*

My Lord,

*Temple, February* 11, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Ambassador at Paris, containing an opinion by the legal adviser of the British Embassy with reference to the case of Mr. James Wilson, which formed the subject of our Report of the 13th ultimo.

He also inclosed the draft of a despatch which, upon the receipt of our Report, your Lordship caused to be addressed on the subject to Her Majesty's Consul at Nantes; and he (Mr. Lister) was to request that we would take the same into our consideration, together with Mr. Consul Clipperton's despatch, and favour your Lordship, at our earliest convenience, with such further observations as we may have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, it may properly be further intimated to Consul Clipperton, with a view of preventing misapprehension, that it will not be in the power of Her Majesty's Government to protect Mr. Wilson from any of the proceedings or inconveniences to which he might be subjected in France, according to the regular course of criminal procedure in that country.

We have, &c.  
(Signed) HENRY JAMES.  
W. V. HARCOURT.  
J. PARKER DEANE.

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## No. 51.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 12.)*

My Lord,

*Temple, February* 11, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Paris, relative to an inquiry on the part of the French Government as to whether there would be anything incompatible with the Treaty engagements between France and foreign Powers with regard to the

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"surtaxe de pavillon" in a law granting to French shipbuilders a premium of so much per ton for each ship built.

That Mr. Lister also transmitted to us a letter from the Board of Trade on that subject, together with a copy of the Anglo-French Treaty of July 1873; and that he was to request that we would take the same into our consideration, and favour your Lordship, at our early convenience, with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the payment of bounties by the French Government to French shipbuilders would not be inconsistent with the provisions of the Treaties of 1860 and 1873, provided the payment is made from national sources, and is not either directly or indirectly a mere return of sums levied on the French shipbuilders with the intention or understanding that they should be returned.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 52.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 18.)

*Temple, February* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us papers relative to the claim of the owners of the steamer "Lochinvar" against the French Government, on account of the collision of that vessel with the French war-steamer "Loiret"; and that he was to request that we would take the same into our consideration, and favour your Lordship with our opinion as to the further instructions which should be addressed to Lord Lyons in that matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Lord Lyons should be instructed to press for a favourable and immediate answer to the request for copies of the documents in question, or, in the alternative, for permission for a duly authorized person not only to inspect them but to take copies of them and obtain an official authentication of the copies.

It may be represented to the French Government that the inquiry in France was so conducted as to allow the English owners no opportunity of contradicting or even cross-examining upon the evidence adduced by the French officers, and replying to the arguments on which the decision of the French Admiralty was founded.

That the judgment of the Court of Inquiry admits that there is a conflict of evidence on the most material points; and that under these circumstances a continued refusal or delay on the part of the French Government to give proper facilities for consideration by the claimants of all the evidence on which the opinien of the Court of Inquiry was founded would amount to a denial of justice.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 53.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 7.)

*Temple, March* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 27th ultimo, stating that he was directed by your Lordship to transmit to us a telegram from Mr. Elmore, late Her Majesty's Consul at Nice, but gazetted to a new post on the 16th ultimo, inquiring whether he could still celebrate marriages under the provisions of the Consular Marriage Act, a copy of which was also inclosed, together with a form of warrant given to Consuls under it.

That Mr. Lister was to request that we would take that matter into our early consideration, and favour your Lordship with our opinion as soon as practicable.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that Mr. Elmore cannot, at his new post, celebrate marriages without a fresh warrant.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 54.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 8.)

*Temple, March* 7, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 3rd March instant, stating that he was directed by your Lordship to transmit to us papers, as marked in the margin,* relative to the question whether a person acting for a British Vice-Consul furnished with a marriage warrant can legally celebrate marriages under the provisions of the Act of Parliament 12 and 13 Vict., cap. 68, and to request that we would take the subject into our consideration, and favour your Lordship with our opinion on the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, a person acting for a British Vice-Consul furnished with a marriage warrant, but such person himself not being furnished with a marriage warrant, cannot legally celebrate marriages under the provisions of the Consular Marriage Act, 12 and 13 Vict., cap. 68.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 55.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 11.)

*Temple, March* 11, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 9th instant, stating that, with reference to our letter of the 4th instant, he was directed by your Lordship to explain that the question upon which your Lordship asked to be favoured with our opinion was whether Mr. Elmore, who held the appointment of Her Majesty's Consul at Nice, and who has been gazetted to a new post, but who has not yet left Nice, can celebrate a marriage there under the warrant he held as Her Majesty's Consul at Nice, notwithstanding his having been gazetted to another post.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That although it is not, perhaps, quite clear that Mr. Elmore has under the circumstances legally ceased to be Consul at Nice (the new Commission signed by Her Majesty not having, as we understand, been *formally* notified to him in accordance with the usual course and practice of the Foreign Office, and not having been delivered to him), still there is quite sufficient doubt upon the subject to render it inexpedient that he should any longer celebrate a marriage at Nice.

We regret that we misunderstood the question put to us in Mr. Lister's letter of the 27th ultimo.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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* Consul Bernal, No. 4, September 2; Law Officers, September 13; to Law Officers, November 17; Law Officers, November 25, 1873; Consular Marriage Act.

## No. 56.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 11.)

*Temple, April* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd April instant, stating that he was directed by you to transmit to us the accompanying letter from the Colonial Office, inclosing a copy of Reuter's telegram announcing the escape from New Caledonia and arrival at Sydney of Rochefort and other late Communist prisoners, who, it is reported, intend to proceed immediately to Europe; and

That the Secretary of State for the Colonies, as we would perceive, was desirous that Her Majesty's Government should at once consider what course they ought to pursue in the event of the French Government making a demand for the surrender of those persons on the ground of their having been guilty of other than political offences, or of the Colonial Government taking steps with a view to their removal from the Colony.

Lord Tenterden also stated that he was to request that we would take the matter into our consideration, and that we would favour your Lordship with our opinion upon the subject.

In obedience to your Lordship's commands we have taken the papers in our consideration, and have the honour to report—

That in the event of the French Government making a demand for the surrender of these persons, it will be necessary that evidence should be furnished to Her Majesty's Government that a specific crime has been committed within the Extradition Treaty (and not being a political offence) for which extradition is demanded (33 and 34 Vict., cap. 52, sec. 3, sub-sec. 1); and by sub-section 2, the fugitive criminal is not to be surrendered to a foreign State unless provision is made by the law of that State, or by arrangement, that the fugitive criminal shall not, until he is restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in the foreign State for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded. (See also secs. 9 and 19 of same Act.)

Should the persons in question, therefore, come to this country, and be demanded by the French Government, it will of course be the duty of Her Majesty's Government to see clearly that the demand is one made in accordance with the provisions of the Treaty and Act, and in the event of arrest the accused will have the opportunity of proving to the magistrate, or to the Court on *Habeas Corpus*, that the demand has been made with a view to punishment for an offence of a political character.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## No. 57.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 14.)

*Temple, April* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th March ultimo, stating that he was directed to transmit to us a correspondence, as marked in the margin.* respecting a case which has occurred at St. Pierre-les-Calais, and which involves the question of the exemption of certain youths of British parentage at that place from military service in France.

The facts of the case, as well as the results of Lord Lyons' representations to the French Government, are fully stated in these papers, but Lord Tenterden was pleased to request our attention especially to his Excellency's recent despatches Nos. 260 and 261 of the 10th ultimo and their inclosures.

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* Consul Hotham, No. 6, Commercial; Lord Lyons. No. 123, February 2; to Lord Lyons, No. 59, February 3; ditto, No. 60, February 3; Lord Lyons, No. 129, February 4; to Lord Lyons, No. 82, February 10; Lord Lyons, No. 196, February 20; Consul Hotham, No. 1, February 23; to Lord Lyons, No. 129, February 28; Lord Lyons, No. 236, March 2; Consul Hotham, No. 2, March 2; Lord Lyons, No. 260, March 10; ditto, No. 261, March 10, 1873; Consul Hotham, No. 3 of 1873; Lord Lyons, Nos. 264 and 266 of 1873; Lord Lyons, No. 1069 of 1872, and No. 15 of 1874; Law Officers, February 4, 1874.

It may be observed generally, with reference to the question of military service in France, that by the Code Napoléon of 1803 the child born in France of an alien is held to be an alien unless he elects French nationality within the year after he attains his majority.

By the Law of 1851 the child born in France of an alien born in France is held to be French, unless he shall elect to be an alien within the year after attaining majority.

By a Bill of M. de Rotour's, however, which is now before the French Assembly, it is proposed to abrogate the Article in the Code Napoléon altogether, and to make the Law of 1851 apply to the first, instead of, as it now does, only to the second generation, which would constitute the child born in France of an alien a Frenchman, unless he claims alien nationality within the year following his majority. A copy of this Bill we find inclosed in Lord Lyons' No. 1069 of the 24th November, 1872.

This Bill having been referred to a Committee of the Assembly, they have reported against the proposed alteration of the existing law, but the form in which the Bill may be ultimately adopted is not yet made known.

So far as concerns the individual cases referred to in this correspondence, your Lordship is of opinion that Lord Lyons has done all that he properly could to place the British youths in a proper position in regard to the question of conscription, but as we observe, from Inclosure No. 8 in Lord Lyons' No. 260, the question has been raised by the Counsel attached to the Embassy, whether it would be expedient that notice should be given to British subjects residing in France of the necessity of a strict compliance with the Law of 1851, if they and their children who may come within its provisions desire to retain their English nationality, against which course Lord Lyons states certain reasons (No. 261 of the 10th March), advising that, at any rate, it would be advisable to await the result of the Bill now before the Assembly before issuing any such notice.

Lord Tenterden was further pleased to request that we would take these papers into consideration, and favour your Lordship with our opinion whether we concur in the general principles laid down by Lord Lyons in his despatch No. 260 of the 10th ultimo; and, secondly, with our opinion on M. Treitt's suggestion above referred to, as to the publication of a notice respecting liability to military service; and in the event of our concurring in such a course, notwithstanding Lord Lyons' observations, your Lordship requested to be informed whether we consider that the notice should be issued at once, or delayed until the final adoption, or otherwise, of M. de Rotour's Bill, and if at once, in what terms we consider that it should be drawn up.

Lord Tenterden was pleased to observe, in conclusion, that the fact of these cases under the Law of 1851 occurring in various parts of France would in itself probably go far to call attention to the requirements of the law.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we have carefully considered the correspondence forwarded to us with Lord Tenterden's letter of the 17th instant.

In our opinion, no further action should be taken on the general question of the liability of British subjects in France to military service in that country.

And in any particular cases, such as those referred to in Mr. Consul Hotham's letter of the 29th January, 1874, on the cases at Nice and elsewhere, redress should be sought for by immediate application to the proper French authorities.

We entirely agree with Lord Lyons that great inconvenience might follow the publication of any notice on the matter of liability to military service being made to British subjects in France at the present time, and even if M. de Rotour's Bill be adopted, we think that it should not be publicly noticed as proposed, and we therefore advise your Lordship not to adopt the suggestion made by M. Treitt.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## No. 58.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 14.)

*Temple, April* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st March ultimo, stating that, with reference to his letter of the 17th March, he was directed by your Lordship to transmit to us a further despatch (No. 277) from Her Majesty's Ambassador at Paris on the subject of the question which had arisen at St. Pierre-les-Calais respecting military service in France, and to request that we would take the papers into our consideration, together with those then before us.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That there is no reason for altering the opinion last communicated to your Lordship on this question.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## No. 59.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 7.)

*Temple, May* 5, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 25th March last, stating that he was directed by your Lordship to transmit to us a despatch from Lord Lyons* reporting certain proposals which had been submitted to the French National Assembly for imposing taxes on gas, on threads of cotton, jute, wool, flax, hemp, or silk, and on coals and coke.

That Mr. Lister also inclosed a further despatch† containing additional particulars in regard to the above-mentioned proposals, and reporting that the law imposing duties on salted provisions imported into France, which formed the subject of his letter of the 21st instant, had been put into force.

That Mr. Lister was now to request that we would take those papers into our consideration, and favour your Lordship with our opinion whether the several proposals above referred to are within the stipulations of the Commercial Treaties of 1860, 1873, and 1874 between this country and France, of which copies were therewith inclosed.

That the Treaty of 1872, which was mentioned in those papers, was not ratified; the Tariff annexed to it, at the date of signature, was revised by the Mixed Commission appointed under that Treaty, and this revised Tariff was adopted by the two Governments in lieu of that which was first signed by their Plenipotentiaries.

In obedience to your Lordship's commands we have the honour to report—

That the Treaties leave to the Contracting Parties the right of imposing an inland duty or excise tax upon any article of home production or manufacture. No limit is placed on the amount of this tax or duty.

And whenever such tax or duty is imposed by one of the Contracting Parties on any article of home production or manufacture, an equivalent compensatory duty may be imposed on similar articles the production or manufacture of the other Contracting Party.

We state this principle in the Treaty, because it seems probable that the French Government will impose many new taxes on articles of French production and manufacture, and, in each instance, will have the right to exact on importation an equivalent compensatory duty from similar British articles.

In each case, the question will be, first, whether the article on which the duty on importation is proposed is similar to the French article on which the inland duty has been put; and, secondly, whether the compensatory duty is the true equivalent of the inland duty.

These questions will, as a rule, be either for persons acquainted with the particular produce or manufacture to answer them for us, who have no means of knowledge on on the subject.

In answer, however, to your Lordship's questions arising out of the despatch of Lord Lyons, we beg to state that, in our opinion, the French Assembly will not be necessarily acting in contravention of the Treaties of 1860, 1873, and 1874, should they impose excise and customs duties upon the several articles referred to in the despatch, though they will be acting in contravention of such Treaties should the customs duties which they impose upon any of such articles on their importation from foreign countries exceed the fair equivalent of the excise duties which they impose upon similar articles of home manufacture.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 60.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 7.)

*Lincoln's Inn, May* 6, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 21st March last, stating that he was directed by your Lordship to transmit to us a despatch from Lord Lyons* relative to a supplementary import duty which it appeared that the French Government were about to impose on salted meats imported from abroad; and

That the previous correspondence referred to by Lord Lyons, and copies of the Treaties of 1860, 1873, and 1874 between this country and France were therewith inclosed; and that he (Mr. Lister) was to request that we would take the matter into consideration, and favour your Lordship with our opinion whether the extra duty in question can, under the terms of the Treaties, be levied on British goods.

In obedience to your Lordship's commands we have taken the matter into consideration, and have the honour to report—

That, in our opinion, the French Government is entitled, under Article III of the Convention of the 16th November, 1860 (*which, notwithstanding the Act of Denunciation of the 15th March*, 1872, *is again put in force by the Treaty of the 23rd July*, 1873), and under Article I of the Convention of the 24th January, 1874, to impose a compensatory additional duty on salted provisions imported into France from other countries equivalent to any drawback granted to salted provisions of French manufacture or to any excise duty imposed, subsequently to the date of the Convention, on salted provisions manufactured in France, or on the salt used in the manufacture of salted provisions in France.

It would appear from the Reports in the copies of the "Journal Officiel" before us, that the French Chamber has resolved upon an additional customs duty upon salted provisions imported into France from other countries, but we are unable to gather from the Reports whether any additional drawbacks have been granted to exported salted provisions of French manufacture, or whether any additional excise tax has been imposed on salted provisions manufactured in France, or upon the salt employed in such manufacture, or whether, if any such drawback or excise duty has been granted, the amount thereof is equivalent to the additional duty imposed upon imported salted provisions.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* No. 143, of March 20

† No. 144, of March 22.

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* No. 140, Commercial, March 18.

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## No. 61.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May 25.)*

*Lincoln's Inn, May* 23, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 30th April ultimo, stating that he was directed by your Lordship to transmit to us the correspondence, as marked in the margin,* regarding claims advanced by the French Government on the property of the late Mr. Cleeve, formerly British Consular Chaplain at Ajaccio; and Mr. Bourke said that your Lordship would wish to be favoured with our opinion as to whether Her Majesty's Government should take any steps in the matter.

In obedience to your Lordships commands we have the honour to report—

That since the questions raised in the case are properly such as should be submitted for decision to the French or Corsican Tribunals, and not subjects for diplomatic interference, we are of opinion that Her Majesty's Government should not take any steps in the matter.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 62.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May 27.)*

*Lincoln's Inn, May* 26, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Lord Lyons† containing the further information on points connected with the question of the compensatory duty on salted meats imported into France asked for in our Report of the 6th instant.

Lord Lyons' previous despatches on the subject were also inclosed; and he (Mr. Lister) was to request that we would again take the matter into consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, an additional or compensatory duty can be levied only to meet an equivalent excise or inland duty imposed subsequent to the Treaties, and since no excise or inland duty has been imposed since 1848, that is, a time antecedent to 1860, the date of the original Commercial Treaty, we are of opinion that it is not competent to the French Government to impose the proposed duty on salted provisions imported into France from the British dominions.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 63.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May 26.)*

*Lincoln's Inn, May* 26, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 15th instant, stating that, with reference to his letter of the 10th ultimo, transmitting, by your Lordship's direction, for our opinion, certain papers relating to the duties newly imposed upon the importation of burning oils into France. Mr. Lister stated that he was directed by your Lordship to transmit to us therewith a further statement on the subject which has been received from the Scottish Mineral Oil Association, and to request that we would favour your Lordship, at our earliest convenience, with a reply to Mr. Lister's letter.

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* List.

† No. 193, Commercial, May 11.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That the question raised in the letter from the Scotch Mineral Oil Association, as to the relative amount of duties imposed upon French and British oils, is one upon which we think that some gentleman familiar with the manufacture of oils would form a sounder opinion than we can; but, so far as we are able to advise your Lordship upon the information now and previously afforded to us, we see no reason to dissent from or to modify the opinion expressed by us in reply to Lord Tenterden's letter of the 10th April last, to the effect that the French Government were under the Treaty justified in putting the duties upon British oils as we understand that Government to have done or proposed doing.

As regards that portion of the same letter which has reference to an award made by a Mixed French and British Commission, alleged to have been appointed to indemnify British mineral oil manufacturers for losses sustained by them by reason of the violation, in July 1871, of a then existing Treaty, we have no materials before us to enable us to advise your Lordship on the matter.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 64.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received June 4.)*

*Lincoln's Inn, June* 2, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 25th May ultimo, stating that he was directed by your Lordship to transmit to us a letter from Mr. Clements* respecting the detention of his daughter, by his wife, in France; and that he was to request that your Lordship might be favoured with our opinion as to whether any, and if so what, steps should be taken by Her Majesty's Government in the matter.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government cannot, in our opinion, interfere on behalf of Mr. Clements, and that gentlemen may be informed that he must enforce any rights which he may have by the proper legal means available for that purpose.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 65.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received June 9.)*

*Lincoln's Inn, June* , 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Bourke's letter of the 22nd May ultimo, stating that he was directed by your Lordship to transmit to us the correspondence, as marked in the margin,† relative to the trial at Rouen and conviction of eight British seamen for mutiny on board the French ship "Mongal," and that your Lordship would be glad to be favoured with our opinion as to any steps which it may be proper for Her Majesty's Government to take in the matter.

In obedience to your Lordship's commands we have the honour to report—

That when these British subjects entered into service under the French flag they

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* May 16.

† Consul Hunt, No. 44, November 14; ditto, No. 46, December 1; ditto, No. 47, December 20; to Consul Hunt, No. 11, November 28; ditto, No. 12, December 12, 1873; Consul Hunt, No. 2, January 5; Consul Bernal, No. 5, January 12; ditto, No. 8, January 21; ditto, No. 13, January 16; ditto, No. 21, May 15; to Consul Bernal, No. 1, January 9; ditto, No. 3, January 15; ditto, No. 8, March 23, 1874; Home Office, December 1; Board of Trade, December 31; Law Officers, December 31, 1873; Consul Bernal, No. 22, May 19, 1874.

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became, as part of their contract, amenable to French discipline, and liable, for any breach of that discipline or misconduct, to be tried and punished by French law.

The trial seems—but the information supplied to us on that point is very slight—to have been regularly conducted; the accused were, no doubt, ably defended by a competent advocate, and the jury deliberated for nearly two hours before they gave their verdict of guilty with extenuating circumstances.

One incident of the trial was that two of the accused gave false evidence.

In this state of things it is very difficult to say that Her Majesty's Government can properly take any steps in the matter.

The most which your Lordship could, in our opinion, do would be to desire Lord Lyons to take some opportunity of speaking privately to the French Foreign Minister, and asking him to use his good offices, so that the utmost effect be given to the extenuating circumstances found by the jury, and the men be released as soon, and treated as leniently, as may be compatible with French law.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 66.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 26.)

*Lincoln's Inn, June* 26, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 8th June instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. E. Blount,* calling attention to a law passed in France in August 1871, under which, when a person who has been domiciled in France dies, the personal property which he held at the time of his death, not only in France, but in any other country, is liable to succession duty; and to inclose a despatch† which your Lordship addressed to Her Majesty's Ambassador at Paris, calling for a Report on the subject, together with Lord Lyons' reply,‡ in which his Excellency incloses a Report by M. Treitt, the legal adviser of Her Majesty's Embassy.

Lord Tenterden was also pleased to say that he was further to inclose the correspondence which took place in 1872, relative to the case of Mr. John Bass, which is referred to in these despatches, and to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the reply which should be returned to Mr. Blount, and also as to the instructions, if any, which should be given to Lord Lyons in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the Law of 1871 adopts and follows out a principle which gives the rule of succession in all cases of personal property. That principle is, that personal property has no locality of its own, but follows the domicil of its possessor, and that rule is that the law of the domicil governs the succession, and all that is connected with and dependent upon the succession.

The law of England recognizes this principle, and acts upon this rule.

The question which arises in cases where this matter of law may be discussed is simply what was the domicil of the deceased.

It appears from the Report of M. Treitt (paragraph 8) that the French Legislature in passing the Law of 1871 accepted this construction, which, indeed, the terms of the law directly imply.

We are therefore of opinion that the French Law of August 1871 is not to be excepted to, and that Mr. Blount may properly be answered that your Lordship can make no representations to the French Government in order to obtain any modification of the law.

We are also of opinion that no general instructions should be given to Lord Lyons in respect to this matter, which is one fit for the decision of the French Tribunals, precisely as in the case of a Frenchman dying in England, and a question arising as to his domicil, and the duties consequently payable on his personal property wherever situate, the English Courts would decide the points.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* April 3.
† No. 243.
‡ No. 470.

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## No. 67.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 26.)

*Lincoln's Inn, June* 26, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 11th June instant, stating that, with reference to his letter of the 8th instant, he was directed by your Lordship to transmit to us, for our consideration, with the papers then before us respecting the question of succession duty upon property held out of France by foreigners domiciled in that country, which had been brought to your notice by Mr. Edward Blount, a despatch from Lord Lyons,* inclosing a copy of a Report by M. Treitt, the counsel to the British Embassy at Paris, referring to a Convention lately concluded between France and Russia for regulating the administration of the property of deceased persons.

That the previous despatch of Lord Lyons, No. 521 of the 30th ultimo, was also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That the Convention between France and Russia does not in any way affect the duties which may be imposed by the law of the country in which he is domiciled upon the succession to personal property, wherever situated, of a person deceased.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 68.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 26.)

*Lincoln's Inn, August* 25, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th August instant, stating that we had already had before us the correspondence which had passed between the Foreign Office and Her Majesty's Ambassador at Paris,† with other papers, respecting the question of the liability of foreigners to military service in France, the original proposals of the French Government respecting which have been more recently modified, whilst the requirement as to establishing a claim to foreign nationality, which, in its original form, appeared to Her Majesty's Government to be objectionable, have been also modified in compliance with a representation made by Lord Lyons under instructions from the Foreign Office.

That his Excellency inclosed a copy of the Supplementary Report of the Committee on M. de Rotour's Bill on this subject, and that we would perceive that, as it now stands, the proposed Bill appears to be divested of all that Her Majesty's Government considered they could reasonably object to in the measure as at first brought forward.

That, however, as the matter is one of extreme importance to British subjects resident in France, your Lordship requested that we would take the case again into our consideration, and favour your Lordship with our opinion, at our early convenience, whether it will be proper to approve Lord Lyons' intention not to make any further representation to the French Government on the subject.

Lord Tenterden was pleased to add that the previous correspondence was annexed for our more complete information.

In obedience to your Lordship's commands we have again taken the papers into our consideration, and have the honour to report—

That we have carefully considered the proposed Bill and the despatch from Lord Lyons, and we are of opinion that the intention of Lord Lyons not to make any

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* No. 545.
† Lord Lyons, No. 718.

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further representation to the French Government on the subject of the liability of foreigners to military service in France may properly be approved.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 69.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 27.)

*Lincoln's Inn, August* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 8th July last, stating that he was directed by your Lordship to transmit to us a despatch,* with its inclosure, from Mr. Kennedy relative to certain Judgments which had been pronounced by the Court of Appeal in Paris in regard to suits brought against exporters of mineral oils to France whose claims for compensation had formed the subject of discussion by the Mixed Commission at Paris.

That the previous papers bearing on the question were inclosed; and that he (Mr. Lister) was to request that we would take the same into our consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Mr. Kennedy with respect to the various points referred to in his despatch.

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That Mr. Kennedy, in his letter of the 3rd July, 1874, has suggested two questions as arising out of the Judgment recently pronounced by the Court of Appeal in Paris in the action of Namshauer against Young's Mineral Oil Company. The first question so suggested is, whether the Commission, in dealing with Namshauer's case, the consideration of which was reserved by them until after the Judgment of the Court of Appeal should have been pronounced, should now award the full amount allowed by the Court without deduction for duties. The second question is, whether those cases which have been already decided by the Commission, but in which, by reason of the difference between the amounts awarded by the Commission and those decreed by the French Courts, Young's Mineral Oil Company will be losers to the amount of the duties allowed to the French Government by the Commission, ought to be reopened. Having regard to the views expressed by Lord Granville in his letter to Mr. Kennedy of the 15th December, 1873 (No. 126, p. 92 of printed Correspondence), and to the fact that those views were acted upon by the Commissioners in dealing with the cases included in their Award, in which there had been previous Judgments of competent Courts (see Mr. Kennedy's letter to Lord Granville of the 23rd December, 1873, No. 158, p. 107), and to the general approval expressed by Lord Granville of the settlement made by the Award (see his letters of the 20th January, 1874, to Mr. Kennedy, Nos. 240 and 241, p. 180), we are of opinion that the amount of the duties, viz., 5 per cent. *ad valorem* and 6 fr. or 9 fr. 60 c. excise duties (including "décimes"—as to which see letters No. 158, p. 107, and No. 208, p. 156), may properly be deducted from the full amount allowed by the Court of Appeal in Namshauer's case. So far as we can judge of the circumstances of this case, there is nothing in it which can distinguish it in principle from the cases which were disposed of by the Commission by their Award of the 5th January, 1874, and the only apparent reason for the decision of the Commission in respect of Namshauer's case being postponed was the fact that the Court of First Instance had taken a different view of the circumstances of that case from that which had been taken in other cases, but which view has been since held by the Court of Appeal to have been erroneous.

For the like reasons we are of opinion that the cases referred to in Mr. Kennedy's second question should not be reopened.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* No. 74.

## No. 70.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 28.)

*Lincoln's Inn, August* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 2nd July ultimo, stating that, with reference to our Report of the 26th May last, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Paris, inclosing a copy of the note which his Excellency had addressed to the French Government on the subject of the compensatory duty levied upon salted meats imported into France, and containing observations with respect to the bearing upon that duty of the Franco-Portuguese Treaty of the 11th July, 1866.

That Mr. Lister also inclosed, together with previous papers, a private letter from Her Majesty's Ambassador, containing further explanations as to the Treaty rights of Great Britain as regarded the duty in question; and he was to request that we would take the same into our consideration, and favour your Lordship, at our earliest convenience, with such observations as we might have to offer thereupon.

We are also honoured with a further letter from Lord Tenterden of the 5th instant, stating that, with reference to the letter from the Foreign Office of the 2nd July ultimo, he was directed by your Lordship to transmit to us a further despatch, with its inclosure, from Her Majesty's Ambassador at Paris, containing the answer which had been returned by the French Government to the representations addressed to them by his Excellency with respect to the new import duties on salted meats; and that Lord Tenterden was to request that we would take those papers into our consideration, together with the correspondence on that subject which was then before us, and favour your Lordship, at our earliest convenience, with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the Duc Decazes, in his reply of the 31st July, 1874, to Lord Lyons' letter of the 13th June, urges that salted meats are not included in the Tariffs annexed to the Commercial Treaties, and that it is only by virtue of the "most-favoured" clause (Article XIX) in the Treaty of the 23rd January, 1860, that the importation of salted meats from Great Britain could be treated as subject to a Conventional Tariff; and he further urges that, inasmuch as the Law of the 21st March, 1874, establishing a surtax of 4 fr. upon such articles, was applicable to all nations alike, Great Britain could found no claim under the "most-favoured-nation" clause.

Now it is to be observed that, although the IXth Article of the Treaty of the 23rd January, 1860, which provides for the imposition of compensatory import duties where new inland duties are imposed, is limited to the articles previously enumerated, the Ist Article of the Convention of the 24th January, 1874, which contains a similar provision, is, in its terms, not so limited, but is perfectly general in its application. It certainly would have strengthened the argument on behalf of Her Majesty's Government if a negative clause had been in each case introduced providing that an additional import duty should not be imposed except in cases in which there had been an imposition of additional inland duty; but we think that such a negative provision is fairly to be implied in both cases, and particularly in the Convention of January 1874, where there is a further provision for the reduction of import duty equivalent to any reduction that may be made in the inland duty. The effect of the Article I of the Convention of January 1874 appears to have been entirely overlooked by the Duc Decazes.

We doubt also whether the contention of the Duc Decazes, based upon the Law of the 21st March, 1874, being made applicable to all nations alike, and therefore excluding the operation of the "most-favoured-nation" clause, can be maintained. At the date of the Treaty of the 23rd July, 1873, the existing duty on salted meats was fixed, as regards Portugal, at 60 c. by virtue of the Treaty between France and Portugal of the 11th February, 1866; and it is at least open to question whether the effect of the Ist Article of the Treaty of the 23rd July, 1873, taken in connection with the Ist Article of the Convention of the 24th February, 1874, was not to fix the duty upon salted meats imported from Great Britain at the amount above mentioned, subject, however, to be increased or diminished in proportion to any increased or diminished inland duty upon the same article.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 71.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October* 6.)

*Lincoln's Inn, October* 6, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 14th September ultimo, stating that, in consequence of the cessation at the end of this year of all connection between Her Majesty's Government and the British Church at Nice, and the necessity which had arisen for electing new trustees, the Committee of that Church Establishment had, in the inclosed letter (August 24), requested your Lordship to allow the Consular officer at Nice or Marseilles to become *ex officio* a trustee of the Church Establishment.

That your Lordship saw many objections to that proposal; and that he (Mr. Lister) was accordingly directed to request that we would take the letter of the trustees into our consideration, together with the accompanying draft of a letter to which it was a reply, and favour your Lordship with our opinion as to whether any better plan could be devised to help the trustees in the difficulty in which they now find themselves placed.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship cannot properly go further towards helping the Committee of the British Church Establishment at Nice than you have done in the letter of the 8th August, the draft of which has been transmitted to us.

We observe that, in this letter of the 8th August, your Lordship says that you will authorize the British Vice-Consul at Nice to continue his good offices to the Church Establishment, and to give every assistance in his power towards the settlement of its affairs, so far as he can do so without involving Her Majesty's Government in any responsibility, and that the Committee in their answer (24th August) inquire whether your Lordship would entertain any objection to the nomination as trustee or trustees of any party or parties in the Consular Department, such as the Consul at Marseilles or the Vice-Consul at Nice.

This question may, in your Lordship's opinion, require a direct answer, going beyond your Lordship's former answer, and we think the safer course would be to reply that, as one of the objects of the Committee is to vest the trust property and the control of the same in some *official* party or parties and their successors, your Lordship is unable to assent to the nomination of any Consular officer as a trustee.

We have, &c.

(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 72.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October* 16.)

*Lincoln's Inn, October* 15, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 26th September ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence* with Mr. Maude respecting the case of Major Blood, on whose behalf he applied for the support of Her Majesty's Government in recovering compensation for alleged loss of property sustained through the proceedings of the French authorities in causing his removal from Paris, as well as for the treatment which he had received at their hands, together with a despatch from Lord Lytton (No. 953), Her Majesty's Minister at Paris, to whom Mr. Maude's letter of the 24th August and its inclosures were referred.

That he (Mr. Lister) was also to inclose several despatches received last year from Lord Lyons and Lord Lytton,† reporting on that person's proceedings, and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to Mr. Maude.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Maude may properly be answered that the alleged loss of Major Blood's property is a matter in which Her Majesty's Government cannot interfere; and that the other matters involved in the statement forwarded by Mr. Maude do not afford sufficient ground for any representation or complaint on the part of Her Majesty's Government.

We have, &c.

(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

* Mr. Maude, August 24; to Mr. Maude, September 7; Mr. Maude, September 10.

† Lord Lytton, No. 100; Lord Lyons, Nos. 548, 562, and 574.

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## No. 73.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received November* 9.)

*Lincoln's Inn, November* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 25th September ultimo, stating that he was directed by your Lordship to state to us that your Lordship was desirous of obtaining our opinion on certain points connected with ship brokerage in France.

That a general statement on the subject was contained in Mr. Kennedy's despatch No. 35 of the 17th April last (Inclosure 1), and that his further despatch No. 47 of the 30th of that month (Inclosure 2) referred to Treaties between France and foreign Powers which Mr. Hunt, Her Majesty's Consul at Bordeaux, considered to bear on the question, and also referred to the practice of the Customs authorities at Bordeaux in the matter.

That copies of those Treaties would be found in the accompanying volume of Treaties of Commerce between France and foreign Powers.

That he (Mr. Lister) likewise inclosed the following papers:—A Circular despatch to Her Majesty's Consuls at ports in France, transmitting, for their observations, a copy of Mr. Kennedy's despatch No. 35 (Inclosure 4); their Reports in reply to that instruction (Inclosure 5); correspondence relative to complaints addressed to Her Majesty's Government on the system of ship brokerage in France (Inclosure 6), including despatches from Lord Lyons referred to in that correspondence relative to recent commercial arrangements between France and Russia.

That your Lordship caused the question of ship brokerage in France to be brought forward in the Mixed Commission appointed under the Treaty of Commerce and Navigation between this country and France of the 23rd July, 1873. The representations made on the part of Her Majesty's Government were contained in the final statement, dated the 2nd July last (Inclosure 7), a copy of which, and of the replies returned on the part of the French Government (Inclosure 8), together with Reports from certain of Her Majesty's Consuls in France on those replies, were also therewith inclosed (Reports from Bordeaux, Havre, and Marseilles, Inclosure 9).

That we would perceive from the Ist Article of the Treaty of the 23rd July, 1873, that brokerage was one of the matters in regard to which most-favoured-nation treatment was stipulated, and that by the IInd Article ships and their cargoes were placed on national footing.

That as bearing upon the point of Consular intervention in regard to brokerage, he (Mr. Lister) was to inform us that the provisions contained in Article III, relative to Consular attributions, was not carried into effect in the Supplementary Convention which was signed in pursuance of that Article on the 24th January last; that the two Governments had not as yet been able to come to an understanding on the subject, which it was decided last January should stand over for future consideration.

That under the circumstances above stated the principal points to be considered appeared to be—

(1.) What is the Treaty position of this country in connection with ship brokerage in France? and (2) if this country does not possess the right to claim exemption from employment of French ship brokers, is the existing French system of ship brokerage contrary to international comity, or does it impose a burden on British shipping against which complaint can properly be made?

That he (Mr. Lister) was to request that we would take the question into our consideration, and favour your Lordship with our opinion on the above points, as well as on any other which might occur to us in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the Treaty position of this country in connection with ship brokerage in

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France depends, in our opinion, upon the construction, first of Article II of the Treaty of the 23rd July, 1873, and secondly, upon the construction of Article I of the same Treaty.

The French answer to Mr. Kennedy's final statement shows the sense in which the French Government is prepared to construe the Article II above referred to. That answer (D 1) states that French and English subjects are on precisely the same footing, and French and English ships are entitled to precisely the same treatment with respect to ship's brokerage. That the employment of a broker is merely a matter of necessity or convenience, and that a Frenchman who cannot speak and write French must employ a broker like an Englishman who is unable to speak and write French, so that both French and English are compelled to, or relieved from, the employment of a broker according to his knowledge or ignorance of the French language. We cannot regard this reasoning as satisfactory. There is, however, more reason to acquiesce in the argument that where brokers are necessary they should be Government officials, and so far responsible persons.

And, if the Treaty position of this country in the matter of ship's brokerage in France depended only on Article II of the Treaty of 1873, we should advise your Lordship to let the question rest as it stands upon Mr. Kennedy's statement and the answer.

Article I, however, of the Treaty contains the word "courtage," and provides that, in all that relates to brokerage (that is "courtage") and customs formalities, British subjects shall enjoy the treatment of the most favoured nation.

By reference to the context, "courtage," as used in this Article, must comprise, if it does not apply solely to, ship's brokerage. So the question immediately arises whether any nation is by Treaty with France exempt from ship's brokerage.

(*a.*) The Treaty with Bolivia, Article II (p. 168 of Treaties, "France and Foreign Powers, 1749 to 1868"), provides expressly that the subjects of either country "shall be at full liberty to transact their business in person, principally to present in the custom-houses their proper declarations, or to cause themselves to be represented by whomsoever they may deem fit, whether factors, agents, consignees, or *interpreters*, without being called upon, as foreigners, to pay any augmentation of charge or contribution."

The provision in the following paragraph (p. 169) of the same Article, "subject always to the laws and regulations of the country," applies only to purchases, sales, and prices.

(*b.*) The Treaty with Chile, Article II (at p. 1061 of the same volume), is somewhat more limited, since the employment of agents (as brokers) is confined to Consular Agents. If other persons are employed, then the laws of the country are to be followed; so that a Chilean would not be obliged to employ an official broker, if he obtained the assistance of a Chilean Consular Agent.

(*c.*) The Treaty with the Republic of the Equator, Article II (at p. 684), is in the widest possible terms, and no restriction whatever is imposed.

(*d.*) So also with Guatemala (p. 1365) and Nicaragua (p. 364).

(*e.*) The Treaty with Peru (pp. 122 and 123) is open to some doubt on the subject, as also is the Treaty with Salvador (p. 389), whilst the Treaty with the Sandwich Islands (p. 379) gives full power to dispense with the employment of the official broker, and so does the Treaty with Venezuela (p. 695).

We are therefore of opinion that, under the most-favoured-nation clause in the Treaty of 1873, this country is entitled to claim exemption from ship brokerage in France.

The employment of such officials, however, is so consistent, we believe, with French habits and practice, and the question of their suppression was so recently as 1866 discussed and negatived, that probably Her Majesty's Government would find it a most difficult task to bring the French Government to view the matter in the light in which it appears to us.

We are not aware how far the final statements of Mr. Kennedy and the French answer are definitive, but if they are not, we submit to your Lordship's consideration that the attention of the French Government might properly be called to the bearing of the Treaties above referred to upon the question, and some modification at least be obtained.

In answer to the second question put to us in Mr. Lister's letter, we cannot say that the existing French system of ship brokerage is contrary to international comity, but we think it imposes a burden on British shipping inconsistent with Treaty rights, and against which complaint can properly be made on that ground.

The final statement of Mr. Kennedy refers to other matters of detail in connection with the working of the French system of ship's brokerage with great accuracy as we gather from the several papers transmitted to us, and we have no further point upon which we desire to offer an opinion to your Lordship.

Since the above Report was drawn, we have been favoured with three letters, of the 1st, 8th, and 20th October, from Mr. Lister, transmitting documents relating to the question referred to and reported on by us.

Upon the documents transmitted with the first two letters we have no observations to offer.

But the despatch of Mr. Rainals sent with the letter of the 20th ultimo contains statements which, if accurate, afford a ground for representation to the French Government, and we think that the facts represented by Mr. Rainals on the case of vessels in distress might properly be brought to the notice of the French Government, with a view to arrangements being made under which either the Government broker shall be charged with the duty of acting in all matters of business for vessels in distress at a fixed tariff, or the employment of a Government broker in such cases be altogether dispensed with.

There is, however, as it seems to us, some obscurity in Mr. Rainals' despatch, and we are not sure whether he means that the Government broker is officially not allowed to attend the discharge or shipment of cargo, or merely that he is prevented the trouble of performing this duty by the private agents of the ship and cargo.

And the meaning of Mr. Rainals is made more uncertain, because he suggests that it would be "beneficial if regulations were issued establishing a fixed charge as brokerage for the entrance and clearance of vessels entering French ports in distress and for repairs, leaving the established charges for translations of documents, &c., as they are; but at the same time owners or masters of ships should be at liberty to engage private agents for other business."

Comparing Mr. Rainals' despatch with the despatches on the same subject from other Consular officers, we think it possible that Mr. Rainals may be under two mistakes: one that the tariff applicable to ships entering French ports covers the case of ships in distress whose cargo is discharged and reshipped in a French port.

The other that the employment of private agents is voluntary on the part of the masters or owners of the ships, and that the Government brokers are content not to interfere.

Therefore, before making any representation to the French Government as Mr. Rainals suggests, your Lordship would probably wait to know exactly from him and other Consuls what the real practice is, and what are the imposed official duties of French Government brokers in the case of a British ship entering a French port in distress and obliged to discharge cargo there.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## General.

### No. 74.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 4.)

*Temple, March* 3, 1874.

My Lord,

WE are honoured with Lord Granville's commands signified in Lord Enfield's letter of the 16th January last, stating that he was directed by his Lordship again to

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request our attention to the subject of the marriages abroad of naturalized British subjects, which formed the subject of our Report of the 5th November last, herewith inclosed.

That, in framing that opinion, we would appear to have had before us for consideration the circumstances of persons naturalized under the Naturalization Act of 1870 without reference to those naturalized under previous legislation.

That from the inclosed Report of the Royal Commission on Naturalization and Allegiance (pp. 8, 9, 10), it appeared that before 1850 no restriction was put on the place of residence of a naturalized alien, but between 1850 and 1858 the form of certificates of nationality was changed from time to time, and between 1858 and 1870 the form adopted was as in the inclosed paper marked (A.)

That the words underlined in that paper were inserted in naturalization certificates after 1850 on account of the inconvenience experienced from persons applying for naturalization in order to get British protection abroad for political and other purposes, while the clause making it necessary for a naturalized British subject to get leave of absence if he required to stay abroad more than six months was added in July 1858.

That the naturalization certificate given under the Act of 1870 was according to the form of the inclosed paper marked (B), and followed the wording of the 3rd paragraph of the 7th section of the Act of 1870.

That Lord Enfield was to request that we would take into our consideration those papers, together with those which had already been sent to us, and which were now again inclosed, and report to Lord Granville our opinion on the following points:—

1. Whether, in view of the words underlined in the paper marked (A), any person naturalized as a British subject between 1850 and 1870 could demand to be married at a British Embassy or Legation, under the Act of 4 Geo. IV., cap. 91, or at a British Consulate, under the Act 12 and 13 Vict., cap. 68.

2. Whether, in view of the words in the paper marked (B), "shall in the United Kingdom be entitled," &c., a person naturalized under the Act of 1870 can claim under either of the above-mentioned Acts a privilege which, if granted at all, must necessarily be granted out of the United Kingdom.

3. That, supposing any of the persons enumerated under the foregoing heads to be married abroad under either of the Foreign Marriage Acts, whether such marriages are legal in this country.

4. Whether, in the event of it subsequently appearing that, by absence of more than six months without leave, a naturalized person had forfeited his or her certificate previously to marriage under one of the above-named Acts, such marriage would thereby be invalidated in this country, and if so, whether any and what precautions should be taken at Her Majesty's Legations and Consulates to guard against this by requiring proof of residence within the United Kingdom or otherwise.

That Lord Enfield was to take that opportunity of pointing out to us what appeared to be an oversight in our Report of the 5th November, in which we said that a naturalized British subject might, under certain restrictions, claim to be married under the Consular Marriage Act at Berne or elsewhere. As there was no British Consulate at Berne, it was presumed that British subjects must be married there under the Act 4 Geo. IV., cap. 91, and that the Act 12 and 13 Vict., cap. 68, was only available where a Consular officer was stationed.

In obedience to your Lordship's commands we have the honour to report—

That with regard to the marriages at Embassies and Consulates of persons naturalized between 1850 and 1870 there is, in our opinion, so much doubt that further legislation is necessary both as to past and future marriages, and for the reasons stated in our answer to Lord Granville's 4th question, we think that, pending such legislation, such marriages should not be performed.

2. That, as we have already informed Lord Granville in our opinion of the 5th November, 1873, persons naturalized under the Act of 1870 appear to us to be entitled to the benefits of the Statutes in question, subject to the restrictions stated in that opinion.

That construction is based upon the plain intention of the Act (section 7) that the naturalized subject shall have the rights of an English subject in all foreign countries except his former country; but since it involves the rejection of the natural sense of the words "in the United Kingdom" in section 7, it will, in our opinion, be prudent to include a determination of the point in any future legislation upon the subject of foreign marriages.

3. That, even assuming that the Consular Marriage Acts may extend to persons naturalized between 1858 and 1870, the marriage at an Embassy or Consulate would, in our opinion, be void under the circumstances suggested, unless, independently of English Statutes, it were valid by the law of the country in which it is performed.

We are unable to suggest any satisfactory mode of meeting the difficulty without fresh legislation.

We have, &c.

(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 75.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 9.)

My Lord, *Temple, April* 9, 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 20th March ultimo, stating that he was directed to request that we would give our careful attention to the following question, which your Lordship considers to be one of really pressing importance.

Mr. Bourke was also pleased to direct our attention to an Act of Parliament passed on the 28th July, 1849 (12 and 13 Vict., cap. 68), for facilitating the marriage of British subjects resident in foreign countries.

The objects of that Act were twofold:—

First, to remove doubts as to the validity of certain marriages which had been previously solemnized abroad; and, secondly, to confer power on Her Majesty's Consuls to solemnize marriages in cases in which one or both of the parties were British subjects.

This Act, upon the whole, has been found to work well, but misapprehensions have from time to time arisen as to the proper interpretation to be given to some of its clauses, and where the marriages have been found to have been illegally solemnized, special Acts of Parliament have been passed to remove doubts as to their validity.

A copy of each of these Acts were inclosed for our information.*

But since the passing of these Acts irregularities have been committed at other Consulates, and doubts having again arisen as to their validity, your Lordship is of opinion that, with a view of anticipating any question of legitimacy or of right of inheritance to property which might, in consequence, arise, a short Bill should be introduced into Parliament early in the present Session to declare such marriages to be valid.

Mr. Bourke was also pleased to state that we should find the cases in question described in accompanying memoranda marked (A) and (B); he was also to add that although these memoranda touch upon a variety of points, your Lordship is not prepared to recommend that an attempt should be made to pass a Marriage Act Amendment Bill this Session. In face of the many difficulties with which that question is surrounded, more especially that of the interpretation to be put upon the laws of foreign countries bearing on the question of mixed marriages, still your Lordship considers that in passing a short Act to legalize the irregular marriages which have taken place, advantage might be taken to introduce into the Bill a clause modifying the Act of 1849 so far as regards marriage warrants.

At present the warrant is made personal to each Consul, and as this has occasioned many of the difficulties which have arisen, it is proposed that it should no longer be addressed to the Consul by name, but should be addressed to each Consul or Vice-Consul in his official capacity, so as to be capable of being used by his deputy or successor.

In transmitting to us the various papers bearing on the subject of these irregular marriages,† Mr. Bourke was to request that we would take this question into our early consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That it would be very desirable, in our opinion, to introduce into the Act giving validity to certain Consular marriages of the validity of which doubts may exist, a clause modifying 12 and 13 Vict., cap. 68, sec. 19, so that the warrant may not be

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* Acts of 1823–68.

† See List.

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personal, but applicable to the Consular officer in his official capacity, and capable of being used by his deputy or successor.

We would submit to your Lordship that in drawing the Bill provision might be made to enable the deputy or appointee of a Consul to act even after the death or supersession of the appointor, until a new Consul is appointed and capable of acting, or until notification to desist from acting is given by a Secretary of State; and the case which occurred at Nice a short time ago, raising doubts as to whether a Consul appointed to a new post, but still being in residence at the old Consulate, might, until his departure or until the new Consul could legally begin to act validly, solemnize a marriage, might be provided for.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 76.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 6.)

*Lincoln's Inn, May* , 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th April ultimo, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Druce and Jackson,* in which, with reference to the refusal of the Foreign Office to grant a passport to their client, M. Uhthoff, on the ground of his having been born in Mexico, his father having been only naturalized in this country in 1857, and consequently under the Naturalization Act of 1844, Messrs. Druce and Jackson submit their reasons for considering that the Acts of 1844 and 1870 should be taken and read together, from which your Lordship concludes that Messrs. Druce and Jackson intend to convey that their client has acquired the rights of a British subject naturalized under the Act of 1870, and as such is entitled to a Foreign Office passport; and Lord Tenterden was to request that we would take this case into our consideration, and report to your Lordship our opinion thereupon.

Copies were inclosed of the correspondence with Messrs. Druce and Jackson, of the Naturalization Acts of 1844 and 1870, and of the regulations governing the issue of Foreign Office passports, together with the draft of the despatch to Lord Odo Russell bearing on this subject, and the Report of the Royal Committee of Naturalization therein referred to.

In obedience to your Lordship's commands we have taken the matter into our consideration, and have the honour to report—

That, in our opinion, the certificate of naturalization referred to in 33 Vict., cap. 14, sec. 10, sub-sec. 5, is a certificate granted under that Act, and the provisions of that sub-section do not apply to a certificate under 7 and 8 Vict., cap. 66. This latter Act is wholly repealed, and cannot be read with the 33 Vict., cap. 14.

Your Lordship may therefore, in our opinion, direct that Messrs. Druce and Jackson be answered that, since the case of their client is not within the Act of 1870, the Foreign Office passport cannot be granted to him on the grounds which they put the claim upon.

Whether your Lordship will think it right that Messrs. Druce and Jackson be informed that their client may be entitled to ask for naturalization under the Act of 1870 is for your Lordship's consideration.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 77.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 4.)

*Lincoln's Inn, July* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 30th June ultimo, stating that he was directed by your Lordship to

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* April 11, 1874.

### No. 77*.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*

*Lincoln's Inn, July* , 1874.

My Lord,

Foreign recruiting in British Colonies.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us a correspondence* which had passed between the Foreign Office and the Colonial Office on the subject of an Act passed by the Governor-General of India in Council, entitled, "An Act to control Recruiting in British India for the service of foreign States," the Colonial Office being, as we should perceive, of opinion that it would be desirable that the Governors of British Colonies should take steps for securing the enactment of laws similar to the Indian Act.

That your Lordship, as we should further perceive, was inclined to question whether such a measure might not have the effect of weakening the force of the Foreign Enlistment Act of 1870, which it appeared to your Lordship was already sufficient for the purpose in view; and that Lord Tenterden was to request that we would take those papers into our consideration, and favour your Lordship with our opinion whether there was any objection to the legislation proposed by the Colonial Office, keeping in view the fact that the provision which it was contemplated to introduce into the Colonial Acts of meeting cases of recruiting for the service of foreign States at peace with other foreign States was advisably omitted on the revision of the old Foreign Enlistment Act.

In obedience to your Lordship's commands we have the honour to report—

No objection to proposed legislation, which will not weaken the Foreign Enlistment Act.

That events may take place on which it will be very desirable that the Governors of Colonies should have the power of controlling or stopping altogether the recruiting or enlisting of persons for foreign service in times of general peace.

"The Foreign Enlistment Act, 1870," is in its operation confined to a time of hostility.

We do not therefore apprehend that the India Act or similar Colonial Acts would weaken "The Foreign Enlistment Act, 1870," and we therefore see no objection to the course proposed by the Colonial Office.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Colonial Office, May 6 to Colonial Office, May 14; Colonial Office, June 2, 1874.

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transmit to us the accompanying printed correspondence respecting the proposal of the Emperor of Russia for a Conference at Brussels to discuss the rules of military warfare, together with a draft of an instruction which your Lordship proposes to address to Her Majesty's Ambassador at St. Petersburgh on the subject, and the drafts of certain other instructions consequent thereupon to Her Majesty's Representatives in the countries invited to take part in the Conference.

And Lord Tenterden was to request that we would take these drafts into our consideration, and favour your Lordship with our opinion, at our earliest convenience, whether they are right and proper.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we have taken into our consideration the drafts of the instructions which your Lordship proposes to address to Her Majesty's Ambassador at St. Petersburgh, on the subject of the proposed Conference at Brussels, and of the other instructions which your Lordship proposes to address to Her Majesty's Representatives in the countries invited to take part in the Conference, and are of opinion that they are right and proper.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 78.

*The Attorney-General and Dr. Deane to the Earl of Derby.—(Received July 22.)*

*Lincoln's Inn, July 22, 1874.*

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th instant, stating that, with reference to our Report of the 4th instant, upon some drafts submitted to us in his letter of the 30th ultimo, upon the subject of the proposed Conference at Brussels to discuss the rules of military warfare, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Ambassador at St. Petersburgh, containing the reply of the Russian Government to the notification which Lord Augustus Loftus was instructed to make to that Government in regard to the conditions upon which Her Majesty's Government would be prepared to send a Delegate to the Conference; and that Lord Tenterden was to request that we would take that despatch, together with M. de Westmann's note, into our consideration, and favour your Lordship with our opinion, at our earliest convenience, whether the assurance then given by the Russian Government as to the nature of the subjects to be discussed at, or excluded from, the deliberations of the Conference might be accepted as sufficient.

That as it was proposed that the Conference should meet on the 27th instant, the question then submitted to us was, as we should perceive, one of much urgency.

That the draft to Lord A. Loftus, to which his present despatch was the reply, was therewith annexed in print for our convenience.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the note of M. de Westmann to Her Majesty's Ambassador at St. Petersburgh leaves everything open.

The project is described as a "point de départ" qui "pourra être amendé au cours des délibérations," and the only limit to this amendment or extension is the understanding that neither maritime operations, nor naval warfare, nor the relations of belligerents at sea, nor in general the recognized principles of international law, shall be made the subject of discussion "par nous"—by the Russian Government or Russian Delegates.

Then follows the general reservation for a future completion of this work of humanity, according to the progress of ideas, customs, and interests.

We have thought it our duty to place these views of the note before your Lordship, and not to stop with a mere expression of our opinion whether the assurance given by the Russian Government as to the nature of the subjects to be discussed at or excluded from, the deliberations of the Conference might be accepted as sufficient or not.

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Your Lordship will see from what we have written that the assurance given by the Russian Government is, in our opinion, too vague to be satisfactory, but as your Lordship's intention is to send only a military Delegate to the Conference, and the powers of that Delegate will, we believe, be very small, and his action almost immediately under the eye of the Government, we think your Lordship may properly treat the Russian assurance as sufficient, and not press for further explanations.

We have, &c.
(Signed) RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 79.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received July* 24.)

*Lincoln's Inn, July* 24, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd instant, stating that, with reference to our Reports of the 4th and 20th instant, on the subject of the proposed Conference at Brussels on the rules of military warfare, he was directed by your Lordship to transmit to us the accompanying drafts to Major-General Sir Alfred Horsford, informing him of his having been appointed to attend the Conference as Delegate on the part of Great Britain, and furnishing him with instructions for his guidance in that capacity.

That he was to request that we would take the drafts into our consideration, and favour your Lordship with our opinion, at our earliest convenience, whethe they are right and proper.

In obedience to your Lordship's commands we have the honour to report—

That the drafts submitted appear to be proper in all respects.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Germany.

### No. 80.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May* 16.)

*Lincoln's Inn, May* 15, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 30th April ultimo, stating that, with reference to the Law Officers' Report, which was inclosed, of the 1st February, 1873, relative to the claim of Lloyd's Salvage Association against the German Government for the insurance paid on account of the German vessel "Turandot" in consequence of her capture during the late Franco-German war, he was directed by your Lordship to transmit to us a further letter, with its inclosures, from the Salvage Association requesting a reconsideration of the circumstances of the case; and that he was to request that we would take the same into our consideration, together with the previous papers in the case, which were also inclosed, and favour your Lordship with such observations as we may have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we have read the correspondence between the Association and the German authorities.

The underwriters cannot claim to be in a better position than the owner of the ship, a German subject, and as the German Government could not be called upon, under German law, to repay the owner, we are of opinion that your Lordship, knowing the grounds of refusal to pay the underwriters put forward by the German Government, cannot properly support the claim of the Association.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 81.

*Dr. Deane to the Earl of Derby.—(Received September* 12.)

My Lord, 3, *Paper Buildings, Temple, September* 8, 1874.

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st August, 1874, stating that he was requested by your Lordship to to forward to me certain papers respecting the Brunswick succession.

That I should see from the letter of General Ponsonby of the 17th August that the Queen desired that a case should be drawn up for submission to the Emperor of Germany.

That this would require careful preparation and attention, and some one should, Lord Tenterden presumed, be specially employed upon it.

Lord Tenterden added that your Lordship would be glad of my opinion as to how this had better be done.

In obedience to your Lordship's commands I have carefully considered the papers transmitted to me, and have the honour to report—

That the proper manner of submitting the matter to the Emperor of Germany would, in my opinion, be by a note tendered by Her Majesty's Representative at Berlin to the Emperor of Germany.

This note should set out—

The difficulty which may arise in the succession on the death of the present Duke of Brunswick should he, as probably will be the case, die without nearer heirs than the ex-King of Hanover or his son.

That should the ex-King of Hanover or his son not succeed to the Duchy of Brunswick, or, succeeding, die without nearer heirs, His Royal Highness the Duke of Cambridge and his heirs, failing whom Her Majesty, will be the next in succession to the Duchy of Brunswick.

Hence Her Majesty has, in support of the rights of near relations as well as of her own rights, an interest in having the risk of any future difficulty as to the succession avoided by now settling the succession, and is anxious to consider and make such arrangements for the future as may be found consistent with the rights of all the persons interested, and the integrity of the German Empire under its existing Constitution.

The German Government having as yet shown no intention of changing the course of succession, except with reference to the ex-King of Hanover and his son, it would, I conceive, be prudent to stop with the last paragraph and leave the legal and constitutional arguments suggested for a reply, the object of the present note being to ascertain the views of the German Government.

But as the note will when drafted be sent to the Law Officers for their opinion, and it is more easy to strike out what is needless or imprudent than to add fresh facts or arguments, I think that the draft should also embody the arguments which are in the paper prepared by Dr. Trieps.

To those arguments I do not refer in any detail, because I could only repeat them here in the same or in similar words and order with those used by Dr. Trieps.

Your Lordship will know better than I can who should be employed in the preparation of the note; but I take the liberty of suggesting that it should be some gentleman in the Foreign Office.

I have, &c.
(Signed) J. PARKER DEANE.

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## No. 82.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received November* 2.)

*Lincoln's Inn, November* 2, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 26th instant, stating that, with reference to our Report of the 15th May last, he was directed by your Lordship to transmit to us the papers noted in the margin* relative to the claim of the underwriters against the German Government for the insurance paid on account of the German vessel "Turandot" in consequence of her capture during the late Franco-German war.

That the previous correspondence in the case was also inclosed, and that he (Lord Tenterden) was to request that we would take the same into our consideration, and favour your Lordship with such further observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we see no reason to alter the opinion which we formed upon this case, and had the honour of submitting to your Lordship, to the effect that your Lordship cannot properly question the decision of the German authorities.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 83.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received January* 1, 1875.)

*Lincoln's Inn, December* 29, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 16th October ultimo, stating that General Ponsonby, in a letter dated the 17th August last, informed your Lordship that it was the wish of Her Majesty that a proper Case should be drawn up by us, putting forward the contingent claims of the Royal Family of England to the succession to the Duchy of Brunswick, which should be laid by the Ambassador at Berlin before the Emperor of Germany.

Mr. Lister stated that Dr. Deane, who was consulted on the 21st August as to the mode in which the Case should be prepared, suggested that it should be drawn up in the Foreign Office, and at the same time advised that the matter should be brought before His Imperial Majesty, not in the form of a Case, but in a note to be addressed by the Ambassador to the Emperor, in which he should represent the present state of the succession question, and should inquire His Imperial Majesty's views, but should omit allusion to the legal and constitutional points involved.

Mr. Lister stated that your Lordship so far concurred in this view that you directed a Case to be prepared in the Foreign Office, but, as regards Dr. Deane's further suggestions, your Lordship decided that it would be more fitting that the matter should be submitted to the Emperor in the form of a Case than in the form of a note; and, also that it would be essential that the Case should discuss in detail the political and constitutional considerations by which the ultimate decision in the case may be affected. In accordance, therefore, with your Lordship's instructions the inclosed Case† has been prepared, and Mr. Lister was directed by your Lordship to submit it to us with the request that we would, without paying special attention to those parts of the arguments employed which come within the province of political discussion, specify any points which may strike us as being defective in the legal arguments, especially in those parts bearing upon the prominence in the line of succession of the Royal Family of England, this being the point which it is of the greatest importance to place as far as possible beyond dispute.

Mr. Lister inclosed such papers as would assist us in forming a judgment.‡

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* Messrs. Smith, Sandins, and Co., September 16; to Messrs. Smith, Sandins, and Co., September 24; Messrs. Smith, Sandins, and Co., October 17, 1874.

† Memorandum.

‡ List.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That, having regard to the decision of your Lordship, communicated to us by Mr. Lister's letter, that it was essential that the case submitted to the Emperor of Germany should discuss in detail the political and constitutional considerations by which the ultimate decision in the matter of the Brunswick succession may be affected, and to the wish of your Lordship that we would, without paying special attention to those parts of the arguments employed which come rather within the province of political discussion, specify any points which might strike us as being defective in legal argument, we have thought it desirable to make our observations upon the Case, the draft of which has been submitted to us, in the form of a running commentary.

After various statements of historical facts, as to which there appears to be little room for dispute or difference, the Case sets out *in extenso* a family pact entered into in 1836 by King William the IVth of England and the reigning Duke William of Brunswick, the then heads of the two branches of Luneburg and Wolfenbuttel, into which the original stem had been for many years divided, and by which pact provision was purported to be made for the succession in the not improbable event of the extinction of the male lineage in either or both of those branches; but, after suggesting doubts as to the validity of this pact, the conclusion is arrived at that the question of its validity is but of slight importance, and that for all immediate practical purposes it might be left out of consideration.

Under these circumstances, we do not, as at present advised, see any advantage to be derived from introducing into the Case a statement of this pact; on the other hand, we doubt the expediency of directing attention to the provisions of section 6, which, if they have been acted upon, may give rise to complications. We are, consequently, of opinion that the pact itself and all reference to the pact should be omitted from the Case.

We would, however, suggest that, if the original letter of enfeoffment by the Emperor Frederick the IInd in the year 1235, mentioned in section 4 of the pact, is still extant, or proof can be adduced of its contents, it would be desirable to introduce a substantive statement of it into the Case, as, from the reference to it in the pact, it would appear to regulate the order of female succession, a question in which the Royal Family of England are particularly interested.

The Case, as submitted to us, next proceeds to discuss the question whether the nominal dynastic succession is affected by any disturbing causes, and, after showing (and, as it appears to us, satisfactorily) that the reigning Duke of Brunswick cannot, of his own initiation and free will, without the consent of the agnates, alter the succession as established by law, and that consequently, so long as the autonomy of the Duchy remains intact, there is no reason to apprehend the occurrence of any internal disturbing cause, it proceeds to a consideration of the further question whether, since the accession of the reigning Duke in 1830, circumstances have occurred of such a nature as to threaten the extinction of the independence of the Duchy.

The events to which, with this view, attention is directed are the following:—

(*a*.) The creation of the North German Confederation in 1867.
(*b*.) The formation of the German Empire in 1871.
(*c*.) The conquest and extinction of Hanover in 1866.

The circumstances of these events are separately discussed, and it appears to us to be shown, by the arguments adduced in the Case, that neither by the Constitution of the North German Confederation, nor by the subsequent Constitution of the German Empire, nor by the absorption of the Kingdom of Hanover, has the autonomy of the Duchy of Brunswick, and, consequently, the principle of its dynastic succession, been endangered.

It does not occur to us that we can usefully suggest any addition to the legal arguments which are put forward in the Case in respect of this part of the subject. How far it is expedient to suggest in the Case the possibility of rights or claims being asserted, for the purpose of showing by argument that, if asserted, they would not be sustained, is a question with which, having regard to your Lordship's decision, we feel that it would be beyond our province to deal, and we should not now allude to them but for a doubt which we entertain whether we may not have given a more limited construction to your Lordship's directions than was contemplated by your Lordship. We refer to suggestions such as that, on pp. 6 and 7, of the reigning Duke of Brunswick seeking of his own will to alter the succession without the consent of

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the agnates, and that, on p. 15, of a claim on behalf of the King of Prussia to have acquired, as one of the rights of the ex-King of Hanover, a contingent title to the Throne of Brunswick.

Having thus discussed the more general questions, and arrived substantially at the conclusion that the normal dynastic succession of the Duchy is not at present affected by either internal or external disturbing causes, the Case, recognizing the possibility, if not the probability, that certain of the male heirs in the chain of succession may be, from circumstances, permanently or temporarily disqualified, proceeds to a consideration of the question, what is the Tribunal which will have to decide upon the question of disqualification, and to provide provisionally, by the appointment of a Regency or otherwise, for the government of the country and its security as an independent State of the Empire, during the temporary disqualification of an heir.

This question also appears to us to be satisfactorily answered in the Case by an argument which, after showing that no direct provision is made by the Constitution of the German Empire for the settlement of questions relating to succession, affirms, as a general proposition, that questions of this class are left to be dealt with separately by the members of the Empire, and that, except under exceptional circumstances, the Empire would not interfere, but that, if interference should become necessary, Imperial legislation would override separate legislation.

The general result arrived at by the statements in the Case, after full consideration of the various questions to which we have referred, is, that the question of succession in Brunswick should be settled by the Head of the House, with the assent of the agnates, and that any arrangement so made would be valid and unassailable, provided that it neither violated the Constitution of the Duchy nor any fundamental principle of the Constitution of the German Empire; but that, in the event of the death of the reigning Duke without any such arrangement having been come to, the solution of the question would have to be sought for outside the Duchy, inasmuch as its Constitution provides no remedy for such a contingency, and that, in such event, the question would have to be referred to the Council of the Confederation, and, failing a settlement by that body, to Imperial legislation.

This, we presume, is the proposition which it is deemed proper to bring under the consideration of the Emperor of Germany; the Case, as drawn, does not in any way indicate in what way it is desired that the Emperor should act in the matter, when brought under his consideration, and, unless it is intended that the wishes of Her Majesty's Government in this respect should in some other form be communicated to the Emperor at the same time as the Case is laid before him, we would suggest that the course of action which it is desired that he should adopt should be more directly referred to in the Case, inasmuch as it appears to us that, in its present form, the Case rather suggests to the Emperor that he should postpone any action or expression of opinion respecting the succession to the Duchy until the necessity for interference shall have arisen, whereas, if we rightly apprehend the wish of Her Majesty's Government, it is that the question of succession should be settled at as early a period as possible.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Hayti.

### No. 84.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 10.)

My Lord, *Temple, January* 10, 1874.

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Port-au-Prince,* relative to an arrangement proposed for the settlement of certain claims and counter-claims between the Haytian Government and the assignees of the bankrupt estate of Messrs. Brown, Ross, and Co.

He was also to inclose a previous despatch from Mr. St. John,† covering the Report of the second Anglo-Haytian Commission, by which Messrs. Brown, Ross, and Co.'s claims were admitted to the amount of 10,293 dol. 60 c., being slightly in excess of the sum mentioned in Mr. St. John's later despatch.

He was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to whether the arrangement proposed by Mr. St. John can properly be sanctioned.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That, in our opinion, the expediency of taking the course suggested by Mr. St. John is matter rather for the determination of Messrs. Brown's assignees than for your Lordship; and if they think it advisable to make the arrangement mentioned in Mr. St. John's letter, we see no reason why your Lordship should interfere.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## Italy.

### No. 85.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 6.)

My Lord, *Temple, January* 6, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Rome, in which the question is raised, "Whether a Roman Catholic Bishop or Archbishop, in his episcopal quality, is entitled to hold real property in the United Kingdom;" and he was to request that we would have the goodness to inform your Lordship what answer should be given to Sir A. Paget on this subject.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that an English or Irish Roman Catholic Archbishop or Bishop is not entitled, in his episcopal capacity, to hold real property in the United Kingdom. He is not, like the Prelates of the Established Church, a Corporation sole; and in respect of his tenure of property, he can hold only as any other layman.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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* Mr. St. John, No. 70, November 24.

† Mr. St. John, No. 30, November 9.

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## No. 86.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 9.)

My Lord, *Temple, March* , 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 26th February ultimo, stating that he was directed by your Lordship to transmit to us the papers marked in the margin,* relative to steps taken by the Italian Government for the purpose of levying income tax, under the circumstances therein stated, on the profits of certain British steamers, and to request that we would take the matter into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the Italian Government appears to justify the imposition of income tax upon foreigners in certain cases, under a law an extract from which is set out in the third sheet of the translation of the Italian Minister's letter. The tax is claimed from foreigners "upon the revenues they may possess within the State," which is defined as revenue accruing from commerce exercised in the kingdom, and every species of revenue not arising from real property produced in the State. It seems to us at least doubtful whether the interpretation put on this law as against British shipowners is satisfactory; but it appears to us that the shipowner who feels himself aggrieved should take legal advice as to his position and the applicability of the law to his own case, and act according to such advice. We presume that the decision of the tax agents in Italy may be questioned before the Tribunals there, and there is no reason to suppose, at present, that justice may not be done, where it can be shown that the case of any particular foreigner does not fall within the terms of the law.

We think that the Association should be informed that the grounds upon which the Italian Government impose the tax are those stated in the Minister's despatch inclosed in Sir A. Paget's letter of the 20th February last.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## No. 87.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 14.)

My Lord, *Temple, April* 13, 1874.

WE are honoured with the letter of Lord Tenterden, dated the 6th day of February last, stating that on the 4th August last the then Law Officers favoured Lord Granville with a Report respecting the case of Mr. Mercer, a British subject who, whilst travelling in Italy, had been arrested in consequence of an altercation with some boatmen by Italian carabinieri, and after being secured with thumbscrews, had been locked up in the town gaol at Castellamare, the case having formed the subject, on the representation of Her Majesty's Minister at Rome, of a judicial inquiry in regard to the proceedings of the carabinieri, and subsequently of legal proceedings against Mr. Mercer himself, who, however, had been fully acquitted, and that the particular points on which the opinion was then asked, and which had been raised by Mr. Mercer, were whether he was entitled to the payment by the Italian Government of his expenses in the matter, and to the payment of a money indemnity for the treatment to which he had been subjected, to be claimed on his behalf by Her Majesty's Government; and the opinion being favourable in regard to Mr. Mercer's pretensions under both heads, Sir A. Paget was instructed, in a despatch of which the draft was therewith inclosed,† to make the necessary representation to the Italian Government.

Lord Tenterden also further stated that he inclosed a communication from the Italian Minister at this Court,‡ from which it would be perceived that the Italian Government, for the reasons which were therein fully set forth, declined to entertain the claim, whilst they stated that the Italian Courts are and will at all times be open to Mr. Mercer to substantiate his claims, even against the Italian Government.

Lord Tenterden further said that the previous papers in the case were also annexed; and that he was to request that the Law Officers would take into their consideration the reply which had been returned by the Italian Government to the representations from your Lordship's Department on Mr. Mercer's behalf, and that they would favour Lord Granville with their opinion whether the reasons assigned by that Government for declining to entertain Mr. Mercer's claims are or are not sufficient, and such as to preclude Her Majesty's Government from urging them any further on the Italian Government, and, finally, what answer should be returned to the Italian Government, or what communication should be made to Mr. Mercer, who would naturally expect to hear the result of the representation which he was told on the 12th August last that Sir Augustus Paget had been instructed to make to the Italian Government on his behalf.

Lord Tenterden also addressed a further letter to the then Law Officers, dated the 14th day of February last, stating that, with reference to his letter of the 6th of that month, he was directed by Earl Granville to transmit the accompanying letter from Mr. Mercer respecting his claim against the Italian Government, which he was to request would be taken into consideration with the other papers.

In obedience to the request contained in Lord Tenterden's letters, we have the honour to report—

That, as far as Mr. Mercer is concerned, the substance of Count Cadorna's despatch should be conveyed to him with an intimation that, it being open to Mr. Mercer to substantiate his claim, even against the Italian Government, for any wrongs done to him, and for which the Italian Government may be legally responsible, Mr. Mercer must resort to those Tribunals (if he be advised to do so) for redress.

The Italian Minister maintains that the law of Italy has been properly administered by the Italian Tribunals, and this being so, a claim for compensation for suffering and injury caused to Mr. Mercer cannot be pressed against the Italian Government.

It will probably be deemed sufficient by your Lordship to avoid giving any definitive reply to Count Cadorna's letter until sufficient time has been given to enable Mr. Mercer to make a further communication to Her Majesty's Government.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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* Liverpool Steam-ship Owners, January 30; to Sir A. Paget, No. 4, Commercial; Sir A. Paget, No. 10, Commercial.

† No. 179, August 12, 1873.

‡ January 20, 1874.

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## No. 88.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 20.)

My Lord, *Temple, April* 18, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th March ultimo, stating that he was directed to transmit to us the accompanying papers, as marked in the margin,* referring to a collision between the English vessel the "Oberon" and the Italian ship the "Chiavari" in the month of November last in the Irish channel, whereby the "Chiavari" was sunk by the English vessel, the latter proceeding on her course without taking any steps to ascertain what damage she had done to the Italian ship, which disappeared some five minutes from the time of the collision, having, as it is believed, gone down with all hands on board, excepting two sailors, who saved themselves by climbing on board the English vessel at the moment of the collision.

The case having been made the subject of the usual form of investigation in this country, the captain of the "Oberon" has been sentenced merely to a suspension of his certificate for six months, being exonerated from blame as far as the collision is concerned.

The Board of Trade, however, expressed the opinion that the circumstances of the desertion of the Italian vessel were such as would justify criminal proceedings against the captain, but they had been advised that, for reasons which are fully stated, this could not be done.

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* M. Cadorna, Memorandum, November 24; to Board of Trade, December 6; Board of Trade, December 11; to M. Cadorna, December 15, 1873; Board of Trade, January 3; to Board of Trade, January 30; Board of Trade, March 3, 1874.

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Her Majesty's late Secretary of State (Earl Granville) entirely agreeing with the Board of Trade as to the inadequacy of the sentence passed on the captain of the "Oberon," suggested that, if such a step had not already been taken, the Law Officers should be consulted as to whether further proceedings could not be instituted against Captain Towill with a view to insuring some punishment which might be adequate to an offence of so grave a nature.

The Board of Trade, in their reply of the 3rd instant, inclosing a copy of the Law Officers' opinion, state that, "having regard to the opinion of the Queen's Advocate" (Dr. Deane), "and to the hesitation expressed in that of the Attorney-General and Solicitor-General, and looking also to the facts of the case, and to the great improbability, in the opinion of the Board of Trade and of their adviser" (who is believed to be the Solicitor to the Customs), "of a successful result, the Board do not think it desirable to proceed further against Mr. Towill."

In view of the diversity of opinion which appears to exist on the part of the Board of Trade and their adviser and the late Law Officers on this subject, the Attorney- and Solicitor-General having stated that after some doubt they had "come to the conclusion that a prosecution should be instituted," Lord Tenterden was pleased to state that your Lordship would be glad, before acquiescing in the proposed abstention from further proceedings, to be favoured with our opinion, at our early convenience, whether there are or are not sufficient grounds for such further proceedings, and, in the former case, if we consider a conviction would be probable.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That, under all the circumstances of this case, we think that the captain should be prosecuted. If this course be adopted it will be open to him to show, if he can, that he had reasonable cause for not staying by the "Chiavari," but upon the evidence before us we think that the jury ought to find him guilty. It is possible that they may take a merciful view of the captain's conduct, but we think that, notwithstanding this contingency, the Board of Trade will probably agree in the opinion that we have expressed—that it is a proper case in which to institute a prosecution.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## No. 89.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 28.)

My Lord,
*Lincoln's Inn, April* 27, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 7th instant, stating that, with reference to our Report dated March, respecting the income tax levied in Italy upon the profits of British steamers trading with Italian ports, Lord Tenterden was directed by your Lordship to transmit to us, together with the previous correspondence, a further letter from the Liverpool Steam-ship Owners Association on the subject; and Lord Tenterden was pleased to request that we would take the same into consideration, and favour your Lordship with such further observations as we may have to offer thereupon.

In obedience to your Lordship's commands we have taken the matter into our consideration, and have the honour to report—

That we have carefully considered the letters from the Secretary of the Liverpool Steam-ship Owners Association to your Lordship dated the 27th March and the 2nd April, 1874.

We are of opinion that, apart from Treaty stipulations, a country has the right to impose any tax upon those who resort to the ports of that country for the purposes of trade. The policy of imposing such a tax is a totally different question, upon which different ideas may exist.

In the case before us the question is one of the construction of an Italian law; that question must, in our opinion, be decided by the Italian Tribunals; and we are of opinion that there is no ground for your Lordship's interference.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 90.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 16.)

My Lord,
*Temple, May* 15, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 27th ultimo, stating that he was directed by your Lordship to transmit to us a correspondence on the subject of an application made by the Italian Consul at Malta, in September last, for the extradition of an Italian subject, named Mendólia, accused of having committed homicide in the year 1864.

That upon that application the accused had been apprehended and brought before the magistrate at Malta, when it appeared in evidence that at the original proceedings against him he had been admitted to bail, and that in June 1867 his trial took place, when, not putting in an appearance, he was sentenced, *in contumaciâ*, to a term of imprisonment.

That the object of the application for extradition was, as we would perceive, to make the accused undergo the sentence passed upon him, but contained no provision for a trial. That the Italian Code, it must be observed, provided for the trial, *de novo*, of any person sentenced *in contumaciâ* for serious crimes entailing heavy sentences, upon the voluntary surrender or arrest of such person; and in case of a slighter offence and sentence, the accused might claim the same privilege on observing certain formalities, which in the case under consideration the accused had neglected, and the execution of the sentence had accordingly been pronounced *in contumaciâ*.

That the Extradition Ordinance between Malta and Italy of 1863 providing only for the surrender of criminals *with a view to their trial* on British or Italian territory (Articles 3, 5, and 11 of Ordinance), the magistrate released the accused, not feeling justified in surrendering him, a course which was approved by the Crown Advocate of Malta, who represented that as he proposed to submit some amendments in the Ordinance in the next session of Council, he would be glad to know whether any alteration was considered advisable in regard to the principle which had thus come under discussion; and the Secretary of State for the Colonies having inquired what was Lord Granville's opinion as to whether the Ordinance should be amended so as to include cases such as the one above referred to, his Lordship was informed in the letter of the 15th November last, therewith sent, of the reasons why, in Lord Granville's opinion, such a concession should not be made.

That the Italian Minister at that Court having besides entered a protest against the principle which had been applied by the magistrate of Malta to that case, the Colonial Office had obtained from the Crown Advocate of Malta a full report on the matter, accompanied by a reply to the arguments used by the Italian Government, and in which he expressed the opinion that the magistrate was completely justified in ordering the release of the Italian from custody.

That other points had, as we would perceive, been raised in that correspondence, including the question of the extradition of a prisoner for the act of escaping from his prison; but that, after discussing this and other points, the Crown Advocate limited himself to the suggestion, in regard to any alteration of the Ordinance of 1863, that to avoid any difficulty, it would be well to amend the Ordinance in such a manner as to authorize the Governor to surrender to the Italian Government any person sentenced in Italy after a trial *in contradictoris* (that is to say, at which the accused has been present) for an extradition offence, adopting for that purpose, as near as possible, the words of the Imperial Extradition Act of 1870.

That the Colonial Office having asked for the opinion of that Department as to whether the Ordinance should be amended in the manner suggested by the Crown Advocate, Lord Tenterden was to request that we would take that case into our consideration, and favour your Lordship with our views upon that subject, and as to the instructions with which the Crown Advocate should be furnished thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the Extradition Ordinance (that of 1863) at present in force in Malta applies only to the surrender of persons *charged* with the commission of certain specified offences, *with the view to their being tried for such offences* in the Kingdom of Italy; and it is proposed by the Crown Advocate in Malta that the provisions of such Ordinance should be extended so as to provide for the surrender of persons who have been *convicted in contradictorio* (*i. e.*, after a regular trial in the presence of the accused) of the like offences.

The surrender of persons convicted of extradition offences, as well as of those

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charged with the like offences, is recognized both by the Extradition Act of 1870 and by our Treaty with Italy of the 5th February, 1873, in the former of which it is provided that the terms "conviction" and "convicted" shall not include or refer to a "conviction for contumacy;" and in the latter, that the demand for extradition must not be founded upon a sentence *in contumacid*.

The proposal of the Crown Advocate, while it would extend the provisions of the Maltese Ordinance to persons convicted of extradition offences, would, equally with the Treaty with Italy and with the provisions of our Extradition Act, exclude their application to sentences *in contumacid;* and we are therefore of opinion that the Ordinance may properly be amended or supplemented in the manner suggested by him. We think, however, that the Italian Government should come under reciprocal obligations.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No 91.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 30.)

*Lincoln's Inn, June* 30, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd instant, stating that on the 13th April last we favoured your Lordship with our Report on certain questions put to us in regard to the case of Mr. Mercer, who had been arrested in Italy in consequence of an altercation with some Italian boatmen, and after having been secured with thumbscrews had been detained in gaol and subjected to certain legal proceedings, though subsequently acquitted.

Lord Tenterden inclosed the draft of a letter which had been addressed to Mr. Mercer (May 2, 1874) in consequence of the recommendation contained in our Report, acquainting him with the decision of the Italian Government on his claim for compensation, and with the consequent inability of Her Majesty's Government to press that claim.

Lord Tenterden further inclosed Mr. Mercer's rejoinder to the above communication (May 14, 1874), from which we would perceive that he is desirous that his remarks might be submitted to us; and that he was accordingly to request that we would take his letter, and the previous papers which were annexed, into our consideration, and favour your Lordship with any observations which might occur to us thereupon, and that we would inform your Lordship whether there was anything therein contained to cause us to alter our opinion upon the case as already communicated to Mr. Mercer.

In obedience to your Lordship's commands we have the honour to report—

That we have read the letter and inclosure from Mr. Mercer, and we see no reason to alter the opinion which we had the honour of submitting to your Lordship upon his case.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 92.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 13.)

*Lincoln's Inn, August* 12, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 24th July ultimo, stating that he was directed by your Lordship to transmit to us therewith a correspondence, as marked in the margin,* respecting the case of the Rev. Edward Douglas, who is described as a member of the Redemptorist Congregation at Rome, and who appears to have become involved in legal proceedings with the Italian authorities in consequence of the Italian Government having applied the law of expropriation to the garden and vineyard attached to certain property claimed by Father Douglas at Rome, the whole of the purchase-money of this property being stated to have been advanced by him for the benefit of the congregation to which he belonged, and the property having been subsequently hypothecated by the congregation to him as security for the advance.

Father Douglas' claim on the Italian Government for a pecuniary compensation for the expropriation of this property appears to have been resisted under the circumstances stated in the correspondence.

The details of the proceedings in this case are very intricate, and scarcely admit of being epitomized. Sir A. Paget's despatch No. 79 of the 6th May is devoted to giving, as he says, a more accurate account of the transactions complained of than that contained in the original statement received from the Duke of Norfolk.

The fact is, however, therein confirmed of the acquisition by the congregation of Redemptorist Fathers in 1855 from the Duke of Sermonela of an estate consisting of a house and land known as the Villa Caserta; the money for the original purchase, certain incidental expenses, and the subsequent building of a church, amounting altogether to 100,000 scudi, having, there is every reason to believe, been advanced by Father Douglas out of his private means, of which the rules of his order permitted his retaining possession.

As security for the money thus advanced, he took in 1867 an "ipoteca" on the estate, the difference between this "ipoteca" and a mortgage being pointed out by Sir A. Paget as an important point in the question, the "ipoteca" being only a security for a debt, but, unlike a mortgage, constituting no conveyance of property. Father Douglas, it would therefore appear, has never been the actual owner of the property in question, while some further advances by him were only secured by simple receipts given by the Superior-General of the congregation.

The subsequent transactions, briefly stated, appear to have been as follows:—

In 1870 the Redemptorist congregation applied unsuccessfully to the Government to sanction their cession of the whole Villa Caserta estate to Father Douglas.

In 1872, just before the introduction of the Corporation Suppression Bill, Mr. Douglas sued the congregation for two items of alleged debt, including interest, to the amount of 867,038 Italian lire, when the Court gave judgment for the plaintiff with costs. In 1873, the legal term for appeal against such sentence having expired, the judgment should have become final, Father Douglas' admitted claim at this time being 1,426,501 lire. About this time the expropriation took place, 1,089,820 lire 98 c. being awarded as compensation payable by the Municipality to the congregation; against this award, however, the Municipality appealed.

In 1873 the congregation by deed assigned to Father Douglas in part payment the whole of the compensation money due from the Municipality, when application was made on Father Douglas' behalf to the Prefect of Rome for a deposit on account of such compensation, and after some months' delay, the Corporation Suppression Bill having been passed in the meantime, Father Douglas was informed that he must address himself to that authority, which he did, but without success, and Sir A. Paget, Her Majesty's Minister at Rome, having been informed that the judgment of the Civil Court was opposed by the Board, has remonstrated with the Minister for Foreign Affairs (Inclosure 3 in Sir A. Paget's No. 79) in a note containing a history of the case, but has been informed that the matter could not be settled administratively, and had been carried before the ordinary Tribunals, a course which, owing to certain weak points in Father Douglas' case, want of documentary evidence, and for other reasons stated by Sir A. Paget, he felt he could no longer oppose.

The Liquidation Board, it further appears, in consequence of certain irregularities and omissions in the conduct of Father Douglas' case, applied on the ground of fraud in the Civil Court for a reversal of their own judgment in his favour and for an annulment, on the ground of collusion, of all acts executed between Father Douglas and the Redemptorist congregation.

On the 5th May last the Court announced its decision, by which the former judgment in Father Douglas' favour was revoked, the deed of "ipoteca" for 100,000 lire annulled, and payment of costs decreed against Father Douglas and the representative of the Redemptorist congregation.

The arguments by which the Court seek to make good this sentence, as well as those which Father Douglas brings forward in support of his claim to compensation as the veritable owner of the funds advanced in the purchase of the Villa Caserta estate, are stated in full in the accompanying papers.

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* Duke of Norfolk, April 12; ditto, April 15; to Duke of Norfolk, April 22; to Sir A. Paget, No. 70, April ; Sir A. Paget, No. 79, May 6; Mr. Herries, Private, May 8; ditto, No. 17, June 18; ditto, No. 20, June 22, 1874.

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There has, as we would perceive, been some delay in obtaining a copy of the judgment of the Civil Court, which is now inclosed, with a translation, in Mr. Herries' despatch No. 17 of the 28th ultimo, and these papers, together with Mr. Herries' later despatch No. 20 of the 22nd ultimo, complete the case.

Mr. Herries appears to have an intimate knowledge not only of the late but also of past transactions connected with this case, and whatever circumstances the Italian Government may point to as being, in their opinion, of a doubtful or unsatisfactory character, Her Majesty's Chargé d'Affaires is, as we would perceive, strongly of opinion that Father Douglas is the victim of an act of gross injustice on the part of the legal Tribunals of Rome.

Lord Tenterden was to request that we would take this case into our consideration, and favour your Lordship with our opinion thereupon, and whether, and to what extent, it would be right and proper that Father Douglas should receive the support of Her Majesty's Government through Her Majesty's Legation at Rome.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That, in our opinion, the question for consideration in this case must be looked at entirely as they are affected by Italian law.

The fact that Mr. Douglas is a British subject cannot give him personally a better right than if he were an Italian subject.

And if such evidence of purchase and advance of money (principal and interest) as Mr. Douglas brought forward would not, in the absence of confirmation by documentary evidence, such as the conveyance, receipts, and so forth, sustain the claim of Mr. Douglas if he were an Italian, Her Majesty's Government could not properly give any support to the claim because he happens to be a British subject.

We do not suggest that the judgment of 1872 in favour of Mr. Douglas was obtained by collusion, but it seems that that judgment was subject to revision, and we can very well conceive that the Court of Revision may not have been satisfied with the evidence upon which that judgment was obtained in 1872, and have consequently set it aside.

For these reasons, and as matters now are, we are of opinion that Her Majesty's Government cannot support the claim of Mr. Douglas, but, as both Sir A. Paget and Mr. Herries have a strong opinion upon the merits of the case, we think it would be very desirable that Sir A. Paget should be instructed to take the opinion of a leading Italian lawyer upon the law of Italy applicable to the whole facts of the case.

If that opinion should be adverse to the claim of Mr. Douglas, your Lordship, we presume, would decline to give the assistance of Her Majesty's Government. If, on the other hand, the opinion should be in favour of Mr. Douglas, the interference of Her Majesty's Government would be interposed with greater effect.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 93.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 28.)

*Lincoln's Inn, August* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us a letter from the Italian Chargé d'Affaires in London, inclosing a copy of the will of M. Gerolamo Ponti, by which he had bequeathed a part of his property to the Academy of Science ("Academica delle Scienze") of London.

That your Lordship was of opinion that the Royal Society best corresponded to the meaning of the testator, but before communicating with that Society, your Lordship would be glad to be favoured with our opinion on the subject, and also as to the proper steps to be taken by the Foreign Office in the matter.

In obedience to your Lordship's commands we have the honour to report—

That assuming the will of M. Ponti to be established in favour of the legatees as against the claims of the testator's relations and the amount applicable to the gift in favour of the "Academica delle Scienze di Londra" to be ascertained, the parties or the Tribunal having the distribution of the estate of the testator would probably have regard to the view which would be judicially taken in England as to the particular Society intended to benefited.

What view would be so taken it is impossible to say without further information.

There is no public body in England known by the name or description mentioned in the will. Your Lordship has suggested the Royal Society, but the Society of Arts, if aware of the will, might possibly claim to be the Society indicated, and there may possibly be other bodies who might put in their claims.

In such cases, the Court of Chancery allows of evidence being adduced (within certain limits) for the purpose of assisting it in arriving at a proper conclusion, *e.g.*, if the testator had been a member of one and not of the other claiming parties, that circumstance might with propriety be taken into consideration.

Under these circumstances, your Lordship will probably think it right to make the bequest public by means of advertisement, and perhaps also to inform the two above-named Societies of the communication your Lordship has received, and to inform the Italian Legation of the course which your Lordship has adopted.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 94.

*The Attorney-General to the Earl of Derby.*—(*Received September* 15.)

*Lincoln's Inn, September* 15, 1874.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Lister's letter of the 9th instant, stating that, with reference to the Law Officers' Report of the 27th ultimo, on the subject of the will of the late M. Gerolamo Ponti, of Milan, in which they suggested that the bequest of a portion of his property to the "Academy of Science of London" should be made public by means of an advertisement, and that he was directed by your Lordship to transmit to the Law Officers a draft of a notice on the subject which your Lordship proposed to publish in the "London Gazette," and that he (Mr. Lister) was to request that the Law Officers would take the notice into their consideration, and favour your Lordship, at their earliest convenience, with their opinion as to whether it is right and proper.

The letter from the Italian Chargé d'Affaires, inclosing a copy of the will, which accompanied Lord Tenterden's letter of the 10th ultimo, together with three despatches on the subject from the Acting British Consul at Florence, were sent therewith in case the Law Officers should wish to refer to them.

In obedience to your Lordship's commands I have the honour to report—

That, in my opinion, the draft notice is quite right and proper. I would, however, suggest that the notice should be inserted in the "Times" newspaper, as well as in the "Gazette," as that journal is more generally read. It appears desirable that any institution claiming the legacy should do so at as early a period as possible; I have therefore forwarded this Report, in the absence of my colleagues, but, if it be desired, will obtain their views upon the subject.

I have, &c.
(Signed) RICHARD BAGGALLAY.

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## No. 95.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 26.)

*Lincoln's Inn, September* 25, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 22nd August ultimo, stating that an application was made last year by the Italian Consul at Malta for the extradition of an Italian accused of homicide in 1864, and was refused by the Malta authorities on the ground that sentence had been pronounced against him, and that there was no apparent intention to give him a new trial.

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The Extradition Ordinance between Malta and Italy of 1863 provided only for the surrender of persons charged with extradition offences with a view to their trial, whereas the surrender of persons convicted of such offences, as well as of those charged with them, is recognized by the Extradition Act of 1870, and by the Treaty with Italy of the 5th February, 1873. In the Act of 1870, however, it is provided that the terms "conviction" and "convicted" shall not include or refer to a "conviction for contumacy," and, in the Treaty with Italy, that the demand for extradition must not be founded upon a sentence *in contumaciâ*.

The result of the correspondence which took place relative to the application of the Italian Consul was, that it was decided to amend the Malta Ordinance so as to make its provisions correspond with those of the Extradition Act of 1870 and the Treaty with Italy.

Instructions were accordingly sent to Malta by the Secretary of State for the Colonies, and an Ordinance has been passed by the Malta Government to amend the Ordinance of 1863. A copy of this Ordinance, together with a Report thereon by the Crown Advocate of Malta, is inclosed in a letter from the Colonial Office (August 7), which Mr. Lister was directed by your Lordship to transmit to us therewith.

Mr. Lister was also to transmit to us a further letter from the Colonial Office (August 7), inclosing a memorandum by the Crown Advocate of Malta, together with a copy of a correspondence which had passed between him and the Italian Consul-General at Malta.

From this correspondence we would see that the Italian Government entertained a serious doubt as to the true import of the last section of Article IX of the Anglo-Italian Treaty of February 1873, which stipulates that "the demand for extradition must not be founded upon a sentence *in contumaciâ*." The Italian Government consider that this stipulation prevents them from demanding the surrender of an individual on the mere production of a sentence passed on him in Italy *in contumaciâ*, but that it offers no obstacle to a demand for his surrender on production of depositions or other evidence of criminality, though their ultimate object may be not to try the accused in his presence (*in contradictorio*), but to put him at once, without any such trial, to undergo the punishment awarded by his sentence *in contumaciâ*. The Italian Government take the section of Article IX to provide only that a sentence passed *in contumaciâ* is insufficient to prove the criminality of the person whose surrender is applied for, but that on the necessary proofs being produced, though they may be the same on which he had already been condemned *in contumaciâ*, no objection to the surrender can under the Treaty be raised on the ground that the accused would not have the benefit of a new trial.

The question thus raised by the Italian Government might, as pointed out by the Malta Advocate, also arise on the various Articles of the Extradition Treaties between this country and foreign States which contain an agreement similar to that of the Italian Treaty, and in an aggravated form in the case of the Brazilian Treaty, in which the words are (Article IX): "The requisition cannot, however, be founded on a sentence passed *in contumaciâ*, that is to say, where the deliquent has not been personally cited to defend himself."

Copies of the various Extradition Treaties between Great Britain and foreign States were also transmitted therewith; and Mr. Lister was to request that we would take these papers into our consideration, and furnish your Lordship with our opinion whether under these Treaties, or any of them, Her Majesty's Government may be legally called upon to surrender a person for an offence for which he has already, in the country where that offence was committed, been sentenced *in contumaciâ*, when such sentence has become final or would become so before the person in question can arrive at the place to which it is proposed to take him, and on surrender he would unavoidably be subject to undergo the punishment awarded by that sentence, without any trial in his presence.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the answer to your Lordship's question is, in our opinion, to be sought for in the principles upon which extradition is founded. Upon those principles, and under the Extradition Treaties between Great Britain and other countries, before any fugitive criminal can be surrendered by this country, proof according to the law of this country is required sufficient to have justified the *arrest* of the person whose extradition is demanded had the crime charged been committed here.

The legislation of several countries, however, admits of convictions *in contumaciâ*, a proceeding unknown to English law, and affording no evidence of guilt which would be received here, and in the Extradition Treaties with such countries it has been the practice, at any rate since the Extradition Act of 1870, to insert a provision to the effect that a requisition for extradition cannot be founded on sentences passed *in contumaciâ*.

We are of opinion that this provision, viz., that the demand for extradition must not be founded upon a sentence *in contumaciâ*, means that such sentence will for the purpose of extradition be deemed a nullity, and that other proof according to the law of Great Britain such as would justify the committal of the person accused if the crime had been committed here must be given.

And we are further of opinion that Her Majesty's Government is not concerned with the consequences of the sentence pronounced *in contumaciâ*, nor called upon to inquire whether such sentence has become final or would become so before the person surrendered could arrive at the place to which it was proposed to take him, or whether he would be subject to undergo the punishment awarded by such sentence *in contumaciâ* without any trial in his presence.

These are matters to be determined by the law of the place where the crime was committed, and cannot properly be entertained by Her Majesty's Government.

The only questions for the consideration of Her Majesty's Government are whether the crime be an extradition crime, and whether the proof given would justify the arrest of the fugitive had the crime been committed here.

And although the words in Article IX of the Treaty with Brazil describing a sentence passed *in contumaciâ* are not free from obscurity, we think they may be explained by the previous paragraphs of the same Article consistently with the similar provision in other Treaties.

In forming the opinion which we have the honour of submitting to your Lordship, we have not overlooked the argument of the Crown Advocate in paragraphs 7 to 10, inclusive, of his memorandum to the Governor of Malta, and paragraphs 3 to 8, inclusive, of the Crown Advocate's note to Sir Victor Houlton.

We regret that we differ from the Crown Advocate in his construction of the Extradition Act, 1870, and the Articles in the several Treaties in which sentences *in contumaciâ* are named.

The construction put by the Crown Advocate upon the Extradition Act, 1870, would, in our opinion, be utterly inconsistent with the corresponding Article in the Treaties, and would be a snare and a delusion to the Governments who have made Treaties upon the subject with Her Majesty, and who knew, and would know, nothing of the interpretation clause in the Extradition Act 1870.

Again, we consider that the construction of the 26th section of the Extradition Act, 1870, by the Crown Advocate is forced. The more natural sense of that section is, in our opinion, simply that a conviction *in contumaciâ* is no more under the Act than a charge on accusation upon which alone, and without further proof, the person in question shall not be surrendered; this view appears to us to be borne out by the general tenour of the Act, which throughout (c. 9 in section 8) maintains a distinction between persons accused and persons convicted, including in the former class persons whose convictions have been *in contumaciâ* only.

Lastly, the distinction between the effect of a sentence *in contumaciâ* "in pene criminale" and a sentence *in contumaciâ* "in pene corregionale" according to Italian law, shows the inconvenience and difficulty of applying the construction suggested by the Crown Advocate, for, in each case where a conviction *in contumaciâ* is brought to the knowledge of Her Majesty's Government, an inquiry into the law of the country whose Government demand the extradition becomes necessary, an inquiry which neither the Extradition Act nor the Treaties provide for.

In our opinion, the 3rd clause of the Malta Ordinance is not in correspondence with the Extradition Act of 1870 and the Treaty with Italy. Your Lordship, or Lord Carnarvon, will be able to form the best opinion whether any circumstances peculiar to Malta may make it desirable not to retain in its present form the Ordinance so far as it applies to conviction *in contumaciâ*.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 96.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 25.)

My Lord, *Lincoln's Inn, September* 25, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 24th August ultimo, stating that, with reference to our Report of the 27th April last, he was directed by your Lordship to transmit to us, together with the previous papers in the case, two despatches, with their inclosures, from Her Majesty's Chargé d'Affaires at Rome, relative to the income tax charged in Italian ports on the profits of British shipping; and that he was to request that we would take the same into our consideration, and favour your Lordship with any further observations which we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That three questions appear to us to be suggested by the despatches referred to in Mr. Lister's letter, and the other papers which have been forwarded to us:—

1. Are British shipowners, according to the letter of the Italian law, liable to the payment of income tax in respect of profits arising out of freight contracts entered into in Italian ports?

2. If so, is the Italian Government precluded by Treaty stipulations from enforcing such payment?

3. If the British shipowners are so liable, and the Italian Government is not precluded from enforcing payment, is it, as a matter of policy, desirable that the Italian Government should be urged to amend the law so far, at least, as it affects British interests?

As regards the first question, we think it must be assumed that the liability exists; the question is one to be decided according to Italian law, and the Italian Tribunals have decided in favour of the liability in the cases referred to in Mr. Herries' despatches of the 5th and 16th August. We gather, also, from the unwillingness of the Steam-ship Owners Association to adopt the course suggested by the Law Officers' Report of the 9th March, 1874 (as such unwillingness is expressed in their letters of the 27th March and 2nd April), that they are under the impression, if they have not been actually advised, that the construction of the law is against them. If, however, the Association are not prepared to admit that such is the true construction of the law, we can only repeat the recommendation, which we have already made, that they should obtain the opinion of some Italian lawyer upon the merits of their own case, and, if so advised, obtain a decision from the Italian Tribunals upon it.

With respect to the second question, a new view of the subject is presented in Mr. Herries' despatch of the 16th August. It has heretofore been assumed that the Italian Government were not precluded by Treaty from imposing or enforcing the tax as against British shipowners, but Mr. Herries refers to a Treaty between Austria and Italy, which, if the portion of it quoted in his despatch is not affected by other portions, would exempt from Italian income tax Austrian Shipping Companies and individuals trading between Austrian and Italian ports; and a British Shipping Company or owner would apparently be entitled to a like exemption, by virtue of the most-favoured-nation clause. The decisions in the cases of the Austrian Lloyd's Company and the Peninsular and Oriental Company, referred to by Mr. Herries, would not be adverse to this view, for, in neither case, was the trading between an Italian port and a port of the other Contracting Party; but, in each case, between an Italian port and an Egyptian port. There must, however, we think, be some error in Mr. Herries' despatch, either as regards the dates of the final decision in these cases, or the date of the alleged Austro-Italian Treaty, for the latter is stated to bear date the 23rd April, 1874, whilst the final decision in the cases of the two Companies, whose defence is alleged to have been founded on the Treaty, is stated to have been pronounced on the 22nd April, 1872. Supposing such a Treaty as that above referred to to be in force, we are inclined to think that it might be made available for the exemption of the Ship Owners Association in their carrying trade between Liverpool and Italian ports, but, before expressing any decided opinion, we should desire to be more fully informed as to the text of the Treaty, the particulars of the decisions in the above-mentioned cases, and the precise nature of the trading of the Association between Liverpool andItalian ports.

The question of the policy of endeavouring to obtain some amendment of the Italian law it is beyond our province to enter into; but we may observe that Mr. Herries' note to Chevalier Visconti Venosta of the 14th August, 1874, appears to

us to express all that can be said against the conduct of the Italian Government in persisting to levy the tax. We may, perhaps, also be permitted to suggest that the apparent acquiescence in the decisions of the Italian Tribunals of the French, Austrian, and British Companies, referred to by Mr. Herries, is a circumstance for consideration whenever the general question is entertained.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 97.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 25.)

My Lord, *Lincoln's Inn, September* 25, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 10th instant, stating that, with reference to his letter of the 24th ultimo, respecting income tax levied on British Shipping Companies in Italy, he was to inclose a further despatch on the subject from Her Majesty's Minister at Rome for our consideration.

In obedience to your Lordship's commands we have the honour to report—

That we have fully considered the despatch from Mr. Herries, under date the 3rd September, and we see no reason to modify the views expressed by us in our Report of yesterday's date.

If the exemption of British shipowners from payment of income tax is to be pressed upon the Italian Government, we deem it of importance that it should be first determined, whether it is to be so pressed upon the ground of the true construction of the Italian law, or of existing Treaty stipulations, or of policy. Upon each of these views we have expressed our opinion in our Report of yesterday's date.

We gather from Mr. Herries' last despatch that great difference of opinion exists among British Shipping Companies, not only as to the construction of the law, but as to the course to be pursued by them, and that some of them (and those apparently the leading Companies), have deemed it expedient to come to terms of arrangement with the Italian Government, a circumstance which probably explains the smallness of the assessment in the cases mentioned by Mr. Herries.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 98.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 6.)

My Lord, *Lincoln's Inn, October* 6, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 18th ultimo, stating that he was directed by your Lordship to transmit to us therewith a letter from Messrs. Newman, Dale, and Stretton, the Solicitors of an English Mining Company established at Val Barbina, in North Italy, together with a Report thereupon from Her Majesty's Chargé d'Affaires at Rome, respecting the injuries and losses which were alleged to have been inflicted upon the Company by the action of the Provincial Council and Prefect of Novara in prohibiting the smelting of the ores during a certain portion of the year, on account of its injurious effect upon the health of the neighbouring inhabitants.

That it appeared, however, from the Report of Mr. Herries, that that prohibition had since been withdrawn by the Italian Government, and that permission had been given for the reopening of the works; but that the Company declared it to be their intention to claim from the Italian Government, or from the Prefect of Novara, damages on account of the alleged illegality of the proceedings of the latter; and that Mr. Herries stated that the Company would look for the support of Her Majesty's Government in supporting that claim.

That Mr. Lister was to request, therefore, that we would take those papers into our consideration, and that we would favour your Lordship with our opinion as to the

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validity of that claim for compensation, and also as to the course which Her Majesty's Government should adopt in the matter.

That a copy of the Treaty of Commerce and Navigation between this country and Italy of the 6th August, 1863, was annexed for facility of reference.

In obedience to your Lordship's commands we have the honour to report—

That an English Company carrying on business in Italy is exactly in the same position, in regard to rights, wrongs, and legal proceedings, as an Italian Company.

The question of the validity of the claim for compensation put forward by the Val Barbina Company properly belongs to the Italian Tribunals, and Her Majesty's Government cannot therefore, in our opinion, interfere in the matter.

The XIVth and XVIIth Articles of the Treaty of the 6th August, 1863, are the only Articles at all relating to the matter in question, and these have no bearing upon the immediate question which can be regarded as favourable to the Company.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 99.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 16.)

My Lord, *Lincoln's Inn, October* 14, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence respecting an application made by M. de Rosaz for information relative to Antonio Mangini which is required in connection with proceedings in Chancery, together with a memorandum on the subject;* and Mr. Lister was to request that we would favour your Lordship with our opinion as to whether such information as the Foreign Office can supply, as well as copies of any documents which may be required, can properly be communicated to M. de Rosaz.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That, referring to the memorandum, which states that, according to the usage in the Foreign Office, the correspondence between the years in question, 1781 to 1862, may be seen, and that the documents contain nothing which may not safely be seen, we are of opinion that M. de Rosaz may be supplied with the information and copies of documents which he applies for.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 100.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 21.)

My Lord, *Lincoln's Inn, October* 20, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 24th September ultimo, stating that he was directed by your Lordship to transmit to us a further despatch, and its inclosures, from Her Majesty's Chargé d'Affaires at Rome relative to the claim advanced by the Italian Revenue authorities to tax the profits of freights of British Navigation Companies, in which he reports that the Court of Appeal at Naples had given a decision adverse to the claim; and that he was to request that we would take these papers into our consideration, together with those inclosed in his letter of the 24th ultimo, and favour your Lordship with our opinion on the question.

In obedience to your Lordship's commands we have the honour to report—

That the only additional information afforded by Mr. Herries' despatch of the 14th ultimo is to the effect that the Provincial Income Tax Commissioners at Naples have decided against the claim of the Italian Government to tax the freight profits of British Shipping Companies, but that an appeal has been lodged against such decision to the Central Commissioners at Florence.

As against this decision of the Provincial Court at Naples in favour of British shipowners, it appears from Mr. Herries' letters of the 5th and 16th August that the Provincial Court at Genoa have decided against a French Company, and that the Central Court has reversed decisions of the Provincial Court at Brindisi in favour of the Peninsular and Oriental Company and the Austrian Lloyd's. Mr. Herries appears to anticipate that a similar reversal will be arrived at in the appeal from the Neapolitan Court.

Under these circumstances, we see no reason to modify or add to our Reports of the 24th and 25th September, beyond observing that, if the British shipowners really desire to have the question of law decided, the pending appeal affords a favourable opportunity of obtaining a judicial decision, inasmuch, as it would appear from Mr. Herries' despatch, that if the anticipated reversal of the Neapolitan Court should occur, the whole question can be brought under the consideration of the Civil Tribunals of the country.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 101.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 29.)

My Lord, *Lincoln's Inn, October* 27, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 3rd instant, stating that, with reference to his letter of the 2nd instant respecting M. de Rosaz's application for information regarding Antonio Mangini, he was directed by your Lordship to transmit the accompanying volumes, which contain all the correspondence in the possession of the Foreign Office relating to that gentleman.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to M. de Rosaz being allowed to see the correspondence marked in the volumes forwarded to us with Mr. Lister's note of the 3rd instant.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 102.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 8.)

My Lord, *Lincoln's Inn, December* 7, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 13th October ultimo, stating that the Law Officers of the Crown had, on various occasions, had submitted to them, for their consideration, questions which had arisen in regard to the claims of certain religious establishments in Rome, threatened with expropriation, to the protection of Her Majesty's Government, as being in point of fact British establishments.

That, on the 15th September of last year, a Report was received from the Law Officers on the subject, with especial reference to the claims of the so-called English, Scotch, and Irish Colleges to such British protection, and the opinion of those Officers was adverse to their claims.

That the particular papers on which the Law Officers were then requested to report was a despatch from Sir Augustus Paget, Her Majesty's Minister at Rome, inclosing a very full and detailed Report from Mr. Herries, Her Majesty's Secretary of Legation, on the subject.

That we would perceive from a further despatch from Sir Augustus Paget (No. 87), which he (Mr. Lister) was to transmit to us, that the question having been raised whether the time had not arrived for informing the Italian Government that Her Majesty's

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* M. de Rosaz, August 20; to ditto, September 10; Count de Jarnac, September 16; Memorandum, September 24, 1874.

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Government no longer recognized the claims of the establishments to British protection, it was decided that it would be desirable, in the first instance, to afford an opportunity to the persons interested in the Colleges to reply to the statement of facts furnished by Mr. Herries.

That it was further considered advisable, before that statement was communicated as above proposed, that it should be recast by Mr. Herries, and put in such a form as might render its communication less open to objection.

That that had now been done, and that the revised statement accompanied Sir A. Paget's despatch No. 87 sent therewith. That some further modifications of that paper had, however, been made in your Lordship's Department since its receipt, and in that form it had been printed with the object of being communicated as above stated.

That before furnishing the interested parties with copies of that document, he (Mr. Lister) was to request that we would take it into our consideration in its revised form, and that we would favour your Lordship with our opinion whether the arguments and statements therein contained were good and sufficient to justify Her Majesty's Government in withholding further support from the three Colleges as British institutions, and whether we saw any objection to the proposed communication; and that we would at the same time furnish your Lordship with any further observations on the subject, should we have any to offer.

That Sir Augustus Paget's despatch (No. 279), with Mr. Herries' original Report, was annexed in case we should desire to refer to it, together with a memorandum by Lord Tenterden on the subject, and the Law Officers' Report of the 15th September, 1873, above referred to.

In obedience to your Lordship's commands we have the honour to report—

That the following appears to be the result of the facts stated in the accompanying printed memorandum, as regards the establishment now known as the "English College":—

The original foundation was English, and its purposes were the relief of English travellers and sick.

In 1579 this English Hospital was turned by the Pope into an English College for the maintenance and instruction of fifty scholars.

The former endowments were diverted to this purpose, and some new endowments added by the Pope, with a reservation that, if at any time the College should be dissolved, the property or endowment should revert to the Hospital.

The Pope (Gregory XIII) claimed to be the founder of this College.

Further Papal grants appear to have been subsequently made to the College, and other benefactions contributed by British subjects.

The management of the College and the education of the students (these last seem to have been exclusively English or Welsh) were in the hands of Jesuits, who also were (if not always yet generally) English.

This English College, so founded, endowed, and governed, was dissolved in 1798, and its property confiscated; but in 1818 the College was revived and the property restored.

In or about 1855 a "Collegio Pio Inglese," which had been for some time established, became, to some extent, a part of the older institution, and was placed under the same Rector.

Such being the material facts respecting the "English College" stated by Mr. Herries, he argues from them:—

1. That the change of purpose and assumed foundership, effected and claimed by Gregory XIII, put an end to the nationality of the older establishment, and did not give an English character to the College.

2. That the education afforded by the College was conducted with the object of injuring, and in fact resulted in attempts to injure, the succession to the Crown of England, and the established laws and religion of this country; and that, as the whole constitution and aim of the institution is opposed to the interests of England, the College is not entitled to claim an English character.

3. That as the College was put an end to in 1798, it can only claim to have existed since the date of its restoration in 1818, and therefore all pretensions on the ground of antiquity are without foundation.

4. That, whatever the College may have been before 1855, it has since then been joined with another institution, and has lost whatever claim it may formerly have had as a place of education.

We do not altogether agree with these conclusions.

But we think that it is a fallacy to call the College an English institution because it is, or may be, administered by British subjects and affords education to British subjects. The proper and true legal meaning of the words "English College," or "Anglorum Collegium," we conceive to be a Roman or Italian College, in which British or other persons are allowed to educate English subjects; that is, a College or place of education which the Roman or Italian Government, as the case may be, has from time to time recognized as the place where English subjects go for education. The institution in question is, as it seems to us, an Italian or Roman institution, subject to the laws of Italy or of Rome, and not an English institution; but, at the same time, entitled, from its recognized existence for a great length of time (for we consider the break from 1798 to 1818 immaterial), to the most favourable consideration and the utmost forbearance from the Italian Government, and no more.

As regards the Scotch and Irish Colleges, Mr. Herries has, we think, shown that the Scotch College has a Roman foundation, out of Roman Church property, and comes distinctly within the observations already made as to institutions existing in Rome for the benefit of foreigners.

The Irish College is in the same legal position with the Scotch and English Colleges, and is entitled to the same, but no greater, protection on the part of Her Majesty's Government, and to the same, and no greater, forbearance on the part of the Italian Government.

Upon the whole, then, though not altogether concurring in the line of argument adopted in the draft, we are of opinion that there is sufficient in the facts of the case to justify Her Majesty's Government in withholding further support from these Colleges.

As regards the further question, whether we see any objection to the proposed communication of the printed memorandum to the interested parties, we would observe that we entirely agree with Lord Tenterden that the original draft prepared by Mr. Herries could not be given to a Roman Catholic to read; and although the printed draft now transmitted to us is, to some extent, less objectionable, we are of opinion that, even in its present form, it is hardly such as should be shown to the persons interested in the preservation or protection of the establishments in question, with a view to their answering its contents.

Mr. Herries prepared his Report for the information of Sir A. Paget and Her Majesty's Government, and he evidently feels very strongly on the subject with which he is dealing. For both reasons he is probably less guarded and more free in the remarks which he makes upon the language and conduct of the persons who support the English, Scotch, and Irish nationality of these establishments, than he would have been had he borne in mind the fact that his Report would be communicated to those whom, or whose predecessors, he charges with ignorance or suppression or perversion of the truth.

We also think that a document which Her Majesty's Government places before a certain portion of Her Majesty's subjects, with the object of obtaining their answer to it in support of their alleged claim to protection, should be confined to facts and to the arguments which may be drawn from or suggested by those facts, and should not, if it can possibly be avoided, contain anything which can be regarded as a personal attack. The document in question appears to us to contain several passages of a character to cause unnecessary offence to the parties interested; and we think that, if communicated to them, it would most probably lead to a retort (which would be a false issue), and to lengthened controversy.

Under these circumstances, we would suggest for your Lordship's consideration whether, in the event of your Lordship being of opinion that these establishments are in fact Italian, and English only in the sense which we have given to them, it might not be sufficient to assign that as the reason why your Lordship cannot go so far as you have been asked in their defence.

We will only add that, whatever may be, in one respect, the national character of these Colleges, they are not entitled to be more protected against the operation of Italian law than purely Italian establishments; and that British subjects in Italy cannot claim greater privileges or larger exemptions than the Government of Italy gives to Italian subjects.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

1874

## No. 103.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received December* 22.)

*Lincoln's Inn, December* 18, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 11th instant, stating that on the 13th April last the Law Officers favoured your Lordship with a Report on the case of Mr. Mercer, a British subject, who, whilst travelling in Italy, had been arrested, in consequence of an altercation with some boatmen by Italian carabinieri, and after being secured with thumb-screws had been locked up in the gaol of Castellamare, those occurrences having been followed by certain legal proceedings, and a subsequent representation by Her Majesty's Government to that of Italy in support of Mr. Mercer's claim to compensation for the treatment which he had experienced, and to the repayment by the Italian Government of the legal expenses to which he had been put in this matter.

That the answer of the Italian Government to that representation having been received, and being unfavourable to Mr. Mercer's claim, the papers were referred to us for our consideration, and, in conformity with the opinion expressed in the Report above referred to, Mr. Mercer was informed that as it was open to him to substantiate his claim, even against the Italian Government, for any wrongs done to him, and for which the Italian Government might be legally responsible, he should resort to the Italian Tribunals, if he was so advised, for redress, and furthermore, that under the circumstances a claim for compensation for suffering and injury caused to him could not be pressed by Her Majesty's Government against that of Italy.

That Mr. Mercer having replied to that communication, and further reference having been made to us on the subject, he was informed, on receipt of our Report of the 30th June, that we had been again consulted and saw no reason to alter our previous decision, and that consequently your Lordship was unable to take any further step in the way of a direct representation to the Italian Government in his favour in the present state of the case.

That since that period a further correspondence, therewith annexed, had passed between Mr. Mercer, Her Majesty's Minister at Rome, and the Foreign Office, from which we would perceive that Mr. Mercer having, in his letter of the 20th October last, transmitted an opinion upon his case by an Italian advocate, who maintains that he has a valid claim against the Italian Government; that those documents had been in the first instance sent to Her Majesty's Minister in Rome for any observations he might have to offer upon Mr. Mercer's case as put by the Italian lawyer, and his Report had been received and is contained in his despatch No. 109 of the 23rd ultimo.

Lord Tenterden was pleased to add that he was now to request that we would once more take the papers into our consideration, and favour your Lordship with any observations which might occur to us, arising out of the view taken of the case by the Italian lawyer, and with our opinion as to the answer which should be returned to Mr. Mercer's last communication; and that the previous papers were again annexed in case we should desire to refer to them.*

In obedience to your Lordship's commands we have taken the papers into consideration, and have the honour to report—

That the opinion of the Italian advocate is probably well founded upon the facts submitted to him.

Mr. Mercer may, we think, be answered that Her Majesty's Government cannot comply with his request and bring his case again to the notice of the Italian Government.

We have, &c.
(Signed) **RICHARD BAGGALLAY.**
**JOHN HOLKER.**
**J. PARKER DEANE.**

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* M. Cadaros, January 20; Memorandum, January 31; to Law Officers, February 6; Mr. Mercer, February 3; to Law Officers, February 14; to Mr. Mercer, February 14; Law Officers, April 13; Mr. Mercer, April 20; to Mr. Mercer, May 2; Mr. Mercer, May 14; to Law Officers, June 22; ditto; Law Officers, June 30, 1874.

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# Japan.

## No. 104.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received January* 10.)

*Temple, January* 9, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 30th December ultimo, stating that, with reference to our letter of the 18th December, suggesting the insertion in the revised Order in Council for China and Japan of a provision sanctioning the proposed Regulations as to foreigners travelling in Japan, he (Lord Tenterden) was directed by your Lordship to transmit to us a letter from Mr. Goodwin, the Assistant Judge of the Supreme Court, expressing his concurrence in our proposal and suggesting the form in which the insertion should be made; and Lord Tenterden was pleased further to say that he was to request that we would take that letter into our consideration, and report to your Lordship whether we approved the words suggested by Mr. Goodwin.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the amendment of the 91st Article of the draft Order in Council which is suggested by Mr. Goodwin may be approved.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 105.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received January* 14.)

*Temple, January* 14, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir Harry Parkes (No. 83), forwarding a Code of Quarantine Regulations agreed upon between the foreign Representatives in Japan and the Japanese Government, and he was to request that we would report to your Lordship our opinion as to whether these Regulations are such as may properly be enforced on British subjects if an occasion for establishing them should arise.

A copy of the Order in Council and of a letter from the Colonial Office (January 1), to which Sir H. Parkes' despatch was referred, were inclosed therewith.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report.

That in substance the "Scheme for Quarantine Regulations at the Treaty Ports of Japan" appears to be unobjectionable, but that it will be necessary that regulations should be made by Her Majesty's Minister in Japan for enforcing observance of the Regulations in the case of British subjects.

Such Regulations should include provision for penalties, and they must (unless declared to be urgent) be approved in the usual manner, and must otherwise be in accordance with the Order in Council. (See sections 4, 6, 85, and 90 of Order in Council.)

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

1874

## No. 106.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 1.)

My Lord, *Temple, March* 31, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd March instant, stating that, with reference to the Report from the Law Officers of the Crown of the 28th August last, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in Japan (No. 117), inclosing a Report by the Assistant Judge at Yokohama relative to the Marriage Law recently promulgated in that country; and Lord Tenterden was also pleased to request that we would take this despatch into consideration, together with the previous papers, which were returned for convenience of reference, and favour your Lordship with any observations we may have to offer thereupon.

Lord Tenterden was also pleased to inclose a copy of the Treaty between this country and Japan.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That, in answer to Sir H. Parkes' letter, we think that an Englishwoman marrying a Japanese in England, Japan, or elsewhere (if no Treaty affects the case), would become, by virtue of such marriage, amenable to Japanese jurisdiction when in Japan. Our own Statute, 33 Vict., cap. 14, which enacts, section 10, sub-section (1), "A married woman shall be deemed to be a subject of the State of which her husband is for the time being a subject," is express upon this point, and is probably only declaratory of general law.

A British subject marrying a Japanese woman in Japan or elsewhere would not, we think, become, by virtue of such a marriage, amenable to Japanese jurisdiction.

But for the Treaty, he might be; but any Japanese law, claiming jurisdiction over a British subject, or attempting to do so, would be inoperative so far as it is in conflict with the Treaty.

We observe that the law already proposed is to be reconsidered. Upon this law we may remark that the clause providing that foreign women married to Japanese must submit to Japanese laws, and shall acquire the position of Japanese, is simply harmless, as far as Englishwomen are concerned, for by our own laws they would become Japanese. The clause which provides that foreigners who have become the adopted sons-in-law of Japanese must obey the laws of Japan and will acquire the position of Japanese, would be, we think, inoperative against British subjects so far as it conflicts with the Treaty, but might be operative so far as it conferred benefits by succession or otherwise upon the British subject.

It is extremely desirable that Sir H. Parkes should, with a view to future legislation in Japan in laws affecting the rights of foreigners by reason of marriage to Japanese, obtain an accurate and authoritative exposition of the laws relating to marriage and divorce existing in that country.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## No. 107.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 9.)

My Lord, *Lincoln's Inn, June* , 1874.

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 27th May last, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister in Japan (No. 62), and a telegram from Her Majesty's Minister at Peking (April 24), relative to an expedition which the Japanese Government are sending to Formosa; and to request us to take those papers into our consideration, and to report to your Lordship our opinion whether the course pursued by Sir Harry Parkes in regard to the employment of British vessels as transports should be approved.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That in the uncertainty which prevails respecting the right of China over that part of the Island of Formosa against which the Japanese expedition is said to be more immediately directed, we think the course pursued by Sir Harry Parkes in regard to the employment of British vessels as transports may properly be approved.

In all probability the expedition will have started before any further communication can reach Sir Harry Parkes, but if the information in Mr. Wade's telegram of the 30th April, that the whole Island of Formosa is declared to be Chinese territory, be correct, it is, in our opinion, desirable that British subjects should be cautioned against joining any expedition against Formosa, and that measures should be taken to prevent any breach of the Foreign Enlistment Act.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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# Madagascar.

## No. 108.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 16.)

My Lord, *Temple, February* 14, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us a letter, and its inclosures, relative to a difficulty which it was feared might arise in getting evidence for the prosecution of prisoners sent from Madagascar for trial in Mauritius under the Order in Council of the 4th February, 1869.

That with a view to avoiding that difficulty, it was suggested that either the Foreign Jurisdiction Act should be amended, or the power of the Madagascar Consular Court enlarged.

That Mr. Lister was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to whether any change in that direction was desirable.

In obedience to your Lordship's commands we have the honour to report—

That we quite recognize the evil that may exist through the non-attendance of Malagasy witnesses in Mauritius, and it doubtless is desirable to find, if possible, a remedy for that which may cause a failure of justice.

Two ways suggest themselves of improving the present state of things: first, by giving increased powers to the Mauritius Court of receiving evidence; and, secondly, of improving and extending the powers of the local Tribunals of Madagascar.

We think that it would not be expedient to allow a person accused of a grave offence to be tried on documentary evidence without the production of witnesses before the Court in which the trial takes place.

It would be an innovation we should be unwilling to sanction.

We suggest that the more expedient remedy is either by appointing a Consul at Madagascar with legal experience, and with extended powers, or by causing a Judge from Mauritius to visit Madagascar to try prisoners as occasion may require.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

1874

### No. 109.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 12.)

*Lincoln's Inn, May* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 20th March ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch and its inclosure from Her Majesty's Consul in Madagascar, and to request that we would be so good as to draw up a form of notice, as therein suggested, which may be issued to British and British-Indian subjects resident in Madagascar, warning them of the penalties to which they will be liable should they be discovered to be in any way implicated in slave-dealing transactions.

In obedience to your Lordship's commands we have the honour to report—

That in obedience to your Lordship's directions we have drawn up a Notice to British subjects in Madagascar, warning them against being implicated in the Slave Trade, or illegally in possession of slaves.

This notice should be hung up in the Consul's office, and published in the papers, if any, circulating in Madagascar.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

### Annex.

*Notice.*

Her Majesty's subjects being within the dominions of the Queen of Madagascar, are hereby warned that in case any of Her Majesty's said subjects shall be accused before any of Her Majesty's Consuls residing in the dominions of the Queen of Madagascar, of engaging in, or being accessory to, the purchase or sale of slaves, or having slaves illegally in his, her, or their possession, the person or persons so accused will be forthwith proceeded against, and if convicted punished according to law.

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## Monte Video.

### No. 110.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 7.)

*Lincoln's Inn, May* 5, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 13th April last, stating that he was directed by your Lordship to transmit to us the accompanying despatch, and its inclosures, from Her Majesty's Consul at Monte Video,* requesting that the sanction of Her Majesty's Government might be accorded for the sale of certain land belonging to the British Church Establishment in that city, together with previous papers bearing upon the subject,† and to request that we would have the goodness to favour your Lordship with our opinion as to what answer should be returned to the application in question.

In obedience to your Lordship's commands we have the honour to report—

That, assuming the terms of the deed of gift to be correctly described in Mr. Hertslet's memorandum of March last, Her Majesty's Government may properly accord its sanction for the proposed sale of the land belonging to the British Church Establishment at Monte Video.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

### No. 111.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 20.)

*Lincoln's Inn, August* 19, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 28th July ultimo, stating that, with reference to our Report of the 5th May last, in which we advised that Her Majesty's Government might properly accord their sanction for the proposed sale of a certain portion of the land belonging to the British Church Establishment at Monte Video, he was directed by your Lordship to transmit to us the accompanying further despatches, and their inclosures, from Her Majesty's Consul at Monte Video,* calling attention to certain claims which had arisen in regard to the British cemetery property, together with previous papers, as marked in the inclosed list, relating to the same subject; and Mr. Bourke was pleased further to state that he was to request that we would take the case into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Representative at Monte Video can be made personally responsible for claims on the land by former proprietors or pretended proprietors, the land in question having been formally made over to Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That it would appear from the papers before us that the land in question is, according to the laws of Monte Video, vested in Her Majesty's Representative, and if such be the case, he would probably be the proper person against whom an action should be brought in that country for the recovery of the land or any part of it, but having regard to the circumstances under which the land was acquired, we think that the Monte Video Government should be called upon to protect and make good their own act in conveying the land, or to give a full and complete indemnity in respect of it.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

### No. 112.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 7.)

*Lincoln's Inn, September* 5, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th August ultimo, stating that, with reference to the papers sent to us on the 28th ultimo, in regard to the claims on the British cemetery property at Monte Video, he was directed by your Lordship to transmit to us, for our information, the acompanying despatch, and its inclosure, from Her Majesty's Consul in that city, conveying further information upon the subject; and to request that we would take these papers into our consideration, together with those already before us.

In obedience to your Lordship's commands we have the honour to report—

That we have taken into our consideration the despatch of Mr. Munro, under date the 15th July last, and see no reason to alter or add to our Report of the 19th ultimo. We note that Mr. Munro expresses the hope that, in his next despatch, he will be able to make a satisfactory Report.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Consul Munro, No. 6, Consular, February 7, 1869.

† Volume of Correspondence, Monte Video, January to December, 1869.

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* Major Munro, No. 31, Consular, June 9, 1871; ditto, No. 32, Consular, June 15, 1874.

1874

## Morocco.

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### No. 113.

*The Lam Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 15.)

*Temple, January* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 31st December ultimo, stating that, with reference to our Report of the 9th October last, respecting Consular jurisdiction in Morocco, he was directed by your Lordship to transmit to us a despatch which your Lordship had received from Sir John D. Hay (No 77), stating that, in obedience to the orders which he had received from the Foreign Office, founded upon the above-mentioned Report, it was his intention to inform the parties interested in the suit to which our Report had reference that the decision of the Vice-Consul at Mogador had been cancelled, and that it was to be considered as having had no effect, inasmuch as the Vice-Consul had no jurisdiction in the matter; and, further, that it was his intention to issue a Circular to all British Consular officers in Morocco, desiring them not to exercise jurisdiction in future in civil cases in which one of the parties was a foreigner.

It would, however, be seen that Sir John D. Hay points out the serious inconvenience which is likely to arise to British interests unless some steps be speedily taken to define clearly the duties of British Consular officers in Morocco in civil and criminal cases where one of the parties is a foreigner, and to place them upon the same footing as the Consuls of other nations.

A copy of the General Treaty with Morocco of the 9th December, 1856, of the Order in Council of the 27th August, 1857, and memoranda drawn up in the Foreign Office,* by Mr. Hertslet, upon the subject, were also sent to us therewith; and he (Mr. Lister) was to request that we would take these papers into our consideration, and favour your Lordship with our opinion upon them at our early convenience.

The papers previously sent to us were also inclosed for reference.†

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we are of opinion that the Order in Council of the 27th August, 1857, makes no provision for the exercise of jurisdiction in matters arising between English subjects and foreigners not being subjects of Morocco. And we do not think that the defect can be supplied by operation of Article XIV of the Treaty of the 9th December, 1856.

If it is thought expedient to make provision for such cases, it should be done by a new Order in Council, which might proceed upon the principles adopted in the case of the Ottoman Empire, as set forth in Mr. Hertslet's memorandum of the 8th December, 1873. The 78th Article of Order in Council of the 9th March, 1865, applicable to the Ottoman dominions, appears to us to be founded on sound principle.

We wish, however, to point out that even if power to the Consular Court to hear cases between English subjects and foreigners not being subjects of Morocco be given by Order in Council, it must be by Treaty with the Governments of such foreigners, or by the personal consent of the foreign suitor, that the Consular Court can claim to exercise any jurisdiction over them.

We beg to call attention to the fact that, though our opinion is now asked in special reference to the Report of the late Law Officers of the 9th October, 1873, no copy of that Report is furnished to us; this is a course which is productive of much delay and inconvenience, and we trust that in future we may be supplied with the former Reports, which constitute a material element in the consideration of such cases.

We have, &c.

(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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* Memorandum, December 8; ditto, December 30; ditto, December 31, 1873.

† Sir J. D. Hay, No. 65, Consular, September 15, 1873.

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### No. 114.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 12.)

*Temple, May* 12, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 20th ultimo, stating that he was directed to transmit to us the accompanying petition from Messrs. Morris and Co., of Doncaster, complaining of the conduct of Her Majesty's Minister in Morocco, and of several Consular officers in that country, for alleged failure of duty in neglecting to protect their interests, and praying for redress at the hands of Her Majesty's Government. That Mr. Bourke was also to transmit to us two despatches, with their inclosures, from Sir John Drummond Hay, containing his replies to the charges preferred against him.

That although Messrs. Morris' petition embraced numerous charges, the principal matter of complaint appeared to be that justice had not been done them in a question between them and a Moor, named Booshaib, respecting the tenancy of a house which Messrs. Morris and Co. obtained on lease from the Moor in question, but the rent of which they refused to pay, on the ground that the whole of the premises referred to in the lease had not been made over to them, and that a wall or parapet had been erected on the adjoining premises which interfered with their light and deteriorated the value of the property.

That that case had been the subject of litigation in the Consular as well as in the native Courts in Morocco, in both of which decisions had been given against Messrs. Morris and Co., but that they would appear to have set the decisions of those Courts at defiance, and refused to pay the rent of the premises, of which they still retained possession; and that under those circumstances he was to request that we would take those papers into our consideration, and report to your Lordship whether, in our opinion, the complaints preferred by Messrs. Morris and Co. were well founded, and that if not, what answer should be returned to their petition, and what instructions should be given to Her Majesty's Minister in regard to their refusal to pay the rent of the premises which formed the subject of litigation.

That previous papers were inclosed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That we are unable, in the very complicated narrative of Messrs. Morris and Co., to fix upon any specific complaint against Sir John Drummond Hay or either of the Vice-Consuls with whom Messrs. Morris have been concerned, though the supine conduct of one or more of these official persons is said to be the reason why the bones were not exported, and their negligence or corruption the cause of the alleged grievances in respect to the house.

On the other hand, the Reports of Sir John Drummond Hay, and the inclosures transmitted by him, as well as the probability of the case, lead us to the conclusion that Messrs. Morris have no pretence for asking your Lordship's interference.

Indeed, we are at some loss to make out in what direction, or to what extent, Messrs. Morris desire that interference.

We should therefore be inclined to advise your Lordship that those gentlemen should be answered that, upon due inquiry being made into the circumstances of which they complain as affecting themselves, no reason can be found which would justify any censure of Sir John Drummond Hay, or call for your Lordship's action to obtain any redress for the petitioners.

But as this answer would probably lead to a very lengthened and useless correspondence, and in justice also to the Messrs. Morris, we are of opinion that the proper course will be to inform them that Sir John Drummond Hay has been communicated with on the subject of their petition, and has reported in answer that they may inspect his Reports and the documents transmitted by him to the Foreign Office, and reply upon the statements therein contained, if they are so advised.

Her Majesty's Minister should, we think, be instructed not to interfere with the premises or rent which form the subject of litigation, but leave the settlement of these matters to the proper Tribunals having jurisdiction over the subject-matter.

We have, &c.

(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

1874

### No. 115.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 18.)

My Lord, *Lincoln's Inn, May* , 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 4th May instant, stating that, with reference to his letter of the 20th ultimo, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Tangier* bearing on the case of Booshaib *v.* Messrs. Morris and Co., of Doncaster.

In obedience to your Lordship's commands we have the honour to report—

That we have read the despatch and inclosure from Her Majesty's Minister at Tangier, and have nothing to add to our Report of the 11th instant on the subject referred to in the despatch and inclosure.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHH HOLKER.
J. PARKER DEANE.

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### No. 116.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 29.)

My Lord, *Lincoln's Inn, September* 28, 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 2nd September instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires and Consul at Tangier,† asking for an explanation of an expression in an instruction addressed to Sir John Hay, and founded on our Report of the 12th May last, respecting Mr. Morris' complaint.

Mr. White also asked for instructions as to the length of time which may be allowed to elapse before giving notice of appeal in a suit between British and Moorish subjects.

Our Report above alluded to, and the instructions founded on it,‡ were inclosed in connection with the first point, and Mr. Bourke was to transmit the Morocco Treaty and Order in Council,§ in order to assist us to form an opinion on the second.

Mr. Bourke was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the answers which should be returned to Mr. White's questions.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That in expressing the opinion, in our Report of the 12th May last, "that Her Majesty's Minister should be instructed not to interfere with the premises or rent which formed the subject of litigation, but to leave the settlement of these matters to the proper Tribunals having jurisdiction over the subject-matter," it was not our intention to recommend either that the questions at issue between the two parties should be referred to the proper Tribunals for new trials, or that the decisions already pronounced might be carried into effect; we simply meant that Her Majesty's Minister should not interfere in any way, but should leave the parties interested to take whatever course they might be advised or think fit.

As regards the other matter referred to in Mr. White's despatch, we are of opinion that the term of fifteen days, fixed, by Article 10 of the Order in Council of the 27th August, 1857, as the period within which an appeal must be presented, must be limited to the suits, &c., between British subjects mentioned in that Article, and have no application to the suits which form the subject of Articles 8 and 9.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Sir J. D. Hay, No. 25, April 17, 1874.
† No. 42, August 4, 1874.
‡ Law Officers, May 12; to Sir John Hay, No. 10, May 26, 1874.
§ Treaty of December 9, 1856; Order in Council of August 27, 1857.

### No. 117.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 16.)

My Lord, *Lincoln's Inn, October* 16, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 23rd ultimo, stating that he was directed by your Lordship to request that we would take the inclosed letter from the Board of Trade (September 15) into our consideration, together with those sent to us on the 20th August, respecting the overcrowding of pilgrims' ships.

In obedience to your Lordship's commands we have the honour to report—

That the letter from the Board of Trade confirms the opinion which we had the honour of submitting to your Lordship on the 24th ultimo.*

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 118.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 29.)

My Lord, *Lincoln's Inn, October* 27, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the papers, as marked in the margin,† relative to a resolution passed by the Morocco Board of Health that, with a view to preventing the introduction of plague into that country, a representation should be made by each of the foreign Representatives on the Board to their respective Governments, recommending that authority be given to Consular officers in the East to refuse to deliver bills of health to vessels conveying pilgrims from the Hedjaz to Morocco, and that Consular officers in Morocco be authorized to refuse to issue bills of health to vessels carrying pilgrims from Moorish ports.

That he (Mr. Lister) was to request that we would take the papers into our immediate consideration, and favour your Lordship with our early opinion as to the power of Her Majesty's Government to authorize Consuls to refuse bills of health to vessels carrying pilgrims.

That copies of the Orders in Council which applied to the Ottoman dominions and to Morocco were also inclosed.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government has not the power to authorize Consuls to refuse bills of health to vessels carrying pilgrims merely because they carry pilgrims as passengers.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 118*.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 7.)

My Lord, *Lincoln's Inn, November* 4, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 14th October ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires and Acting Consul-General in Morocco (No. 18), with its inclosures, which again raised a question which formed the subject of Reports by the late Law Officers in 1871 and 1872 respecting the jurisdiction

* See Tunis.
† No. 49, September 28; Board of Trade, October 12; Council Office, October 9.

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possessed by the Supreme Court of Gibraltar over British Consular officers and other British subjects in Morocco.

That in the previous case of "Haire *v.* Stokes" the question arose on account of an action of trespass brought against a British Vice-Consul, and though he was sued for ordinary trespass as a private individual, as a matter of fact, the proceedings constituting the alleged trespass were taken in the fulfilment of Consular duties under the provisions of the Order in Council.

That this did not appear to have been the case in the present instance.

That he, Mr. Lister, was to request that we would take Mr. White's despatch and its inclosures, together with the papers in the case of Vice-Consul Stokes, which were therewith sent,* into our consideration, and favour your Lordship with our opinion as to the instructions which should be sent to Mr. White on the subject, and whether, in the event of the action having arisen out of matters unconnected with Mr. Lapeen's Consular duties, your Lordship was called upon to interfere in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in the event of the action having arisen out of matters unconnected with Mr. Lapeen's Consular duties, your Lordship is, in our opinion, not called upon to interfere in the matter.

And Mr. White may properly be instructed to that effect.

Upon the general question of the jurisdiction of the Court of Gibraltar, we agree with the opinion of the Law Officers of the 23rd September, 1871, that that Court has not power to issue process against persons not within its local jurisdiction.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 119.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received November 9.)*

My Lord, *Lincoln's Inn, November* 9, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 9th October ultimo, stating that, with reference to our Report of the 28th September, he was directed by your Lordship to state to us that your Lordship did not clearly apprehend what instructions might properly be sent to Her Majesty's Chargé d'Affaires at Tangier in regard to the length of time which might elapse before notice of appeal was given in suits between British and Moorish subjects.

That he (Mr. Lister) was accordingly to request that we would again take the inclosed papers† into our consideration, and favour your Lordship with our opinion as to whether there is any limit in this respect, or whether an appeal can be instituted at any time whatever after the hearing of a suit between a British and a Moorish subject.

In obedience to your Lordship's commands we have the honour to report—

That no time is fixed, either by the Treaty with Morocco of the 9th December, 1856, or by the Order in Council of the 27th August, 1857, within which appeals may be brought in suits between British and Moorish subjects, but the reason of the thing requires that there must be some limit beyond which an appeal should not be allowed, and this limit, we think, must be left to the regulations (if any) of the Tribunal of Appeal, or, in the absence of any such regulations, to its judicial discretion.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* See List.

† Mr. White, No. 42; Treaty, December 9, 1856; Order in Council, August 27, 1857.

## No. 120.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received November 10.)*

My Lord, *Lincoln's Inn, November* 9, 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 31st August last, stating that, with reference to our predecessors' Report of the 13th January, he was directed by your Lordship to transmit to us the papers relative to the competency of British Consular Courts in Morocco to try suits between British subjects and foreigners not being Moorish subjects.

That those papers comprised a memorandum by Mr. Reilly, with the draft of a new Order in Council which it was proposed to issue on the subject, together with a memorandum on the wording of the Treaty with Morocco, and also memoranda by Her Majesty's Minister in Morocco; and that Mr. Bourke was to request that we would take those papers into our consideration, and favour your Lordship with our opinion, both on the general subject of the terms of the Treaty, and as to whether the Order proposed by Mr. Reilly might properly be issued.

In obedience to your Lordship's commands we have the honour to report—

That, apart from the Order in Council of the 27th August, 1857, the difficulty under the Treaty, with respect to appeals in suits between British and Moorish subjects, would not, in our opinion, have existed, for though we agree with Mr. Reilly that his interpretation of the IXth Article of the Treaty, viz., that the British litigant appealing shall appeal to the British Chargé d'Affaires or British Consul-General, and the Moorish litigant to the Moorish Commissioner for Foreign Affairs, is the more obvious, and was officially adopted when the Order in Council was framed, yet we think that a construction consistent with the principle, "Actor sequitur forum rei," might have been put upon this provision of the IXth Article without any undue strain, and such a construction would have been more in accordance with the other provisions in the Treaty.

As the case now stands, this Article IX of the Treaty should be amended or explained, and so much at least of the Order in Council as applies to the appeals in question be revoked.

We doubt whether a Mixed Appellate Court would work satisfactorily, but, if that course be adopted as the least inconvenient alternative, some provision should, we think, be made in the constitution of that Court for a difference of opinion between the Commissioners.

We rather incline to an explanation of the Article which shall carry out the principle of "Actor sequitur forum rei" in appeal cases as the most simple and least objectionable mode of getting rid of the existing anomaly.

The XIVth Article of the Treaty can only bind the two Contracting Parties; it cannot be applied to the subjects of other foreign Powers, and it is a mere surrender, on the part of the Moorish authorities, of their right to interfere in the views specified, nor can Her Majesty, by Order in Council, confer on British Consuls a jurisdiction over the subjects of foreign Powers except by Treaty with, or consent of, such foreign Powers.

But if, as Article XIV of the Treaty seems to suggest, and Sir J. D. Hay says a practice exists under which the different Consuls in Morocco exercise a jurisdiction in suits between persons of their own nationality and foreigners, it is, in our opinion, quite proper that a similar jurisdiction should, by Order in Council, be conferred on British Consuls.

But we agree with the opinion of the Law Officers of the 13th January, 1874, that an arrangement with foreign Powers is most desirable, if not absolutely necessary to the full working of such Order in Council, and the action of the Italian Government which, it is said, is about to be taken, seems to us a favourable opportunity for opening the requisite negotiations.

The second Article of the Order in Council before us is a logical consequence of the first Article, and is consistent apparently with the practice of the French in sending appeals to Aix, and of some other countries, but as this provision results in sending a foreigner out of Morocco into a British Colony, and before a British Tribunal, for the decision of his case, we cannot advise that it will be operative without the consent of the Government whose subject the foreigner may happen to be.

We are for these reasons of opinion, on the general subject of the Treaty, that Article IX should be explained in the sense which we have pointed out.

That Article XIV has no application to Consular jurisdiction over foreigners othe than Moorish subjects.

And that unless there be a well-admitted rule of Consular jurisdiction in Morocco, applicable to suits between a foreigner and a subject of the nation whose officer the Consul may be, the proposed Order in Council should not be issued till an arrangement with the several foreign Powers has been made, or the Order be so framed that it may come into operation as soon as the consent of each foreign Power interested has been obtained.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 121.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 15.)

My Lord, *Lincoln's Inn, December* 14, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th November ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Tangier, requesting to be informed whether claims of the Moorish Government on the estate of the late Mr. W. Grace, of Mogador, have precedence over private claims on the estate.

Papers as marked in the margin,* respecting debts owing to Mr. Grace and his firm by Moorish subjects, were also inclosed, from which it appears that the Moorish Government are to some extent responsible for the payment of these debts; and Lord Tenterden was to request that we would take the matter into our consideration, and report to your Lordship our opinion as to the answer which should be sent to Sir J. D. Hay.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That in the absence of any Treaty or Convention on the subject—and we are not aware of there being any such—the question whether the claims of the Moorish Government on the estate in Morocco of the late Mr. Grace, of Mogador, have priority over private claims on the estate, is one of Moorish law or usage, as to which we have no information. We should infer, however, from Sir J. Hay's despatch of the 24th December, 1873, that such a priority is recognized in Morocco.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 122.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 22.)

My Lord, *Lincoln's Inn, December* 21, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 25th ultimo, stating that, with reference to our Report of the 9th ultimo, he was directed by your Lordship to state to us that your Lordship thought it advisable to postpone the consideration of the points adverted to in Mr. Reilly's memorandum of the 3rd August, which affected the wording of the Treaty with Morocco, till the proposed Order in Council was settled to give British Consular Courts in that country the power to adjudicate in suits between British subjects and the subjects of States other than Morocco.

That on that point Lord Tenterden was to transmit to us a further letter from Mr. Reilly, containing remarks on that part of our Report which spoke of the necessity for the consent of foreign Governments to the arrangement contemplated in the draft Order in Council being obtained, before the Order could be issued. That, in accordance with Mr. Reilly's suggestion, Lord Tenterden was to call our attention to the clause in the draft Order which ran as follows:—

"Provided that the Consul shall not proceed therein" (that was in a suit of the nature under consideration) "unless and until the foreigner obtains and files in the Court of the Consul the consent in writing of the competent authority of the foreigner's own nation to his submitting, and does submit, to the jurisdiction of the Consul."

That that was couched in similar language with the clause in the Ottoman Order in Council which was stated by our predecessors in their Report of the 13th January, to which we referred, to be "founded on sound principle." That if any foreign Government should be unwilling that a British Consular Court should have jurisdiction in a case in which one of their subjects was interested, they would have merely to instruct the Representative to decline to file his consent in order to prevent the Court proceeding in such suit. Lord Tenterden was also to direct our attention to the judgment of Dr. Lushington, referred to by Mr. Reilly in the case of the "Laconia" (2 Moore P.C., N.S., 161).

That previous papers relating to that question which had already been before us were again inclosed for facility of reference; and that Lord Tenterden was to request that we would favour your Lordship, after a reconsideration of the subject, with our opinion as to whether the necessary consent of foreign authorities would not be effectually provided for by the above-quoted clause of the proposed Order.

That Lord Tenterden was to add that it was essential that British Consular Courts should be empowered, without unnecessary delay, to deal with the class of cases under consideration, and that it would therefore be preferable that that should be done by Order in Council, if possible, in the manner above indicated, instead of waiting till the terms of a Treaty with the various foreign Powers interested could be settled.

That for that reason also your Lordship would be glad to be favoured with our Report at our early convenience.

In obedience to your Lordship's commands we have the honour to report—

That "the consent in writing of the competent authority of the foreigner's own nation to his submitting," and his own submission "to the jurisdiction of the Consul," will no doubt be sufficient in each case to give the Consul jurisdiction over that particular case.

The objection, as it appears to us, to leaving the matter there is that the exercise of Consular jurisdiction will depend upon the submission of the individual foreigner, and the will of the "competent authority of the foreigner's own nation" in each case.

The individual foreigner will probably not submit where he has a bad case. The "competent authority" may from caprice, national jealousy, dislike of the British Consul, or any other motive, refuse to give his consent. The action of the British Consul may in this manner be fettered or entirely set aside at any time, and would be certainly in those cases where the British subject was in the right.

Nor does it appear who is to be the "competent authority" to give the written consent.

For these reasons we doubt whether the necessary consent of foreign authorities would be effectually provided for by the clause of the proposed Order in Council quoted in Lord Tenterden's letter.

The case of the "Laconia," to which Mr. Reilly refers, was carefully considered by us when we made our last Report on this subject to your Lordship, and, having again considered it, we remain of opinion that whilst it supports the view that the object desired may, to some extent, be attained in the manner suggested by Mr. Reilly, it in no way supports the view that it can be as effectually attained as by the course which we suggested. We would further observe that in the case of the "Laconia" the Order in Council provided for the consent of the "Consul," and not of the "competent authority."

We entirely agree with the opinion of our predecessors in their Report of the 13th January, 1874, stating that the 78th Article of the Order in Council of the 9th March, 1865, applicable to the Ottoman Empire, appeared to them to be founded on sound principle, but they added, and we agree with them in this also, that, if power to the Consular Court to hear causes between English subjects and foreigners not being subjects of Morocco were given by Order in Council, it must be by Treaty with the Governments of such foreigners, or by the personal consent of the foreign suitor, that the Consular Court can claim to exercise any jurisdiction over them. We have

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above indicated why the former of these courses appears to us more likely to effectually secure the desired object; but it may well be that reasons of policy or convenience, as to which it is beyond our province to express an opinion, may render it desirable, in your Lordship's judgment, to adopt the latter.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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# Netherlands.

## No. 123.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 6.)

My Lord, *Temple, February* 5, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 28th January ultimo, stating that he was directed by your Lordship to transmit to us a note which he has received from the Netherlands Minister at this Court claiming exemption from income tax on his movable property in this country.

That Count Bylandt complained in his note that, during his residence in England as Netherlands Minister, he has experienced very great difficulty in recovering the income tax deducted from his dividends, and that, although he has hitherto endeavoured to settle this matter unofficially with the Board of Inland Revenue, he had failed to arrive at any definite result which would establish in a clear and precise manner his position and rights.

That Count Bylandt therewith inclosed a Report which he had lately received from the Board of Inland Revenue, in which the reasons for that Board declining to to exempt him from income tax on certain shares which he holds in the Dunaberg and Witepsk Railway Company were explained.

That the Netherlands Minister, however, questioned the right of the Board of Inland Revenue to define the position of a foreign Minister, or the immunities which he should enjoy, and declined any longer to accept exemption from income tax on the ground of being in the position of a foreigner non-resident in England, on which ground, according to the Report of the Board of Inland Revenue, foreigners were in certain railway stocks exempt from the payment of income tax.

That Count Bylandt claimed this exemption in virtue of his official diplomatic character on the principle of reciprocity of international usage, which, he added, was observed in every country where a Diplomatic Body resided.

That Count Bylandt stated that by such usage no foreign Minister was ever forced to pay to the Government of the country where he is accredited any tax whatever on his movable property.

That had Count Bylandt been called upon to pay income tax on any dividends paid to him in full the present difficulty would not have arisen, because he would have been practically exempt from the payment of such tax by the Act of Queen Anne, which renders any person taking proceedings against a foreign Minister guilty of a criminal action.

When, however, the income tax was deducted previously to the dividends reaching the hands of the foreign Minister, the Act above-mentioned ceased to be of any value to him in this respect, as in that case there was no need for proceedings being taken against him, and, therefore, no question of violation of his diplomatic privilege.

That Lord Tenterden was to request that we would take the inclosed note, together with its inclosures, into our consideration, and favour your Lordship with our opinion as to whether, either by international law or by courtesy, foreign Ministers should be for the future exempt from the payment of such taxes, and whether in this particular case the income tax deducted from the dividends of his shares in the Dunaberg and Witepsk Railway should be returned to the Netherlands Minister.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Netherlands Minister is not entitled on the ground of diplomatic privilege to exemption from income tax on the dividends declared upon his shares in an English Company and paid to him in England.

Most authorities on international law agree in limiting his exemption from taxation to his person and personal effects necessary for his service as a Minister, and particularly in denying him any immunity in respect of property employed in trade, which certainly includes property arising from a trading Company.

Moreover, from a merely legal point of view, the question appears to be concluded by the Income Tax Act, 5 & 6 Vict., cap. 35, which concedes to Ministers an exemption from income tax payable under Schedule (C), but does not include Ministers among the persons exempted under Schedule (D), which is the schedule in question in the present case.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 124.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 6.)

My Lord, *Lincoln's Inn, July* 3, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 20th ultimo, stating that he was directed by his Lordship to transmit to us the accompanying despatch from Her Majesty's Consul at Rotterdam, together with previous correspondence, as marked in the margin, relating to a point which had been raised by the Committee of the British Episcopal Church at Rotterdam to the effect that a grant of Queen Anne's Bounty towards the expenses of that establishment was, in 1825, surrendered for the benefit of the Consular Act; and that Mr. Lister was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to whether, under the circumstances of the recent withdrawal from British Church Establishments abroad of the grant hitherto made to them under the Act of Parliament 6 Geo. IV, cap. 87, whether the Rotterdam Church had an equitable claim to revert to the allowance formerly made to them from the Queen Anne's Bounty Fund, or to receive any compensation from Her Majesty's Government for its withdrawal.

In obedience to your Lordship's commands we have the honour to report—

That it appears from the papers transmitted to us that the 100*l*. was at no time paid out of "Queen Anne's Bounty" properly so called, and that the Committee is in error in supposing that to have been the source from which the payment was made.

It seems to us that the grant was in the nature of a pension granted by the Crown, and that when the payment was charged upon the Consular funds, under 6 Geo. IV, cap. 87, no obligation was created, or security given that when the payment ceased to be made out of the Consular funds, the pension granted from time to time by the Crown should revive.

In this state of things, we see no reason for advising your Lordship that the Rotterdam Church has any claim, equitable or otherwise, for reverting to the allowance formerly made, as erroneously supposed from the "Queen Anne's Bounty Fund," or to receive any compensation from Her Majesty's Government for its withdrawal.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 125.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received November* 17.)

My Lord, *Lincoln's Inn, November* 14, 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 31st October ultimo, stating that the inclosed papers referred to the mode of working of the prize law by the Netherlands authorities in Batavia in cases of captures of vessels charged with breach of blockade of the ports of Acheen. That it was stated that hardship was caused to individuals by unnecessary delays in the proceedings, and that a case was instanced in which the entire crew of a captured vessel was detained for nearly a year without the case being tried.

That before making representations on the subject to the Netherlands Government, your Lordship would wish to learn our views on the general question of the right of a belligerent to detain neutrals captured on board ships accused of breach of blockade, and to be favoured with our opinion whether such representations would be advisable.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the detention of the whole crew of a vessel captured for breach of blockade is not an act of which the neutral Government under whose flag the ship was sailed can properly complain.

There is, according to the general practice of Prize Courts, no limit as to the number of the persons on board the captured vessels whose evidence "in preparatory" shall be given.

But it is the duty of the captors and of their Government to see that no unnecessary delay occurs in taking the evidence of these persons.

In the case now under consideration the capture took place off the coast of Acheen in the month of July 1873, and the prize was at once sent, with her crew, to Deli, a Dutch settlement on the east coast of Sumatra, and were there detained until March of the present year, when they were sent to Batavia, the nearest Netherlands Prize Court. It further appears, from the letter of the Dutch Secretary at Batavia of the 17th June last, that, though proceedings had then been commenced in the Prize Court, they were not likely to be concluded for "a long time;" and we gather from the papers before us that these proceedings are still in progress, and that the whole of the ship's crew, with the exception of two young Malays who were set at liberty in June, are still detained as prisoners.

It is possible that some explanation may be afforded which may account for and justify the delay, and the letter of the Dutch Secretary indicates the line of defence which will probably be adopted by the Dutch Government. The Dutch officials appear to have acted with great courtesy in relation to the capture, and it would appear from their representations that their Government have under their consideration the adoption of rules and regulations which may prevent the happening of similar delays for the future; but, under all the circumstances of the case, we think that your Lordship might with propriety address the Dutch Government upon the subject, with the view of inviting such explanations as that Government may think proper to afford.

In answer to the general question submitted to us by your Lordship's letter, we are of opinion that a belligerent has the right to detain, for a reasonable time and for the purpose of taking their evidence, neutrals captured on board a ship accused of breach of blockade.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## Pacific Islands.

### No. 126.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 13.)

My Lord, *Temple, March* , 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 3rd February ultimo, stating that he was directed by your Lordship to transmit to us despatches, as marked in the margin,* regarding the laws for the Navigators' Islands which it is proposed to bring into force next November; and with reference to any opposition which may be made to those laws by a British subject, Mr. Bourke requested that we should take these papers into consideration, and favour your Lordship with our opinion as to what instructions should be sent to the Acting Consul.

Mr. Bourke was at the same time to inclose, for our consideration and remarks, a letter from the Admiralty† inclosing a Report from the Commodore on the Australian Station in regard to his visits to the Samoan group of islands.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That it appears from the papers before us that the rude Code of Laws promulgated by the Governing Body or Taimua of the Samoan Islands came into operation on the 3rd November last, and it also appears from the letter of Captain and Commodore Goodenough that he had saluted the flag of the Government, "and had assembled the British residents and reminded them of their obligations to the Government now constituted" (paragraph 5 of letter). It also appears that the foreign Consuls and some of the British residents were consulted upon and approved these laws, but it seems that the Consul (letter of the 30th October, 1873) anticipates opposition on the part of a few British subjects in regard to the laws.

We think that it will be inexpedient for Her Majesty's Government to express publicly further approval of these laws, which are of a very rudimentary character, and which may or may not be effectually carried out in practice. But we think that the Consul may properly be directed to intimate privately to any British subjects who are disposed to treat these laws with contempt that they must not calculate on any support or assistance from Her Majesty's Government in the event of their doing so. The Consul, we think, should also be directed to watch the operation of these laws, and to report, from time to time, to Her Majesty's Government on the subject.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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* Acting Consul Williams, No. 13, October 30; ditto, No. 14, November 27, 1873.

† Admiralty, February 20, 1874.

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# Persia.

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## No. 127.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 6.)

My Lord, *Temple, January* 5, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 26th December ultimo, stating that, with reference to our Report of the 5th ultimo, he was directed by your Lordship to transmit to us a further letter from the India Office, dated the 19th December, 1873, requesting a reconsideration of the decision come to by your Lordship that Her Majesty's Government could not properly demand from the Persian Government compensation for the murder of Sergeant Collins near Shiraz in 1872; and he (Lord Tenterden) was pleased to request that we would cause your Lordship to be informed whether we are of opinion that the view taken by the India Office could properly be adopted.

Lord Tenterden was pleased to annex the former papers for reference.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that, according to ordinary international right, Her Majesty's Government cannot claim that money compensation should be paid by the Persian Government to the family of Sergeant Collins.

If this right were to be supported it must involve the consequence that if a Persian subject, or any other foreigner, were murdered in this country, Her Majesty's Government would have to make compensation to his relatives.

We observe that in Mr. Merivale's letter of the 24th October, 1873, it is stated "that compensation is granted by the Persian authorities to Russian, Turkish, and other foreign subjects when robbed on the highway." As we have no further information on this subject than that which is contained in the above statement, we find it difficult to advise your Lordship how far you should act upon it; but we think you should not instruct Mr. Thomson to make any claim as of right upon this ground without being further informed what is the general law of Persia upon the subject, and how far it has been acted upon.

In his despatch of the 18th August, 1872, Mr. Thomson states that "the Sadi Ajen has informed me that a sum of money will be exacted from Eelkhanee, the Chief of the Kushkai tribe, to which these men belong, and that this will be paid to Sergeant Collins' relatives. The amount has not yet been fixed by his Highness, but it will not, I imagine, exceed 500*l.*, and possibly there may be some difficulty in obtaining even that sum from the Kushkai Chief."

We do not read this as conveying any promise that the Persian Government will either itself pay, or in any event exact from the delinquent tribe, any sum of money, and the most we think your Lordship can do is to instruct Mr. Thomson to remind the Persian authorities of this conversation, and to urge upon them that measures should be taken to obtain some compensation from the Kushkai Chief, but this should not be put forward as any claim of right.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 128.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 28.)

My Lord, *Lincoln's Inn, April* , 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. Hill, executor of the late Mr. Alison, Her Majesty's Minister at

Tehran, requesting that Mr. Thomson may be allowed to act as Special Commissioner to the Court of Chancery, in cross-examination of witnesses at Tehran in the case of Hill *v.* Ongley.

Lord Tenterden was pleased to inclose a memorandum with reference to the regulations enabling British Diplomatic and Consular Agents abroad to administer oaths and do notarial acts, together with a copy of the Act 18 and 19 Vict., cap. 42, relative to this question; and Lord Tenterden was to request that we would favour your Lordship with our opinion as to whether Her Majesty's Minister at Tehran can properly be instructed to undertake this duty, which might, under the circumstances, place him in a very difficult position, or whether it would not be better that a Special Commissioner should be sent out for the purposes required.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That, in our opinion, your Lordship could not properly instruct, that is, officially instruct, Her Majesty's Minister at Tehran to act as Special Commissioner for the purpose of taking evidence under a Commission from the Court of Chancery.

Possibly, in some cases, your Lordship, or the Foreign Secretary for the time being, might think it right for some public interest to interfere in such a matter; but, as a general rule, the accepting the duties of a Commissioner is quite voluntary, and in the present instance we are of opinion that your Lordship may leave the matter for the option of Her Majesty's Minister at Tehran; but Mr. Hill should be informed that Her Majesty's Legation will not incur any expense, and that Her Majesty's Minister will act as to his own personal remuneration, and in every other respect, as any private unofficial person would if he were appointed a Commissioner for the same purpose.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 129.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 12.)

My Lord, *Lincoln's Inn, May* 9, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th April ultimo, stating that he was directed by your Lordship to transmit to us the inclosed despatch from Her Majesty's Minister at Tehran (No. 29 of the 6th February, 1874), inclosing copies of correspondence respecting the ill-treatment of Mr. Oswald, Agent of the British Indian Steam Navigation Company at Bunder Abbas, at the hands of certain pilgrims at that port; together with the counter-complaint of the pilgrims themselves; and

That on a perusal of those papers we would perceive that the "Patna," a steamer belonging to the Company, had been duly advertised to convey passengers from Bunder Abbas to Mecca, and a large number of pilgrims secured tickets by that vessel.

That on their arrival at Bunder Abbas, however, they were not allowed on board, and the vessel proceeded on her voyage without them.

Lord Tenterden further said that it was stated that no blame could be attached to the Company in the matter, as they seemed to have been willing to take the passengers on board, but were prevented from doing so by Persian pilgrims shipped at Bassorah and Bushire, who rose in mutiny against the captain and crew, and forcibly prevented the Bunder Abbas pilgrims from embarking.

That upon the departure of the "Patna" a fierce attack was made on Mr. Oswald, the agent, who was forced to fly from the place to save his life.

That the Company have now preferred a claim of 20,000 roubles against the Persian Government, and, on the other hand, the Persian Government demand compensation for the sufferings and losses sustained by the pilgrims.

Lord Tenterden added that he was to request that we would take the case into our consideration, and favour your Lordship with our opinion as to the proper course for Her Majesty's Government to take in the matter.

In obedience to your Lordship's commands we have taken the case into our consideration, and have the honour to report—

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That, in our opinion, the Persian Government cannot properly be held liable for the misconduct of the persons on board the "Patna," who prevented the pilgrims from getting on board.

The passage-money should have been at once returned to the pilgrims, and then, possibly, there would have been no riot, and Mr. Oswald would have run no risk and incurred no inconvenience.

The Company should, we think, either secure sufficient accommodation or receive no passage-money, except with notice that the money shall be returned if, from any reason, the passenger who has paid his money cannot be carried.

We are therefore of opinion that the pilgrims, or the Persian Government as representing the pilgrims, are or is entitled to compensation for the losses (and suffering, if any) sustained by the pilgrims, but the proceedings must be against the Company and not against Her Majesty's Government.

That the Company have no claim which Her Majesty's Government could properly support.

And, as respects Mr. Oswald, that a strong representation may properly be made to the Persian Government respecting the conduct of the Governor, who either had or ought to have had the means of protecting Mr. Oswald, who was, notwithstanding the injury done to the pilgrims, entitled to protection.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Peru.

### No. 130.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 9.)

*Temple, April* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 23rd ultimo, stating that, with reference to the Report of the Law Officers, therewith inclosed, dated the 15th December last, relative to the right of the Peruvian Government to establish a monopoly in the sale of nitrate of soda, he was directed by your Lordship to transmit to us, together with the previous papers in the case, a letter from Messrs. Dawson, Bryant, and Dawson, urging a reconsideration of the grounds upon which Earl Granville decided that the complaint of Messrs. Clark, Eck, & Co., in regard to the above matter was not one for the interference of Her Majesty's Government; and that he was to request that we would take the same into our consideration, and favour your Lordship with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That there is nothing in the letter of Messrs. Dawson, Bryant, and Dawson which leads us to differ from the opinion of the Law Officers, dated the 15th December last.

Your Lordship cannot, in our opinion, properly interfere with, or remonstrate against, the legislation of a foreign country on the ground that some law has not been legally passed and sanctioned, and put in force (if such were the case) according to the Constitution of that country.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## Peru.

### No. 130*.

*The Law Officers of the Crown and Dr. Deane to Earl Derby.*—(*Received April* 10.)

My Lord, *Temple, April* , 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 23rd March ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister and Consul-General at Lima, asking whether, in the case of a Consular mixed marriage between a British subject and a person not a subject of Peru, he is to require a certificate to the effect that the Marriage Law of the country of the non-British subject had been complied with.

Mr. Bourke also stated that he inclosed copies of two Circulars from the Foreign Office referred to by Mr. Jerningham, as well as a copy of the Consular Marriage Act, and the draft of a despatch which your Lordship proposes to address to him;* and that he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to whether the draft is correct.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft despatch which your Lordship proposes to address to Her Majesty's Minister and Consul-General at Lima is correct. We suggest, however, the slight alteration made by us.

We do not find the despatch of Her Majesty's Minister and Consul-General at Lima with the papers furnished to us.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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#### Annex.

*The Earl of Derby to Mr. Jerningham.*

(No. . Consular.)
*Foreign Office, March* , 1874.

Sir,

I HAVE received your despatch No. 7, Consular, of the 31st of January, enquiring whether it is necessary, in cases of marriages celebrated under the Consular Marriage Act, when one of the parties is neither a British subject nor the subject of the State in which the marriage takes place, that the Consular officer should require a certificate that the Marriage Law of the country of the non-British subject has been complied with.

In reply, I have to inform you, that the warning in such cases, "that the marriage is not necessarily valid out of Her Majesty's dominions," is only intended for the information of the persons concerned, in order that they may see the necessity of taking their own measures for securing the recognition of the marriage in any country in which this may be important to them. It rests with them to take such measures or not, but whatever they do in this matter the validity of the marriage in this country† is not affected in any way.

There is, therefore, no necessity that you should require such a certificate in the cases under consideration, but it is most important that you should not omit to give the prescribed warning.

I am, &c.
(Signed) DERBY.

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* November 28, 1872; November 21, 1873; Marriage Act; draft of despatch to Mr. Jerningham.

† Altered to "within Her Majesty's dominions" by Law Officers.

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## No. 131.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received July 14.)*

*Lincoln's Inn, July* 11, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 9th June ultimo, stating that, with reference to our predecessors' Report of the 10th January, 1873, Lord Tenterden was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister Resident at Peru (No. 27), inclosing a copy of a note which he had received from the Peruvian Government respecting Mr. Watson's claim.

Lord Tenterden was also to transmit to us the previous correspondence connected with this claim;* and he was to request that we would take all these papers into our consideration, and favour your Lordship with any observations we may have to offer thereupon.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That some regret must be felt for the time which the Peruvian Government has allowed to elapse before offering any explanation of the circumstances which led to the arrest and caused the lengthened imprisonment of Mr. F. Watson.

Mr. Jerningham makes no observation upon the letter addressed to him by the Peruvian Minister for Foreign Affairs, and transmitted to your Lordship by Mr. Jerningham. We assume that the contents of that letter are true.

It is not improbable that Mr. F. Watson may have been imposed upon and made use of by some political partisans, and been the bearer of letters which had a meaning not known to himself. But a conspiracy existed, as it appears, and Mr. F. Watson is found to be the bearer of letters to the chief of the alleged conspirators.

By the law of the country it seems to be illegal for a private individual to carry letters, as that act is an injury to the revenue.

He, therefore, cannot complain that the letters were seized, nor that the contents were such as properly led to his arrest and confinement.

The imprisonment certainly extended over a very long period, but the explanation of the Peruvian Minister on that head seems to us sufficient.

We do not deem it necessary to consider whether the Company which Mr. F. Watson was to join was actually formed or not, because in any case the imprisonment would have brought about a loss to Mr. F. Watson; and we think his imprisonment was justified by the circumstances.

Mr. F. Watson is apparently in error when he vouched Mr. Jerningham to the amount, 25,000*l.*, which he claimed for indemnity; and we are inclined to think he was mistaken in referring to the case of an American citizen, who, according to Mr. F. Watson, had, in circumstances similar to his own, received a large sum by way of compensation.

We further think Mr. F. Watson's claim for legal expenses exaggerated; this, however, is immaterial, since, in our view, he was liable to trial.

Upon the whole case, as it now stands, we are of opinion that the explanation of the Peruvian Minister is a satisfactory answer to the claim of Mr. F. Watson, and that your Lordship cannot properly press that claim further.

Your Lordship will best judge whether Mr. Jerningham should be instructed to that effect; and whether, in informing Mr. F. Watson of the result, that gentleman should be furnished with a copy of the letter from the Peruvian Minister.

We have, &c.

(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 131*.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received August 28.)*

*Lincoln's Inn, August* 27, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 15th July ultimo, stating that, with reference to the Report of the Law Officers of the Crown of the 6th December, 1872, upon a case referred to them respecting the conduct of Mr. Vines, at that time Her Majesty's Consul at Islay, in which they

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advised that Lord Granville might properly cancel Mr. Vines' commission, he was then directed by your Lordship to transmit to us the accompanying letter from Mr. Vines, in which he takes exception to a statement made by the Parliamentary Under-Secretary of State for the Foreign Department in the House of Commons, having reference to his case, and also to the manner in which the charges preferred against him by Mr. Swann were investigated by Mr. Nugent; and he requested that those charges may form the subject of a full and further inquiry. And Mr. Lister added that he was to request that we would take the case into our consideration, and favour your Lordship with our opinion as to whether Mr. Vines has any just grounds for requesting that this case may be the subject of further investigation.

That the former papers relative to the case were also annexed.*

We are also honoured with a letter from Lord Tenterden, dated the 11th August, 1874, stating that he was directed by your Lordship to transmit to us for our consideration, together with the papers which were sent to us on the 15th ultimo, a letter from Mr. Vines, dated the 3rd August, 1874, giving further particulars in his case against Mr. Swann.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That Mr. Vines, who resigned his appointment when his conduct had been the subject of inquiry and he was on the point of being dismissed, has not, in our opinion, any just ground for requesting that his case may be the subject of further investigation.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 132.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 7.)

My Lord, *Lincoln's Inn, September* 4, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 8th August ultimo, stating that, with reference to our Report of the 11th July ultimo, Lord Tenterden was directed by your Lordship to transmit to us the accompanying letter from Mr. F. Watson (August 1874), containing further arguments in support of his claim against the Peruvian Government; and Lord Tenterden was to request that we would be good enough to inform your Lordship whether this letter contains anything that would induce us to alter the opinion on Mr. Watson's claim expressed in our above-mentioned Report; the papers previously laid before us are sent herewith,* together with our Report and a draft of the letter to Mr. Watson founded thereon.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we have read and considered Mr. Watson's letter to your Lordship of the 3rd ultimo, and find nothing in it which induces us to alter the opinion already given by us in our Report of the 11th July last on his claim against the Peruvian Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 133.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 30.)

My Lord, *Lincoln's Inn, September* 29, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Chargé d'Affaires at Lima, reporting the circumstances under which Lawrence Higginson, a British subject, was taken out of the steamer "Santiago" in the Bay of Callao on the 10th July last, under an order from the Captain of the Port, and thrown into prison, where he was detained until the 24th of the same month.

That we should see from that despatch that Higginson was not even accused of having committed an offence within Peruvian jurisdiction, the occurrence which led to his arrest having admittedly taken place in the Bay of Panama, in the United States of Colombia.

That in those circumstances Mr. Lister was to request that we would favour your Lordship with our opinion as to whether Her Majesty's Government should take any, and, if so, what, steps in order to obtain redress from the Peruvian Government for what appeared to your Lordship to have been an unjustifiable and illegal outrage upon a British subject.

That Mr. Lister was to add that your Lordship had approved the steps taken by Mr. Nugent to obtain Higginson's release.

We are also honoured with a further letter from Mr. Lister, bearing date the 21st instant, stating that, with reference to his letter of the 8th instant, he was directed to transmit to us a despatch, with its inclosures, from Mr. Nugent, Her Majesty's Chargé d'Affaires at Lima, respecting the case of Mr. Higginson; and that he was to request that we would take those papers into our consideration, together with the previous ones upon the same subject which were then before us.

In obedience to your Lordship's commands we have taken those papers into our consideration, and have the honour to report—

That we are of opinion that the conduct of the Peruvian authorities in their treatment of Lawrence Higginson, as detailed in Mr. Nugent's despatch of the 27th July, and which does not appear to be denied by the Peruvian Minister in his note to Mr. Nugent, was a gross outrage upon a British subject, and calls for the strongest remonstrance on the part of Her Majesty's Government, with a demand for an immediate ample apology, as also for full compensation to Mr. Higginson, and that Mr. Nugent should be instructed accordingly. The note of the Peruvian Minister merely states that he had given orders for the release of Higginson, and in no way repudiates the charges made by Mr. Nugent, though it would appear from Mr. Nugent's despatch of the 10th August that the Minister has, in conversation, denied the responsibility of his Government. Until it is seen upon what grounds the Peruvian Government refuse the demand which Mr. Nugent may be instructed to make upon them, we are unable to advise what particular steps should be taken for obtaining redress.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No 134.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 7.)

My Lord, *Lincoln's Inn, October* 6, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 22nd September ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch, with its inclosures, from Mr. Nugent, Her Majesty's Chargé d'Affaires at Lima (No. 52 of the 13th August, 1874), in regard to the case of Captain Hall, commander of the Pacific Steam Navigation Company's steamer "Arequipa;" and Mr. Lister was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the course which should be adopted in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the despatch and inclosures of Mr. Nugent show that the charge against Mr. Hall was an attempt to murder within Peruvian territory.

If so, the Peruvian Tribunal would have jurisdiction, and although it might be a matter of observation that great delay has occurred in inquiring into apparently a

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* List.

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very simple matter, we are of opinion that Her Majesty's Government cannot properly interfere.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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# Portugal.

## No. 135.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 4.)*

*Temple, February* 3, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 31st January, stating that he was directed by your Lordship to transmit to us the accompanying telegram from Her Majesty's Minister at Lisbon (dated the 31st January) inquiring whether the British Consul at that port may authorize the arrest by a local detective of a German swindler on board a British steamer in the Tagus.

Lord Tenterden further stated that he was to request that we would favour your Lordship, at our earliest convenience, with our opinion as to the answer that should be returned to Sir Charles Murray on the subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, no authority can possibly be given by the British Consul for the arrest of an alleged fugitive criminal on board a British ship. If the ship be a vessel of war, we think that no surrender can take place in Portugal, but the fugitive may be brought to England, where he can be dealt with under the Extradition Acts. If the ship be a private vessel in Portuguese waters for the purpose of trade, the public authorities in Portugal must act on their own responsibility, but the British Consul should not interfere in the matter.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 136.

*Dr. Deane to Earl Granville.—(Received February 4.)*

*February* 4, 1874.

My Lord,

I HAVE the honour to acknowledge the receipt of Lord Tenterden's letter of the the 2nd instant, stating that he was directed by your Lordship to transmit to me a letter from the Colonial Office relative to the offer of Mr. H. Nourse to place at the disposal of Her Majesty's Government the journal of his uncle, the late Commodore Nourse, which contained entries relating to Delagoa Bay; and that he was to request that I would inform your Lordship whether I would wish to see the journal in question.

In obedience to your Lordship's request I have the honour to inform your Lordship—

That, as the proceedings relating to Delagoa Bay of which entries are made in Commodore Nourse's journal are fully detailed in the two volumes published by Captain Owen, R.N., I believe that the journal will not give any information which I should desire to have.

I have, &c.
(Signed) J. PARKER DEANE.

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## No. 137.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 18.)*

*Temple, February* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 13th instant, stating that, with reference to our Report, dated December 1873, respecting the question of the taxation of British subjects in Portugal, he was directed by your Lordship to transmit to us therewith two despatches on that subject from Her Majesty's Minister at Lisbon, to whom the matter was referred by your Lordship, before returning an answer to the Duc de Saldanha's note of the 6th November last.

That the former papers in that case were also inclosed; and that Mr. Lister was to request that we would take the same into our consideration, and favour your Lordship, at our early convenience, with such further observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That Sir C. Murray states that "the 'decima industrial' which existed in 1842 was indeed modified by the law passed in 1860, but the only change made in it was in the mode of assessment, and by altering the name to an 'équivalent synonyme';" but he does not explain what was the change which was made in 1860 in the mode of assessment, and as the answer to the question whether the "contribução industrial" is or is not substantially the same as the "decima industrial" may depend upon the nature of that change, we think that further information on this point is necessary.

Sir C. Murray further expresses an opinion that the expression "just proportion" in the Treaty of 1842 does not mean equality, and we should be glad to be informed what is the meaning which, in his opinion, should be assigned to it.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 138.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 18.)*

*Temple, February* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 10th instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. Hutchinson and Mr. John Payne, together with a despatch from Her Majesty's Consul in Madeira, relative to a claim of the Presbyterian community there to receive a share of the accumulated funds of the British cemetery, under the charge of the British Church Committee, when that ceases to be supported by Her Majesty's Government.

That the circumstances under which it had been considered right to withdraw, from the end of the current year, the Government contributions to certain British Church establishments abroad were fully set forth in the accompanying copy of the Circular which formed the subject of our Report of the 29th August last.

That Mr. Lister was to request that we would take the facts as set forth in those papers into our consideration, and favour your Lordship with our opinion as to whether, on the withdrawal of the grants, Her Majesty's Government would have any right to interfere in the appropriation of the funds of the churches affected by it, or in that case, in the disposal of the burial-ground funds, and, if so, what proportion of those latter funds, if any, should be apportioned to the Presbyterian community at Madeira.

In obedience to your Lordship's commands we have the honour to report—

That the Circular referred to by Mr. Lister, and stated to accompany these papers, is not sent. But we must assume that the approbation of Her Majesty will be necessary to the appropriation of the accumulated fund, under the Consular Act 6 Geo. IV, cap. 87.

We see many objections to any attempt to distribute the fund rateably amongst particular denominations.

It appears that the burial fees have been enormously high, and as it seems from Consul Hayward's letter that a new burial-ground will shortly be required, we would suggest that it might be well to point out to the British Consul at Madeira that it should be considered whether the funds should not be employed in the purchase and

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maintenance of a public cemetery available for the burial of English subjects of all creeds on moderate terms.

Her Majesty's Government cannot, however, originate any scheme, but can only allow or disallow those which may be suggested by British residents.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 139.

*Dr. Deane to the Earl of Derby.—(Received March 10.)*

*Temple, March* 10, 1874.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 9th instant, stating that he was directed by your Lordship to transmit to me a copy of a letter from the Colonial Office, inclosing a copy of one from Mr. Thompson, stating his ability to afford information with reference to the disputed claim of Delagoa Bay.

That Lord Tenterden was also to transmit to me a copy of the reply which your Lordship had caused to be returned to the Colonial Office.

In obedience to your Lordship's commands I have the honour to state to your Lordship—

That I shall be glad to be put in communication with Mr. Thompson at the earliest time which will suit that gentleman.

I have, &c.
(Signed) J. PARKER DEANE.

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### No. 140.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received July 8.?)*

*Lincoln's Inn, April* 20, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 21st ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Lisbon, containing the further information respecting the industrial tax levied on British subjects in Portugal which was asked for in the Law Officers' Report of the 17th February, also inclosed, and that he likewise transmitted to us the former papers in that case; and that he was to request that we would favour your Lordship with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That it appears from the information afforded by Sir C. Murray (and particularly by his despatch of the 10th March last) that the tax at present in force, under the name of "contribuigao industrial" is substantially the same tax in its objects and in its incidents as the "decima industrial" which was in force at the date of the Treaty of July 1842, and that consequently British subjects are entitled to limit their contributions to the former to 20 per cent. specified in the rider to the Treaty.

Had there appeared to us to be any question as to the correctness of the views taken by Sir C. Murray, we should have been disposed to recommend your Lordship to direct that an opinion should be taken upon it from the Portuguese legal adviser of Her Majesty's Minister at Lisbon, but the views of Sir C. Murray are so fully supported by the terms of the Law of 1860, imposing the tax which is at present in force, and appear to have been so generally recognized by the Courts of Law in Portugal, that we deem it unnecessary to do so.

We think also that the comment of Sir C. Murray, in his despatch of the 16th January, 1874, upon the letter of M. de Saldanha of the 6th November, 1873, are well founded, and that your Lordship may properly answer such letter by stating that your Lordship cannot agree with the interpretation which the Portuguese Government seek to put upon the Treaty of 1842, but that, on the contrary, the 20 per cent. specified in the rider to that Treaty is the maximum tax to which British subjects are liable.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 141.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May 16.)*

*Temple, May* 15, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the papers relative to the alleged infraction of Article XIII of the Anglo-Portuguese Treaty through the exaction of duties on English bonded goods at the Cape Verde Islands;* and that he was to request that we would take those papers into our consideration, and would favour your Lordship with our opinion as to the course which should be pursued in that matter.

In obedience to your Lordship's commands we have the honour to report—

That the words of Article XIII of the Anglo-Portuguese Treaty are not very clear.

Articles for home consumption or for re-exportation are to be received and warehoused.

These articles shall not in the meantime be liable to any of the duties with which they would be charged if they were entered for consumption on their arrival.

The word "meantime" implies, we think, necessarily that the duties shall not be charged while the articles are warehoused or when they are received, but that if subsequently delivered for home consumption they will become liable to duties on articles imported for home consumption, and so, if re-exported, there is nothing in the words which makes the imposition of an export duty an infraction of the Treaty.

The practice, however, of the Portuguese Customs authorities in not levying the duty when the goods are to be taken somewhere else for sale, tends to show that they themselves do put a wider construction on the Treaty than the words in themselves bear.

This is an argument which Sir C. Murray might very properly use in any further communication on the subject with the Portuguese Government, and the construction put upon the Treaty by the British Customs authorities may fairly be urged by Sir C. Murray.

But whilst the Portuguese Government is, as Sir C. Murray states, considering the whole subject, we are of opinion that the proper course to be pursued by Her Majesty's Government is to instruct Sir C. Murray to keep the question before him, and as occasions offer themselves, press upon the Portuguese Government the expediency of giving the Treaty a large construction consistent with that placed upon it in this country.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 142.

*Dr. Deane to the Earl of Derby.—(Received June 6.)*

*Temple, June* 6, 1874.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that, with reference to my letter of the 20th April, he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Ambassador at Paris, inclosing a French translation of the British Counter-Case in the Delagoa Bay question.

That Lord Tenterden was to request that I would be good enough to inform your Lordship whether the translation appeared to me to be satisfactory, especially as regarded the passages to which attention was called in Lord Lyons' despatch; and also whether I saw any objection to the insertion of three numbers in the last page as suggested by the translator.

In obedience to your Lordship's commands I have the honour to inform your Lordship—

That at p. 22 of the MS. translation, line 4, the figures "21" should be restored.

P. 25, line 3 from the foot, the words "La terre" would with advantage be altered into "Le territoire en litige," and the dependent words be in conformity made masculine.

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* To Mr. Hodgson, May 2; Sir C. Murray, No. 27, Commercial, April 13, 1874.

P. 26, line 12 from the foot, for "s'imaginaient" I would suggest the word "estimaient."

P. 28, line 6 from the foot, for "quelques" I would use the word "des."

P. 38, line 5 from the foot, I should be glad if the translator would introduce the words "en définitive" between the words "juger" and "si."

P. 46, MS., line 14 from the foot, I should prefer instead of the words "pour le besoin," the words "dans le dessein."

Your Lordship will see that these suggested alterations are independent of those referred to in the despatch of Lord Lyons.

With respect to the passages in the MS. on which doubts are expressed in that despatch—

I think the translation, p. 29, MS., of p. 11 in the English print, is right.

But pp. 38 and 39, MS., would more clearly give the meaning of pp. 14 and 15 of the English print if for "ainsi nommée" the words "aussi nommée Lorenço Marques" were substituted.

P. 40, MS., is correctly translated.

I entirely agree with the suggestion that the three numbers should be added, as pointed out by Lord Lyons, and perhaps still greater precision would be given to the conclusion if the passages were broken up into separate paragraphs marked by these three numbers.

I have, &c.
(Signed) J. PARKER DEANE.

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## No. 143.

*Dr. Deane to the Earl of Derby.*—(*Received July* 1.)

*Temple, June* 30, 1874.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 26th instant, stating that, with reference to my letter of the 6th instant, he was directed by your Lordship to transmit to me the accompanying despatch from Her Majesty's Ambassador at Paris, relative to the translation of the British Counter-Case in the Delagoa Bay question.

That I should see that the translator had adopted all the alterations suggested by me in the translations, with one or two verbal corrections which he had made for the sake of euphony; and that Lord Tenterden was to request that I would inform your Lordship whether I had any further remarks to make before the translation was put into print.

In obedience to your Lordship's commands I have the honour to report—

That the translation as it now stands may, in my opinion, be put into print; but I think the heading should have the word "Britannique" added after the word "Majesté."

I have, &c.
(Signed) J. PARKER DEANE.

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## No. 144.

*Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

*Temple, July* 13, 1874.

My Lord,

I AM honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th instant, stating that he was directed by your Lordship to transmit to me, for my consideration, a letter from the Colonial Office, inclosing copy of a despatch from the Governor of the Cape of Good Hope, upon the subject of the Delagoa Bay question.

That the documents referred to in the Governor's despatch were among those furnished to me for the preparation of the British Case.

In obedience to your Lordship's commands I have taken these papers into my consideration, and have the honour to inform your Lordship that—

In preparing the Case and Counter-Case on behalf of Her Majesty's Government in the matter of the "Delagoa Bay Arbitration," I carefully considered the effect of the occupation of a part of the territory south of the St. Esprit River by the Dutch, and also the alleged grant of land to the Wesleyan missionaries by the King of Tembe.

The occupation by the Dutch was partial and temporary, and though so long as it lasted, and to the small extent over which it reached, hostile to and repugnant as a fact to the Portuguese occupation, yet as a matter of right was not inconsistent with the Portuguese claim.

Besides the Dutch occupation was in contradiction to the argument of the continued independence of the natives, and this independence is the main ground on which the claims of Her Majesty's Government can be rested.

The grant to the Wesleyan missionaries seemed to me rather to weaken than strengthen the argument founded upon Captain Owen's Treaties.

For these reasons I passed over those matters.

If the endeavour of the Portuguese Government to purchase the Island of Inyack from the natives in 1870, which is the third point mentioned by Sir Henry Barkly in his despatch to Lord Carnarvon, was before me, I am entirely in the wrong for not having relied upon that very important fact, which should certainly have been relied upon.

I have, however, no recollection of having received that information, and whether I am to blame or not, hope that there is now time to supply the defect, which may be done by the addition of a few lines and taking the facts from the Report of Lieutenant-Governor Musgrave.

I have, &c.
(Signed) J. PARKER DEANE.

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## No. 145.

*Dr. Deane to the Earl of Derby.*—(*Received July* 30.)

*Temple, July* 29, 1874.

My Lord,

I HAVE the honour to acknowledge the receipt of Lord Tenterden's letter of the 28th instant, stating that, with reference to my letter of the 13th instant, he was directed by your Lordship to transmit to me the accompanying letter from the Colonial Office upon the subject of the alleged attempt by the Portuguese authorities to purchase the Island of Inyack from King Nosingala.

That the letters of the 22nd March and the 9th May, 1873, referred to in the inclosed letter, would be found at the places marked in the accompanying volume.

That they were forwarded to me on the 27th March and the 22nd May.

Until I read the despatches of Lieutenant-Governor Musgrave and the letters of Mr. Straker, in the volume sent to me with Lord Tenterden's letter, I had entirely forgotten the contents of those documents.

I now remember having considered whether it would be desirable or not to refer to Mr. Straker's letters, and that I came to the conclusion that, although the occupation by Mr. Straker (and, I think, by Mr. Corkindale), also might be of use as against the Portuguese claim, such occupation under an alleged grant from the native Chief told with equal effect against the British claim.

I did not think that, upon an expected conflict of evidence as to the offer to purchase Inyack, the testimony of Mr. Straker would outweigh that which the Portuguese would bring forward in contradiction.

On these grounds I thought, and still think, that the information given by Mr. Straker should not be used in support of the British Case.

I have, &c.
(Signed) J. PARKER DEANE.

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## No. 146.

*Dr. Deane to Mr. Lister.*—(*Received August* 11.)

*Temple, August* 11, 1874.

(Telegraphic.)

THE Counter-Case is ready if there is no reason for its being betrayed.

1874

## No. 147.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 21.)

*Lincoln's Inn, October* 19, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 28th ultimo, stating that, with reference to our Reports of the 17th February and the 20th April, he was directed by your Lordship to transmit to us a further note from the Portuguese Minister at that Court relative to the question of taxation of British subjects in Portugal.

That the previous papers were likewise therewith inclosed; and that Mr. Lister was to request that we would take that matter again into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we have considered the several papers transmitted to us, and particularly the draft to Sir C. Murray, dated the 15th July, 1874, the draft to the Duke de Saldanha of the same date, and the answer to the latter from the Duke de Saldanha, dated the 12th September, 1874.

Notwithstanding the reasons given by the Duke de Saldanha for differing from the interpretation put upon the Treaty of 1842 from that adopted by your Lordship in the draft of the 15th July, we are of opinion that the latter construction is in every sense the right construction.

We see no inconsistency in the condition that Portuguese and British subjects should be taxed in just proportion, and the provision that, in the case of British subjects, the maximum should never go beyond 20 per cent. In fact, as it seems to us, the only meaning of this provision is to secure British subjects from a rate of taxation exceeding 20 per cent., to which Portuguese subjects may be liable.

The arguments on the taxation of British subjects under the Treaty are, as we think, brought to a close, and the two Governments are in direct opposition the one to the other.

The Portuguese Government, however, may, by putting an end to the Treaty of 1842, decide the question for the future against the present existing rights of British subjects. The surrender of these rights might therefore be made without loss of dignity or advantage in the prospect of a new Treaty.

Your Lordship, in view of the observations of the Duke de Saldanha on the expiration of the Treaty of 1842, and the future financial schemes of the Portuguese Government, will best judge what answer Her Majesty's Government should give to that part of his note of the 12th September, 1874.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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# Russia.

## No. 148.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 20.)

*Temple, January* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Enfield's letter of the 15th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at Nicolaieff, forwarding the request of Mr. H. C. Lawton to be furnished with a certified copy of a contract entered into between Mr. Baxter and himself in 1865, which it was stated could be procured from Messrs. Easton and Amos; and that your Lordship would be glad to be favoured with our opinion whether he could properly take any steps in that matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Consul Stephens may properly be informed that Lord Granville is unable to assist Mr. Lawton further than by referring him to the Act of the 19th and 20th Vict., cap. 113.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 149.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 25.)

My Lord, *Lincoln's Inn, November* 24, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us the papers noted in the margin,[*] relative to a complaint on the part of Messrs. Fenwick and Co. of the inadequacy of the award granted by the Russian Government on account of services rendered to a Russian gun-boat by the British steamer "Ernest;" and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to whether it was a matter which called for further intervention on the part of Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship cannot properly intervene any further in this matter on the part of Her Majesty's Government.

We entirely agree with Messrs. Fenwick that the misconduct of the Russian officer in no way detracts from the merits of the service, and the sum awarded appears to us quite inadequate as a salvage reward.

But Messrs. Fenwick, by their letter of the 9th October, 1873, to M. de Berg, "left the compensation with perfect confidence in the hands of His Imperial Russian Majesty's Government," and they are, we think, bound by that letter.

In this country a salvage suit might, in similar circumstances of salvage by a Russian steamer to a British gun-boat, have been brought nominally against the officer in command of the gun-boat, in reality against the Government. We are not aware whether Messrs. Fenwick can have any legal redress in Russia, but the case, in our opinion, clearly does not call for or admit of diplomatic interference.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 150.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 15.)

My Lord, *Lincoln's Inn, December* 14, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 27th ultimo, stating that he was directed by your Lordship to call our attention to the Report of our predecessors of the 10th April, 1872, which was therewith inclosed, relative to the mode of dealing with the estates of British subjects dying intestate in Russia.

That in that Report they stated that the Treaty of 1859 between this country and Russia did not give to British Consuls the power which they ought to possess over the property of British subjects dying intestate in Russia, and they expressed an opinion that such power should be given to them by Treaty, and that Consuls should represent the family of such of their countrymen who might die intestate.

That in consequence of that Report Her Majesty's Government expressed a wish to come to an understanding with the Russian Government as to the course to be

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[*] Messrs. Fenwick, November 11, 1873; Lord A. Loftus, Nos. 20 and 43, Commercial, April 22 and September 29; Messrs. Fenwick, October 31, 1874.

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pursued with a view of placing the question on a satisfactory basis; but the Russian Government, whilst they at that time declined to discuss the general question, expressed their readiness to enter into an arrangement in regard to the effects of seamen dying on board ship or in hospital on shore.

That, after considerable discussion, the inclosed declaration relative to the effects of British and Russian seamen was submitted to the Russian Government.

That that Government had, however, now proposed that in lieu of that limited declaration, a "Succession Convention," relating to the property of British and Russian subjects dying in Russian and British territory respectively, should be concluded between the two countries, similar to that which had lately been entered into between France and Russia, a copy of which, together with the despatch from Her Majesty's Ambassador at St. Petersburgh, forwarding it, was therewith inclosed.

That that Convention, although conferring increased powers on the Consuls of the Contracting Parties, in regard to the management of the property of their subjects dying in the respective countries, appeared to your Lordship to contain certain stipulations with reference to local authorities which could not be carried out in this country.

That under those circumstances your Lordship would submit for our consideration whether, in entering into an arrangement of that nature with the Russian Government, it would not be advisable, in preference to adopting the Convention proposed by that Government, to take as a model the more simple form employed in the Vth Article of the proposed Consular Convention with the United States, which was drafted by the Law Officers, and communicated to your Lordship in our Report on that subject of the 21st May last, copy of which was therewith inclosed.

That as that Article, however, did not deal with the effects of deceased seamen, your Lordship apprehended that it would be necessary to insert a further Article somewhat similar to Article XIII of the Convention between France and Russia.

That Lord Tenterden was therefore to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the nature of the stipulations which should be embodied in a Convention between this country and Russia, for regulating the general question of succession to property.

In obedience to your Lordship's commands we have the honour to report—

That the object which we apprehend your Lordship wishes to attain is the protection of property rather than the regulation of succession to property. For this reason, and also because many of the provisions in the Convention between France and Russia could not be carried out in this country, we think that Convention could not usefully or practically be adopted as a form for the proposed Convention between this country and Russia.

But we see no objection to adopting the course suggested by your Lordship of taking as a model the simple form employed in the Vth Article of the proposed Consular Convention with the United States, and of introducing into it words which shall make provision for dealing with the effects of deceased seamen similar to that contained in the XIIIth Article of the Convention between France and Russia.

To effectuate this purpose we have amended the copy forwarded to us of the Vth Article of the proposed United States Convention.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### Inclosure in No. 150.

*Article V of the Proposed Consular Convention with Russia, as drafted by the Law Officers.*

WHENEVER any subject of the Russian Empire shall die within Great Britain or Ireland, or on board a British ship, or a subject of Great Britain or Ireland shall die in Russia, or on board a Russian ship, and there shall be no person rightfully entitled to administer to the estate of such deceased person in the country within which he may die, or to which the ship on which he may die shall belong, the Consul-General, Consul, Vice-Consul, or Consular Agent of the nation to which the deceased belongs, acting at the place of the death of such subject, or at the port in Great Britain or Ireland or Russia respectively at which the ship on board of which the death shall have taken place shall first arrive after such death, may take possession and have the custody of the personal property of the deceased, and apply the same in payment of his or her debts and funeral expenses, and retain the surplus for the benefit of the persons entitled thereto; but such Consul or Consular Agent shall, if necessary, immediately apply for and shall be entitled to obtain from the proper Court, letters of administration of the effects of such deceased person, limited in such manner and for such time as to such Court shall seem fit.

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## Spain.

### No. 151.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 6.)

*Temple, January* 6, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd January instant, stating that, with reference to our Report of December ultimo, he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid (No. 651) reporting a conversation which he had held with the Spanish Minister for Foreign Affairs on the subject of the "Virginius," and the proceedings of the Jamaica authorities in connection with that vessel; and that he (Lord Tenterden) was to request that we would take that paper into our consideration, and favour your Lordship with our opinion as to the bearing which Señor Carvajal's acknowledgment of the friendly action of the Jamaica authorities may have upon the case.

Lord Tenterden also stated that the papers transmitted in his letter of the 5th ultimo were also inclosed for convenience of reference.*

In obedience to your Lordship's commands we have the honour to report—

That the statements of Señor Carvajal are satisfactory so far as they go; but we see no reason to alter the opinion which we expressed in our Report of last December on this matter.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 152.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 8.)

*Temple, January* 7, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 31st December ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office (dated the 22nd December, 1873), and its inclosures, detailing the circumstances under which certain arms and ammunition found on board a vessel called the "Village Bride" were seized and detained by the authorities of Jamaica.

He also stated that, before replying to the above letter, your Lordship would be glad to have our opinion upon this case in connection with that of the "Virginius," to which we should see that it in some degree relates, M. de Cordova, the person interested in the "Village Bride," having been also the consignee of the "Virginius."

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* Six papers.

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In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That we have not before us either the local laws relating to the importation of arms at Jamaica or the Proclamation forbidding the exportation of arms without licence from the Governor, but we assume it is a Proclamation against the export of arms generally.

We think it right to point out to your Lordship that the difficulty which has arisen in this case occurs through the existence of a Proclamation forbidding the export of arms from a British possession, a policy contrary to that which is now firmly established with the express approval of the House of Commons in relation to the United Kingdom, and it may be for your Lordship to consider whether there are any exceptional circumstances in connection with Jamaica or our relations with Spain which render it advisable to depart from that policy by allowing the Proclamation to continue in force.

But, assuming such a Proclamation to be in force in Jamaica, we are of opinion that the Spanish Government would have a right to regard a special licence given by the Governor for the exportation of arms by a person whose conduct has been such as that of M. de Cordova as a most unfriendly act.

The history both of the "Virginius" and the "Village Bride," and his connection with these vessels, show distinctly that such an exportation, whatever colour may be put on the transaction, could have no other destination than that of Cuba.

In our opinion, the nature of the transaction cannot be in the least degree altered by giving a licence for the exportation in some other vessel for a port ostensibly innocent, whilst there exist reasonable and almost incontestable grounds for suspecting that the ultimate destination is Cuba.

To allow the exportation of these arms in some other vessel to some port in Hayti or elsewhere, when there can be no doubt that they are exported there to be transshipped for Cuba, is a merely colourable evasion, and would practically be the same thing as to give a licence for their direct exportation to Cuba.

There appears to us to be only two courses proper to be taken—

1. To withdraw the Proclamation altogether, and then the traffic in arms in Jamaica would, as it is in Great Britain, be an innocent traffic in respect of which the Government would accept no responsibility.

2. Whilst the Proclamation remains in force, we are of opinion that no licence should be given to M. de Cordova upon any condition to export the arms.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 153.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 16.)

*Temple, January* 16, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the accompanying telegram from Her Majesty's Minister at Washington, stating that Henry King, late engineer of the "Virginius," is on his way to this country; and he (Lord Tenterden) was pleased to request that we would favour your Lordship with our opinion as to what steps, if any, should be taken with regard to Henry King.

In obedience to your Lordship's commands we have the honour to report—

That there have been no facts brought under our consideration up to this time in respect of the British subjects being part of the crew of the "Virginius" which would call for or justify any action in respect of them on the part of Her Majesty's Government at present.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 154.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 10.)

*Temple, January* 19, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 15th January instant, stating that he was directed by your Lordship to transmit to us the accompanying letters, as marked in the margin,* from which it appeared that there was reason to suspect that the steam-ship "Deerhound," at Dartmouth, was preparing for another expedition hostile to the *de facto* Government of Spain, and that another steamer, the "Edith," was also fitting at the same port for a similar expedition.

That your Lordship had requested the Commissioners of Customs to cause the vessels in question to be watched, and any suspicious circumstances connected with them to be immediately reported.

Lord Tenterden added that he was to request that we would take the papers into our immediate consideration, and favour your Lordship with our opinion as to whether any, and if so what, further action should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the facts at present laid before us are not sufficient to justify the detention either of the "Deerhound" or the "Edith." But we advise that both vessels should be carefully watched, in case there should prove to be any reasonable ground for believing that the vessels are about to be dispatched in the military or naval service of the enemies of Spain, or that the vessels are intended to form part of a military or naval expedition. In which case immediate action should be taken under the 23rd section of the Foreign Enlistment Act, 1870.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 155.

*The Solicitor-General and Dr. Deane to Earl Granville.*—(*Received January* 26.)

*Temple, January* 26, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us a letter, and its inclosures, from the Colonial Office, relative to the proceedings of the Spanish authorities in the Sulu Archipelago; and that he was to request that we would take the same into our consideration, together with the papers forwarded to us on the 16th ultimo and 1st and 17th instant.

In obedience to your Lordship's commands we have the honour to report—

That we take the occasion of your Lordship's letters of the 17th and 19th instant, inclosing a despatch from Mr. Layard of the date of the 31st December, 1873 (which communicates the letter of the Spanish Minister of Foreign Affairs addressed to the German Representative at Madrid), to review the whole transactions contained in the voluminous papers which have at various times been submitted to us in reference to the capture, in the waters of Sulu, of the German brigs "Marie Louise" and "Gazelle." By the light of these later despatches, the transactions seem to have at length assumed a shape in which it is possible for Her Majesty's Government to deal with them in a practical manner.

We do not understand your Lordship to ask us to pronounce a definite opinion upon the claims asserted on the part of the Spanish to exclusive jurisdiction in the islands of the Sulu Archipelago, as set forth in various notices and proclamations published at various periods.

Nor, as the matter involves no question of law, do we offer any opinion on the draft despatch from the Foreign Office relating to the inadvertent publication of one of these notices in the "London Gazette."

We shall confine this Report exclusively to the circumstances attending the capture of the "Marie Louise." The question relating to the ship, which was a German vessel, concerns the German Government.

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* Mr. Farrer, January 9; Mr. Gray, January 13 and January 15, 1874.

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The matters with which Her Majesty's Government are concerned are the treatment of the British subjects on board the "Marie Louise" and the condemnation of the cargo seized on board that vessel. An account of the proceedings relating to the treatment of Mr. Field and other British subjects and their servants on board the "Marie Louise" by the Spanish authorities will be found in the despatch addressed by Consul Coates on the 26th September, 1873, to the Governor of Hong Kong. The conduct of the Spanish authorities as there related appears to us to call for the strongest remonstrance on the part of your Lordship. The Spanish Captain-General and Admiral appear to have refused to allow all intervention on the part of Her Majesty's Consul. They are said to have declared their pretended Court of Prize, in which the ship and cargo were condemned, to have been a secret Court. They refused to allow the British Consul to communicate with the British subjects.

It is stated by Consul Coates that five of Mr. Field's private servants, apparently Chinese or men of colour, were placed in irons and some of them flogged to extort evidence.

All this violent and unjustifiable conduct being, as alleged by Señor Carvajal, grounded upon a capture of the "Marie Louise" upon three distinct charges: (1) that she was guilty of breach of a lawful belligerent blockade; (2) that she was seized under belligerent right as carrying contraband of war; (3) that she was seized for breach of a municipal prohibition to trade within the asserted exclusive jurisdiction of Spain in Sulu waters.

Now, the first point to which we will direct your Lordship's attention is that, if each and all these charges were well founded, the conduct of the Spanish authorities was illegal and without justification.

There is no principle of international law more clear, or which requires more rigidly to be enforced, than that a belligerent shall provide, for the protection of neutrals with whose rights he claims to interfere, fit and competent Courts of Prize. The violation of this rule was one of the greatest outrages committed at the end of the last century by the Revolutionary Government of France. The Tribunal of the "Apostaders of Manila," as described by Mr. Layard in his despatch to your Lordship of the 31st December, 1873, and the account given of its proceedings by Consul Coates in the despatch above referred to, is a Court which had no pretension to claim the jurisdiction of a Court of Prize. The mere fact that it sat as a secret Tribunal, and that communication was refused to the British Consul with the British subjects interested in its decision, are circumstances which, in our opinion, would justify your Lordship in treating its sentence as *ab initio* void, as pronounced by an incompetent Court of Prize.

But even apart from the illegal constitution of the Court, the alleged grounds of condemnation appear from the letter of Señor Carvajal to be absolutely unsustainable.

The Proclamation of the 2nd August, 1873, which is set forth in the despatch of Governor Bulwer to Lord Kimberley of November 1873, has no vestige of belligerent declaration which could lay a foundation for the exercise of belligerent rights.

As regards the pretended condemnation for breach of blockade, Señor Carvajal himself, in his despatch, practically abandons the defence. Indeed, the first Proclamation which even suggested a blockade was that notified to Sir H. Ord by the Spanish Consul on the 28th October, 1873, more than two months after the seizure of the "Marie Louise." The pretence of condemnation for carriage of contraband equally falls to the ground in the absence of any evidence of such a state of legitimate war as would justify the exercise of belligerent rights against neutral traders.

The third ground relied on, viz., confiscation for breach of a municipal prohibition against trade with Sulu, might have raised the question of the validity of the title of the Spaniards to make and enforce such a prohibition. But even if that right were as unquestionable as it is doubtful, it could only be exercised within the territorial jurisdiction. But the English owners deny, and Señor Carvajal evidently doubts, whether the vessel seized was within the territorial limits of Spanish waters.

For each and all these reasons we recommend your Lordship to instruct Mr. Layard to declare to the Spanish Government that Her Majesty's Government will not recognize the sentence of the Court of Manila condemning the cargo of the "Marie Louise," and to demand reparation for the ill-usage of the British subjects and their servants on board that vessel, which, even had she been justly condemned by a competent Court, would have been treatment wholly inconsistent with the principles of international law and the practice of civilized nations.

We recommend that the attention of the Spanish Government should be especially directed to the conduct of the authorities at Manila in refusing to allow the British Consul to communicate with British subjects whose persons or property were placed in jeopardy.

If there is any reason to believe that conduct of this violent character is still practised, we concur in the recommendation that a British vessel of war should be sent to maintain the just authority of the British Consul, and the due protection of the rights of British subjects in those waters.

Señor Carvajal states at the close of his despatch that the proceedings of the Court of Manila are shortly to reach Madrid, and that they will there be reviewed by the Consultation Committee of the Navy, and will then be submitted to the definite approval of the Executive Government.

The occasion, therefore, now arises for protesting against the whole proceedings.

It will be for Mr. Layard, in his discretion, to determine whether this protest shall be entered by way of absolute denial of the Court in Manila or by way of appeal from its unjust procedure and unfounded sentence. In the latter case, precaution should be taken to represent the interests of the British owners, who probably will not be at hand to defend themselves and their property unfairly condemned.

We have, &c.
(Signed) W. V. HARCOURT.
J. PARKER DEANE.

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## No. 156.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 29.)

My Lord, *Temple, January* 29, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us the accompanying copy of a telegram from Her Majesty's Minister at Madrid relative to the probable condemnation to death of Peters, the Englishman concerned in the Carthagena insurrection; and he was to request that we would favour your Lordship, at our earliest convenience, with our opinion as to the instructions that should be sent to Mr. Layard on the subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Layard's action may be approved, and he may be instructed to request the Spanish Government to afford to Peters the necessary facilities for his defence, and, in the event of Peters' condemnation, to ask that execution of his sentence may be postponed until Her Majesty's Government have had an opportunity of considering the charges made against him, and the evidence and judgment in the case.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 157.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 31.)

My Lord, *Temple, January* 30, 1874.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 27th January instant, stating that he was directed by your Lordship to transmit to us the accompanying letters from the Board of Trade,* inclosing communications from a Mr. Palmer, who represents himself to be an Agent of the Spanish Government, urging that proceedings should be taken against certain persons named therein, said to be Carlist agents, whom he accuses of having conspired together to obtain by fraud and perjury a British register for the French brig "Malfilâtre" to enable them to ship with greater ease on board that vessel a cargo of arms and munitions of war for the use of the Carlists.

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* January 26 and January 27, 1874.

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Lord Tenterden further stated that he was to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to whether it would be advisable for Her Majesty's Government to take any, and if so what, proceedings in the matter.

In obedience to your Lordship's commands we have the honour to report—

That it does not appear to us that upon the facts now placed before us there is any case for a prosecution against the persons accused by Mr. Palmer apart from the provisions of the Merchant Shipping Act. Whether such a prosecution should be instituted under that Act is a matter for the consideration of the Board of Trade.

Whilst we think that no steps should at present be taken by the Foreign Office, yet if the vessel, which we understand to be at present under the control of Mr. Palmer, should be released, it may be well that she should be watched in order to see that she is not dispatched in the naval service of the enemies of Spain within the meaning of section 8 of the Foreign Enlistment Act, 1870. If there is any reasonable ground for such belief she should be detained under the provisions of section 23 of that Act.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 158.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 4.)*

*Temple, February* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 31st ultimo, stating that, with reference to his letter of the 29th ultimo, and to previous correspondence relating to the case of the "Malfilâtre" and the arms at Newport suspected of having been intended for the use of the Carlists, he was directed by your Lordship to transmit to us the accompanying further letter from Mr. Palmer, again urging that the four persons named by him should be prosecuted under the Foreign Enlistment Act, and stating the evidence which he was prepared to produce in support of the charges.

That Lord Tenterden was then to request that we would take that letter into our consideration, together with the papers inclosed in his above-mentioned letter of the 29th ultimo, and inform your Lordship, at our earliest convenience, whether they contained anything which would cause us to modify the opinion expressed in our Report of the 30th ultimo.

In obedience to your Lordship's commands we have the honour to report—

That the letter and papers now placed before us do not cause us to alter the opinion expressed by us in our Report of the 30th ultimo.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 159.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 7.)*

*Temple, February* 5, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 3rd instant, stating that, with reference to his letter of the 31st ultimo, respecting the vessel "Malfilâtre" and the arms at Newport suspected of being intended for the use of the Carlists, he was directed by your Lordship to transmit to us the accompanying copy of a further letter from the Board of Trade* stating that it is not the practice of that Board to direct prosecutions for infringements of those clauses of the Merchant Shipping Act referred to in the present case. The Board consider that the propriety of instituting a prosecution in this case is a question of foreign policy on which they can express no opinion.

Mr. Lister further stated that he was to request that we would take this letter into our consideration, together with the papers already before us, and favour your Lordship with our opinion as to the steps that should be taken in the matter to which they refer.

Mr. Lister also stated that a further letter just received from Mr. Palmer* upon the same subject was also inclosed; and he was to request that we would favour your Lordship with our opinion as to the answer that should be returned thereto.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship should not, in our opinion, take any further steps at present in the matter of the "Malfilâtre."

Mr. Palmer may properly be informed that, if he has any further communications to make, your Lordship will give them due consideration.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 160.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 7.)*

*Temple, February* 6, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us the accompanying copies of two telegrams from Her Majesty's Minister at Madrid,† reporting that a great part of the north coast of Spain has been declared in a state of blockade, to commence from the 20th instant.

Lord Tenterden further stated that the accompanying map will show the portion of the coast affected by this announcement, which is apparently intended to prevent supplies reaching the Carlists by sea.

Lord Tenterden also stated that he was to request that we would favour your Lordship, at our earliest convenience, with our opinion as to the course that should be followed by Her Majesty's Government with regard to the blockade now declared, bearing in mind that the Carlists have not been recognized as belligerents.

In obedience to your Lordship's commands we have the honour to report—

That, assuming the blockade to be effective, Her Majesty's Government must, in our opinion, recognize the fact that it exists *de facto* and *de jure*.

The result, however, will be that the Carlists henceforth become belligerents.

The parts of the coast to which the blockade is applied was, we presume, in the hands of the Carlists, for the Madrid Government cannot establish a municipal blockade of its own ports or coast.

It would be well that Mr. Layard should be instructed to inform the Spanish Government that such a course must lead to the issuing of a Proclamation of Neutrality.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 161.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February 9.)*

*Temple, February* , 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that, with reference to our Report of the 19th ultimo, relative to the vessels "Deerhound" and "Edith," suspected of being intended for the use of the Carlists, he was directed by your Lordship to transmit to us a copy of a letter from the Board of Customs, inclosing a Report upon those vessels; and that he was to request that we would favour your Lordship with our opinion as to whether

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* February 2, 1874.

* February 3, 1874.

† Mr. Layard (Telegraphic), February 2, 1874.

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that Report contained anything which would justify Her Majesty's Government in taking any steps with regard to either of the vessels in question.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Customs authorities should be requested to instruct their officers to watch the "Deerhound," and to report immediately any alterations of or additions to her equipment.

We think, further, that in view of the state of war declared in Spain, and of the known antecedents of the "Deerhound," the attention of the Customs authorities should be called to the 24th section of the Foreign Enlistment Act, 1870, and they should be requested to exercise the powers given by that section if, upon a representation being made to them as mentioned in that section, they think that there is reasonable and probable cause for believing that an offence against the Act is intended to be committed.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 162.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February* 11.)

*Temple, February* 11, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us, to be taken into our consideration, together with the papers forwarded to us in his letter of the 3rd instant, a further letter from Mr. Palmer relative to the "Malfilâtre" and the arms at Newport suspected of being intended for the Carlists.

We have also the honour to acknowledge the receipt of Lord Tenterden's letter of the 6th instant, stating that he was directed by your Lordship to transmit a letter from the Board of Trade relative to the statements of Mr. Palmer in regard to the case of the "Malfilâtre."

In obedience to your Lordship's commands we have the honour to report—

That we have perused the further papers submitted to us, including the letter of the 6th February, and we see no reason to alter our former opinions on this case.

Mr. Palmer may properly be informed that any further communications must be addressed to your Lordship through the Spanish Minister.

Mr. Palmer's conduct as described by himself appears to us to be such that no reliance can be placed upon his unsupported statements.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 163.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February* 13.)

*Temple, February* 12, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us despatches, and their inclosures, from Her Majesty's Consul at Manila, relative to the imprisonment by the local authorities of a British seaman without the intervention of the Consul; and that Mr. Lister was to request that we would take those papers into our consideration, and favour your Lordship with our opinion whether you would be justified in making a representation to the Spanish Government respecting the proceedings of the Manila authorities on account of the XIXth Article of the Treaty of 1667 or on any other ground.

That the Article in question would be found at p. 372 of the accomanyping Blue Book.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship will be justified in making a demand on the Spanish Government to order that the British seaman should be handed over to the British Consul.

We think that there is no ground of complaint against the Spanish authorities for having, at the request of the captain of the British vessel, taken and detained Michie in custody, but whilst the captain might, for the protection of himself and crew, have desired this to have been done, as soon as the British Consul interfered and demanded his release, his request should have been complied with.

It appears to us that there has been no offence committed against Spanish authority so as to justify the sailor's present detention, and we do not understand that any charge on such ground is preferred against him.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 164.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February* 14.)

*Temple, February* 14, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 24th ultimo, stating that, with reference to our Report of the 27th ultimo, he was directed by your Lordship to transmit to us the accompanying further papers, as marked in the margin, respecting the case of the "Virginius;" and that he was to request that we would take those papers into our consideration, and favour your Lordship with any observations we might have to make thereon.

That your Lordship more especially wished to be informed whether the papers now sent to us enabled us to form a decided opinion as to the right of Her Majesty's Government to claim compensation from the Spanish Government for the families of the British subjects executed at Santiago de Cuba.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that Her Majesty's Government would be justified in demanding reparation from the Spanish Government for the execution of the British subjects forming part of the crew of the "Virginius," both in the form of a national recognition of the wrong done, and also of compensation to the relatives of the persons executed.

We do not advise that Her Majesty's Government should take the ground of complaining of the seizure of the "Virginius," or of the detention of the passengers and crew.

The real ground of complaint, in our opinion, is that, even assuming the vessel to have been lawfully seized, and the crew properly detained, there was no justification for their summary execution after an irregular proceeding before a drum-head Court-martial. No possible aspect of the character of the "Virginius" and her crew could authorize or palliate such conduct on the part of the Cuban authorities. There was no pretence for treating such an expedition as piracy *jure gentium.*

If the "Virginius" was to be regarded as a vessel practically engaged in a hostile or belligerent enterprise, such treatment would not be justifiable. Much may be excused in acts done, under the expectation of instant damage, in self-defence by a nation as well as by an individual. But after the capture of the "Virginius" and the detention of the crew was effected, no pretence of imminent necessity of self-defence could be alleged, and it was the duty of the Spanish authorities to prosecute the offenders in proper form of law, and to have instituted regular proceedings on a definite charge before the execution of the prisoners.

In our opinion, there was no charge either known to the law of nations or to any municipal law under which persons in the situation of the British crew of the "Virginius" could have been justifiably condemned to death.

They were persons not owing allegiance to Spain, the acts done by them were done out of the jurisdiction of Spain, they were essentially non-combatants in their employment, and they could by no possible construction be liable to the penalty of death.

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Under these circumstances, we think that Her Majesty's Government may properly insist on full reparation for the execution of these British subjects from the Government of Spain.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 165.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 14.)

*Temple, February* 14, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 11th instant, stating that, with reference to his letter of the 7th instant, relative to the proposed blockade of the northern coast of Spain, he was directed by your Lordship to transmit to us, to be taken into our consideration together with papers already before us, a further despatch from Her Majesty's Minister at Madrid,* inclosing a copy of Blockade Regulations issued by the Spanish Government on the 26th November, 1864, and referred to in the Decree inclosed in Mr. Layard's No. 106.

In obedience to your Lordship's commands we have the honour to report—

That if the Spanish Government is prepared to accept the consequences which will follow of raising the Carlist insurgents to the status of recognized belligerents by a declaration of belligerent blockade, we see no objection to the Regulations of the 26th November, 1864, so far as they relate to the matter of blockade. Upon other points, however, the Regulations contain serious errors, against which we think Her Majesty's Government should at once protest, if it is proposed to put these Regulations in force.

Article 12, which deals with the question of the recapture from the enemy of neutral vessels, is directly at variance with the established rule of the law of nations. The Spanish Regulation claims to treat neutral vessels recaptured from the enemy after twenty-four hours' possession by the latter as enemies' property. The exact converse of this proposition is the true rule of the law of nations. *Primâ facie*, and before condemnation, a neutral vessel in the hands of the captors, if recaptured, is to be restored to the neutral owner without salvage (*vide* Dana's Wheaton, p. 458; Valin's Traité de Prises, vol. ii, tit. 7, cap. 2 (Pistoye and Duverdy), and cases there cited, particularly the "Statira," p. 122, and "l'Esther," p. 130).

It is unnecessary at present to enter on the exceptions to this rule; it is enough to say that the proposition laid down in the Spanish Regulations, Article 12, is inadmissible.

Article 14 of the Regulations, which relates to contraband, is equally erroneous. That Article, in the case where one half of the cargo of a neutral vessel is contraband, claims to condemn the residue of the cargo and the ship. This is contrary to the established law of nations as practised in modern times. The presence of one-half (or any other proportion) of contraband cargo does not justify the condemnation of the innocent residue, or of the ship. (*Vide* Dana's Wheaton, p. 665, note, and "Ortolan," Règles Internationales, vol. ii, l. iii, cap. 6.)

The claim in the same Article to condemn the ship and cargo on the ground of carriage of "official despatches" generally without limitation, is also unfounded. It is not the fact that the carriage of all official despatches work a condemnation. On the contrary, diplomatic despatches are lawfully carried by a neutral vessel (*vide* case of "Caroline," 6, Robinson's Reports, and Dana's note to Wheaton, p. 643); and the mere fact that despatches are found on board a neutral vessel, in the absence of fraud or actual interposition in the service of the enemy, is no ground of confiscation (Hallech, p. 643).

We therefore advise that Her Majesty's Government should object to the belligerent claims asserted in the above-mentioned Articles.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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* Mr. Layard, No. 125, February 6, 1874.

## No. 166.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 21.)

*Temple, February* 20, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Madrid, inclosing a copy and translation of a note addressed to him by the late Spanish Minister for Foreign Affairs complaining of the High Court of Admiralty having taken cognizance of the suit instituted against the "Murillo" by the owners of the "Northfleet."

That printed papers were also inclosed bearing on the case, and that Mr. Lister was to request that we would take the matter into our consideration, and favour your Lordship with our opinion as to what answer should be returned to Señor Carvajal's note.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Señor Sagasta may properly be informed, unofficially, that the terms in which the note of Señor Carvajal is expressed preclude Her Majesty's Government from making any reply to it, but that Her Majesty's Government will be ready to consider any communications which may be addressed to them by Señor Sagasta on the subject of the condemnation of the "Murillo."

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 167.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 27.)

*Temple, March* 25, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Consul-General in the Havana, respecting the claims of Messrs. Ruthven, Whitman, and Co. against the Government of Cuba; and that he was to request that we would take that case into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That there seems to be little doubt that Mr. Whitman has been greatly prejudiced by the suspension of payment in specie by the Bank, but upon the facts disclosed we think that there is no proper foundation for any interference on his behalf by your Lordship.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## No. 168.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 2.)

*Temple, March* 31, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office respecting the claim of Mr. Kynock against the Spanish Government for compensation on account of the seizure of his property by the authorities, arising out of the Cuban insurrection.

That Lord Tenterden was also to transmit to us a despatch upon that subject from Her Majesty's Consul-General at Havana, to whom the letter from the Colonial Office was referred; and that he was to request that we would take those papers into

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our consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Kynock, the memorialist, appears to have managed the estate of Figueredo Brothers in Cuba, under arrangements that he should receive a salary from them. In September 1868 the salary was in arrear, and there was due to him on that and other accounts about 20,000 dollars. He received from Figueredos a notarial document, and by virtue of this became a preferential creditor, having a charge on the estate for the payment of his claims.

On the breaking out of the insurrection, in which Figueredos was seriously compromised, he got together the stock, &c., on the estate, and handed them to the Spanish authorities. He obtained judgment in a suit against his employers, and in part satisfaction of his judgment received from the Spanish authorities the proceeds of the stock, &c., which had been sold by them, thus reducing his debt to something over 14,000 dollars, for which he still had a charge on the estate, with the buildings, machinery, &c., thereon.

By Royal Decree the estates of insurgents were confiscated, the estate of Figueredos amongst the rest, and no doubt the estate and the property thereon have seriously deteriorated in value by the state of things arising out of the insurrection.

The Spanish Government have not, as far as we can gather the facts, realized any moneys from this estate. They recognize Mr. Kynock's claim, and say that if any funds accrue from the estate, which is said to be at present abandoned, Mr. Kynock's demand would be perhaps favourably considered. (See Mr. Dunlop's letter.)

Mr. Dunlop further states "that were the Commission on embargoed estates to act with liberality, with equity towards foreigners, they would pay Mr. Kynock out of the aggregate funds of the general embargoed property in the island, but this they hitherto demur to doing," &c.

This course, it appears to us, might be liberal, but we doubt whether it would be equitable; for each embargoed estate should be liable rather for the debts secured on *it* than for those secured on others.

According to Mr. Dunlop the Spanish authorities *might* be willing to give up the estate to Mr. Kynock, but he says, "Mr. Kynock might not be induced to accept this."

We fail to see that, under these circumstances, any *claim* can be properly made against the Spanish Government by Her Majesty's Government.

Mr. Dunlop, however, says that he is informed the Spanish Government have paid some *almost similar* claims due to American citizens, and we think that further information should be obtained as to the nature of these claims, or circumstances under which they have been satisfied; this information might enable Her Majesty's Government to make a representation to the Spanish Government that they should satisfy Mr. Kynock's claim (he giving up all interest in the property charged with his debt) in the same way that the American claims have been settled.

Mr. Dunlop refers to a case of Messrs. Baring, recently before the Foreign Office, as to which we have no information.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## No. 169.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 11.)

*Temple, April* 10, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd March last, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,* with reference to the murder of a British subject, James Roberts, which occurred at Huelva, in Spain, in 1871; and that he (Lord Tenterden) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to what steps can properly be taken in the matter.

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* List.

In obedience to your Lordship's commands we have the honour to report—

That we do not clearly understand whether an appeal againt the Seville sentence has or has not been prosecuted, though it appears by a memorandum on No. 269 that Lord Granville thought that it should be proceeded with.

But whether this appeal has or has not been prosecuted, we see no ground upon which Her Majesty's Government can apply to the Spanish Government to make compensation to the widow of Mr. Roberts on account of her sufferings and poverty consequent upon and resulting from the death of her husband.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## No. 170.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received April* 20.)

*Temple, April* 18, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 9th ultimo, stating that, with reference to a Report which was received in December last from our predecessors, in regard to the proceedings of the authorities at Jamaica with regard to the steamer "Virginius," he was directed by the Earl of Derby to transmit to us the accompanying letter from the Colonial Office, forwarding a Report from the Governor of Jamaica upon the subject.

That Lord Tenterden was also to transmit to us the accompanying printed correspondence in the matter, which, for our convenience, had been marked with reference to the papers alluded to by the Governor in his Report, together with certain papers connected with the case of the "Edgar Stewart," a vessel to which he also referred.

That he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to whether the proceedings of the Governor of Jamaica as regards the "Virginius" should be approved.

In obedience to your Lordship's commands we have the honour to report—

That the Governor of Jamaica was placed in a position of very considerable difficulty, for whilst, on the one hand, the circumstances which were brought to his notice were such as to give rise to very grave suspicions that an offence against the Foreign Enlistment Act was about to be committed, it is, on the other hand, difficult, if not impossible, to point out in what respect such an offence was committed as would have justified the detention of the "Virginius," and, so far as the materials before us enable us to judge, we are of opinion that, if the ship had been arrested, a conviction could not have been obtained.

Under all the circumstances of the case, we advise your Lordship that the approval of his conduct in relation to the "Virginius" should not be withheld.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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## No. 171.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 29.)

*Lincoln's Inn, April* 29, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid* respecting the claim of Pedro Cazacaro against the Government of Spain, on account of the double duty on some silver lead, his property, which he had paid to the late revolutionary Junta at Carthagena. Lord Tenterden was also pleased to transmit to us a memorandum which has been prepared in the Foreign Office† on the refusal of legitimate Govern-

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* Mr. Layard, No. 248, March 23, 1874.

† April 11, 1874.

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ments to recognize the payment of customs duties made to *de facto* Governments, together with a letter from Mr. Kelly respecting his claim against the Mexican Government on account of duties paid twice over, and the reply which was sent to him after consultation with the then Law Officers of the Crown.*

Lord Tenterden was pleased to request that we would take these papers into our consideration, and favour your Lordship with any observations we may have to offer thereupon, and with our opinion as to the instructions which should be addressed to Mr. Layard as regards M. Cazacaro's claim.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That we are not aware of the kind of claims which the Acting Vice-Consul at Carthagena heads under Class 5.

But in reading the letter of Pedro Cazacaro's, on whose behalf the claim is put forward, we entertain very considerable doubt whether the payment enforced by the Junta can properly in any sense be called an export duty.

The imposition seems rather to have been a payment exacted from him for leave to remove his property from one place to another, merely for the sake of supposed greater security.

In this view of the case, we are of opinion that your Lordship cannot properly instruct Mr. Layard to support the claim.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 172.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received April* 30.)

My Lord, *Lincoln's Inn, April* 30, 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the despatches, as marked in the margin,† relative to the wreck of the British vessel "Conflict" on the coast of Mindanao in the year 1864; and Mr. Bourke was pleased to request that we would favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in making a claim upon the Spanish Government for the restoration to Lloyd's agent of merchandize in the custom-houses of Manila and Langoa stated to be a portion of the cargo of the "Conflict."

A letter from Lloyd's‡ requesting that steps may be taken by Her Majesty's Government towards procuring restoration of the goods in question was also inclosed.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the ship referred to in the letter of Mr. Coates of the 30th September, 1872, was certainly not the "Conflict," since the remaining letters of the ship's name were "tine," and the story of a tombstone with an inscription having been at any time put up in memory of persons murdered by or with the sufferance of the authorities is at the least very strange.

The goods said to be in the custom-house at Manila seem to have been identified as having formed part of the cargo of the "Conflict," whenever and under what circumstances she may have been lost, and so far we can gather from the correspondence, the authorities are disposed to give them up when satisfied of the rights of the claimants of those goods.

The ship was lost ten years ago, and though the British Consul might or ought to have been informed of her loss, we think that omission and the consequent (if consequent) delay cannot be made a ground of complaint, and that upon the whole Her Majesty's Government would not be justified in making a claim upon the Spanish Government.

But it is a case in which your Lordship might not improperly instruct Mr. Layard to bring the matter unofficially to the notice of the Spanish Government, that the property may be restored with as little delay as possible to the rightful owners.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Kelly, July 17; to Mr. Kelly, August 5, 1872.

† Mr. Ricketts, No. 21, January 14, 1874; Mr. Coates, No. 16, September 30, 1872.

‡ Lloyd's, April 19.

## No. 173.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May* 9.)

My Lord, *Lincoln's Inn, May* 8, 1874.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 18th April ultimo, stating that he was directed by your Lordship to transmit to us the papers, as marked in the margin,* having reference to the proceedings of the Spanish authorities at Porman in sending the British steamer "Robert Ingham" to Port Mahon to perform quarantine notwithstanding that she was provided with a clean bill of health; and that he was to request that we would take the case into our consideration, and favour your Lordship with our opinion whether, under the circumstances, Her Majesty's Government would be borne out in making a claim upon the Spanish Government for compensation for the owners of the "Robert Ingham" on account of the losses they may have sustained by reason of the detention to which their vessel was improperly subjected.

In obedience to your Lordship's commands we have taken the case into our consideration, and have the honour to report—

That, in our opinion, Her Majesty's Government will be fully borne out in making the claim referred to in Mr. Bourke's letter.

We beg to add that in the present state of affairs in Spain there may be great difficulty in exacting this payment; but we think that consideration is no reason against making the claim, since the misconduct of the Spanish officials is without excuse.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 174.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May* 12.)

My Lord, *Lincoln's Inn, May* 9, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 29th April ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Minister at Madrid,† respecting the claims of British subjects arising out of the recent bombardment of Carthagena; and that he, Lord Tenterden, was also to inclose to us a Report‡ upon those claims by Mr. Pauli, Her Majesty's late Consul at Carthagena, then in this country, to whom Mr. Layard's despatches were referred; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the instructions which should be addressed to Mr. Layard in the matter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That, in our opinion, your Lordship cannot properly instruct Mr. Layard to make any representation to the Government at Madrid which would place British subjects who may have suffered loss at Carthagena in a better or different footing for compensation than that in which Spanish subjects similarly situated may stand.

As a matter of international right and a subject for diplomatic interference Government cannot be held responsible for injuries inflicted on the property or person.

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* Mr. Layard, Nos. 2 and 3, January 2; No. 6, January 16; No. 12, February 21; No. 16, March 16; Board of Trade, January 20; Mr. Mathew Cay, March 28, 1874.

† Mr. Layard, Nos. 190 and 191.

‡ April 24.

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of foreigners resident in the country by insurgents engaged in armed hostility to the Government, and which injuries the Government had not the power to prevent.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 175.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 12.)

*Lincoln's Inn, May* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th instant, stating that, with reference to his letter of the 29th ultimo, inclosing, for our opinion, certain papers relative to the claims of British subjects against the Spanish Government on account of losses sustained by them during the insurrection at Carthegena, he was directed by your Lordship to transmit to us two despatches from Her Majesty's Minister at Madrid,* showing the steps that have been taken with regard to similar claims brought forward by German and Italian subjects; and to request that we would take the inclosed papers into our consideration, together with the correspondence already before us.

In obedience to your Lordship's commands we have the honour to report—

That we have taken into consideration the letters of Her Majesty's Minister at Madrid showing the steps that have been taken by the Spanish Government with respect to the claims brought forward by German and Italian subjects on account of losses sustained by them during the insurrection at Carthagena, but it appears to us that there were special circumstances in connection with each of such cases which led to the claims being recognized by the Spanish Government, and we see no reason to alter the opinion expressed by us in our Report bearing even date with this, and made in answer to your Lordship's letter of the 29th ultimo.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 176.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 16.)

*Lincoln's Inn, May* 16, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd April ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,† respecting the circumstances connected with the seizure and detention of certain arms, &c., which were found on board a vessel named the "Village Bride" by the authorities of Jamaica.

Lord Tenterden was also to say that the case was referred to the late Law Officers of the Crown in December last, but as they expressed no opinion as to whether the proceedings of the Governor of Jamaica should be approved, he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion on that point.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the proceedings of the Governor-General of Jamaica in connection with the seizure and detention of arms on board the "Village Bride" may properly be approved.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Layard, No. 273, April 23; No. 283, April 27, 1874.

† Colonial Office, December 22, 1873; to Colonial Office, March 17; Colonial Office, March 27, 1874.

## No. 177.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 27.)

*Lincoln's Inn, May* 26, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the accompaning papers, as marked in the margin,* relative to the proceedings of Spanish revenue vessels and revenue officers in the neighbourhood of Gibraltar, and the orders said to have been issued by the Spanish Government in regard to the seizure of vessels suspected of smuggling.

The case of the "Sol," to which reference is made in this correspondence, is submitted for our consideration in Lord Tenterden's other letter of this date.

As regards the "Jesu Nazareno," Lord Tenterden stated that your Lordship has not yet received sufficient information to enable your Lordship to lay the case before us.

But in addition to these special cases, Lord Tenterden stated that it appears to your Lordship that the general proceedings of the Spanish authorities in the neighbourhood of Gibraltar, taken in conjunction with their recent proceedings in other parts of the world, viz., the capture of the "Deerhound" in the Bay of Biscay, of the "Virginius" in the West Indies, and of the "Marie Louise" and "Gazelle" in the Sulu Archipelago, are such as to call for the serious attention of Her Majesty's Government; and Lord Tenterden was therefore to request that we would take the accompanying papers into consideration, together with those inclosed in his other letter of the same date, and favour your Lordship with our opinion as to the course that should be pursued in the matter to which they relate.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That of the seven vessels referred to in Lord Tenterden's letter of the 13th instant, three, viz., the "Jesu Nazareno," the "Fuen Santa," and the "Sol," have been seized by Spanish cruizers on suspicion of being engaged in smuggling; we propose to consider the cases of those three vessels in the first instance.

The "Jesu Nazareno" was a Spanish vessel, on a voyage from Gibraltar to Melilla, and was seized on the 10th March last and taken to Algeciras for adjudication. It does not appear whether any adjudication has yet taken place. It is stated that the seizure took place in British waters, within half a mile of Gibraltar; if this be so, the seizure was altogether unjustifiable, and, in our opinion, affords sufficient grounds for strong remonstrance and for demand of compensation to the owners of the cargo, who were British merchants at Gibraltar.

The "Fuen Santa" was a British schooner on a voyage from Gibraltar to Oran, and was seized and taken to Almeria for adjudication on the 9th April last; she has been since condemned by the Almeria Court, and the decree of condemnation is under appeal at Madrid. As regards this vessel, it is stated that the seizure took place on the high seas; if this be so, her seizure by the Spanish cruizer was also unjustifiable, and, in like manner, affords sufficient grounds for remonstrance and claim for compensation.

It is stated that the Spanish revenue officers have openly avowed their intention of seizing suspected vessels, of whatever nationality and in whatever waters they may be, and have asserted that they have received the orders of their Government so to act; under ordinary circumstances, your Lordship would probably not deem it necessary to notice intemperate expressions on the part of revenue officers, but as in the two instances to which we have just referred the Spanish officers have acted in a manner consistent with their having received such orders, we would suggest to your Lordship that there exist sufficient grounds for requiring from the Spanish Government a disavowal of any such orders having been given, and an assurance that sufficient means should be taken to prevent for the future any similar infractions of the rules of international law.

The "Sol" forms the subject of a separate Report of even date herewith, but it may be convenient to state that she was a Spanish ship on a voyage from Gibraltar to Melilla, and was seized on the 14th May, 1873, and taken to Algeciras, where she was condemned, and such condemnation has been confirmed at Madrid; she was clearly out of British waters at the time of her seizure, and as she was sailing under the

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* Mr. Layard, Nos. 271, 280, and 287.

Spanish flag, it is immaterial to consider whether she was within Spanish waters or on the high seas; there does not appear to us to have been any irregularity in her seizure on the ground of jurisdiction.

As regards each of these three vessels, the further question arises whether the suspicions upon which they were seized were well founded; it is asserted that each of them was freighted with perfectly legitimate cargo, shipped by highly respectable merchants at Gibraltar; in each case the presence of tobacco on board appears to have been the alleged ground for seizure; it is suggested that such tobacco was placed on board by connivance with the revenue officers, or at any rate under circumstances which should exonerate the shippers of legitimate cargo from the penalty of confiscation. The facts as to these suggestions are not as yet clearly ascertained; whatever they may eventually turn out to be, it appears to us that, apart from the circumstances indicating illegal seizure of the "Jesu Nazareno" and the "Fuen Santa," each of the three vessels has been brought before a competent Tribunal for adjudication, and if the proceedings before such Tribunals were conducted with justice and propriety, there could be no ground for doing otherwise than submitting to their decisions.

It is, however, alleged that a corrupt system prevails amongst the Customs authorities in the neighbourhood of Gibraltar, and is to some extent connived at by persons in authority at Madrid, by the operation of which system the innocent shippers of legitimate cargo are seriously damnified; this system and the reasons for believing that it very generally prevails are so fully detailed and explained in Mr. Layard's despatch of the 24th April, 1874, that we need not further allude to it, beyond drawing your Lordship's attention to the statement of Mr. Layard that the adjudication condemning a vessel and confiscating its cargo takes place in the Courts of Spain in the absence of the owners of cargo, who are not allowed to appear and support their interests, a course of proceeding which we think cannot but lead to injustice in cases in which the master of the vessel is in league with the revenue officer.

How far your Lordship may think fit to make these important matters, which have been brought to your notice by Mr. Layard's letter, the subject of diplomatic remonstrance or negotiation, it is not for us to suggest. We can only observe that if the system described by Mr. Layard really prevails, there is too much reason to fear that, notwithstanding the appearance of judicial proceeding, justice is substantially ignored.

We do not think that the cases of the four other ships substantially affect the questions to which we have above adverted, though in some of them there are to be observed like indications on the part of the Spanish Government of a disregard of the rules of international law and of the courtesies recognized between civilized nations.

The real facts of the capture of the "Deerhound" were never, we believe, accurately ascertained. She was restored, and Her Majesty's Government declined to ask for any compensation for her owners or crew.

The "Virginius" was not a British vessel, and all the circumstances affecting her were of a very special character.

The cases of the "Marie Louise" and the "Gazelle" are, we understand, still under the consideration of the Spanish Government, and of the Government to which these vessels belong.

But should your Lordship deem it right to pursue any course generally with reference to the conduct of the Spanish Government, or the officers of that Government, in seizing vessels on the high seas, or otherwise illegally, your Lordship might properly represent, either through Mr. Layard or to the Spanish Minister in this country, that in order to avoid the risk of misunderstanding between the two countries, you would desire and you would learn with pleasure that the Spanish Government had instructed Spanish officers to respect British waters and the British flag on the high seas.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 178.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 27.)

My Lord,

*Temple, May* 26, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence upon the subject of the claim of Messrs. Pirrie, Foote, and Co., of Glasgow, to be compensated for the seizure and condemnation of certain goods belonging to them shipped on board the Spanish vessel "Sol," which vessel was seized near Gibraltar by a Spanish guardacosta on the 14th May last year.

That Lord Tenterden was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the course that should be pursued in regard to Messrs. Pirrie, Foote, and Co.'s claim.

That in considering that case Lord Tenterden was to request that we would also direct our attention to the despatch from Her Majesty's Minister at Madrid inclosed in his further letter of that day's date, which threw considerable light upon the probable causes of the proceedings of the Spanish authorities in the matter.

In obedience to your Lordship's commands we have the honour to report—

That it is clear from the evidence furnished to the Governor of Gibraltar (No. 3, annexed to the letter of General Sir W. F. Williams of the 11th October, 1873), that the capture took place outside British waters. The vessel being Spanish, it is unimportant to consider whether she was on the high seas or in Spanish waters.

Further, she was carrying as part of her cargo tobacco, which it is stated she was not permitted by the law of Spain to carry, and the carrying of which made her and all the rest of the cargo liable to confiscation.

The real facts probably were (as given in Annex 3, above referred to) that she was designedly sailed into the hands of the captors by her master, and that this case is another instance of the dishonesty and corruption of Spanish traders and officials, described in the despatch (under date the 24th April, 1874) from Her Majesty's Minister at Madrid, as prevailing so much in the neighbourhood of Gibraltar.

But the dishonesty of the master, and the loss of British property occasioned by that dishonesty, do not of themselves, in our opinion, afford any ground for diplomatic interference or of complaint against the Spanish Government.

As regards the general conduct of the Spanish Government in relation to vessels alleged by them to be suspected of smuggling, we beg to refer your Lordship to our Report, bearing even date herewith, on the subject of the "Jesu Nazareno" and other vessels captured by the Spanish cruizers.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 179.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 28.)

My Lord,

*Lincoln's Inn, May* 26, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 3rd March ultimo, stating that he was directed by your Lordship to transmit to us the accompanying papers, as marked in the margin,* relative to the claims of Spain to exercise sovereignty over the Sulu Archipelago, and to various questions arising out of that claim.

Mr. Lister said that a summary of what had passed on the subject would be found in the accompanying memorandum,† which also indicated the points which more particularly required consideration.

Mr. Lister also said that we would observe that, in accordance with the advice of the late Law Officers of the Crown, Her Majesty's Minister at Madrid was instructed, on the 9th ultimo, to make a strong representation to the Spanish Government relative to the

* Four bound volumes; Correspondence in 1874, unbound; list.

† Memorandum, July 1873; supplementary memorandum, February 1874.

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proceedings of the Spanish authorities in Sulu and at Manila towards the British subjects and property seized on board the German vessel "Marie Louise," and that Mr. Layard had also been instructed to explain the inadvertent publication in the "London Gazette" of a notice of the blockade of Sulu ports which was communicated to Lord Granville by the Spanish Representative in this country in August 1871.

Mr. Lister also said that we would further see that Mr. Layard had been instructed to protest against the prohibition of the resort of vessels to the Sulu territories, and to call upon the Spanish Government to confine the prohibition to vessels engaged in illegal traffic.

That the Spanish Government, however, had as yet shown no disposition to relax the terms of the prohibition to trade, and that the recent proceedings of the Spanish officials with regard to the German vessels "Marie Louise" and "Gazelle" tend to show that the prohibition was being carried out in the most rigorous manner.

That in the circumstances your Lordship considered that it was very desirable that Her Majesty's Government should come to a decision upon the question of the Spanish claim to sovereignty over the Sulu Archipelago, which, as stated in Lord Granville's despatch to Mr. Layard No. 154 of the 20th October last, had never been acknowledged by Her Majesty's Government.

And that he (Mr. Lister) was therefore to request that we would take the accompanying papers into our consideration, and favour your Lordship with our opinion—

1. As to the validity of the Spanish claim to sovereignty.
2. As to the extent to which Her Majesty's Government would be justified in remonstrating against such claim, and interfering in regard thereto.
3. What steps Her Majesty's Government would be justified in taking for the protection of the persons and property of British subjects engaged in legitimate trade with Sulu.

Mr. Lister was also to add that her Majesty's Government were acting in the matter in communication with the Government of Germany.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Spanish claim to sovereignty over the Sulu Archipelago, if it can be maintained at all, must be rested on the Treaty of the 19th April, 1851. At the time when this Treaty was concluded, the rights of Spain in respect of the territories of the Sultan of Sulu were limited to a Protectorate under the Treaty of 1836, as any more extensive rights under earlier Treaties, if they ever existed, must be regarded as having been surrendered when that Treaty came into force.

Now the Treaty of 1851 was sufficient to confer upon Spain full sovereignty over the Sulu Archipelago, unless the Sultan was precluded from entering into such an arrangement by reason of his previous Treaty (29th May, 1849) with Great Britain; but as regards this latter Treaty, it is to be noted that it has never been ratified.

The two Treaties (those of 1849 and 1851) became the subject of a lengthened correspondence between the British and Spanish Governments, in the course of which the latter distinctly asserted their claim to sovereignty, and protested against the ratification (which was then contemplated) of the Treaty of 1849. This correspondence was closed in June 1852, without any definite arrangement being come to, it being deemed expedient by the British Government (see Lord Malmesbury's minute) that the matter should "sleep."

In 1860 Spain resorted to a very strong exercise of her asserted claim to sovereignty by giving notice of an intention to close the ports of Sulu against foreign trade. This led to remonstrance, in the course of which a proposal was made to place the Sulu Archipelago under the joint Protectorate of Great Britain, Spain, and Holland, but this proposal was not proceeded with, and the matter again dropped.

In 1865 the question of the relations between Spain and Sulu was referred by the Home Government to that of India, who reported that the Spanish Government had a right to the sovereignty of Sulu.

Under these circumstances, it appears to us that, whilst on the one hand it is quite true, as stated by Mr. Green in his memorandum, that Her Majesty's Government has never recognized the validity of the claims of Spain, it is, on the other, equally true that Her Majesty's Government, with a full knowledge of all the facts, has stood by and allowed the claims to be acted upon, and, in our opinion, Her Majesty's Government would not now be justified in further remonstrating against such claims.

We further think that, upon the assumption that the Sulu territories are under the sovereignty of Spain, the Spanish Government has the right of prohibiting all or any trade with the ports in those territories, but that such right must be enforced against all nations alike, subject to such Treaty obligations (if any) as may be in force.

It is possible that the representations which have been made to the Spanish Government upon the subject of the excesses committed by the Spanish cruizers in connection with the capture of the "Marie Louise" may lead to some arrangement that may put an end to the present unsatisfactory state of the relations between the two countries as regards the Sulu territories, and the interest which Germany has in the matter may aid in bringing about such an arrangement. Should any negotiations with such an object be entered into, the affording reasonable trading facilities to British subjects, and their protection in such trading, would of course be brought under consideration.

In the meanwhile, Her Majesty's Government will be justified in taking such steps for securing the persons and property of British subjects engaged in legitimate trade with Sulu as are usually taken in similar cases where the subjects of friendly States are concerned.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 180.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 3.)

*Lincoln's Inn, June* 1, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th May ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid,* relative to the liability of British subjects resident in Spain to be called upon to pay over again to the Republican Government taxes and contributions already exacted by the Carlists; and to request that we would favour your Lordship with our opinion as to the instructions that should be sent to Mr. Layard upon the subject.

That of the two previous despatches to which Mr. Layard referred, No. 191 was sent to the Law Officers on the 29th April with reference to the Carthagena claims; that No. 248 was sent to us on the 16th April with reference to M. Cazacaro's claim, and returned with our Report of the 28th April, that it was sent again therewith for convenience of reference, together with the other papers inclosed in his (Lord Tenterden's) letter of the 16th April.†

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Minister at Madrid may properly be instructed to protest against the liability of British subjects resident in Spain to be called upon to pay over again to the Republican Government taxes and contributions which have been already exacted from them by the Carlists.

But Her Majesty's Minister should at the same time be instructed that he be careful not to interfere in cases in which the taxes and contributions levied by the Carlists have been paid voluntarily or without protest, or under circumstances from which it may fairly be inferred that they were aiding the Carlist movement, as in such cases the principle that payment to a *de facto* Government is a discharge of an obligation to the Government of the country could not with propriety be applied.

The principle applicable to the questions asked in Lord Tenterden's present letter is not the same with those upon which we framed our Reports to your Lordship in the matters of the Carthagena claims and M. Cazacaro's claim, to which Lord Tenterden also refers.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Layard, No. 269, April 22, 1874.

† Mr. Layard, No. 248, March 22; Memorandum, April 11, 1874; Mr. Kelly, July 17; to Mr. Kelly, August 8, 1872.

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## No. 181.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 8.)

*Lincoln's Inn, June* 5, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 28th May ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Maclachlan[*] requesting to be furnished with copies of the despatches received at the Foreign Office from Her Majesty's Consul at Bilbao, showing the disturbed state of the district as affecting trade and commerce in the port of Bilbao in the month of August last.

Mr. Lister was at the same time to transmit to us the despatches from Her Majesty's Consul bearing upon the subject;[†] and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to whether Mr. Maclachlan's request can be properly complied with.

In obedience with your Lordship's commands we have the honour to report—

That since the despatches from Her Majesty's Consuls to the Foreign Office are confidential, we are of opinion that it may be prejudicial to the public service if their contents are communicated to private persons, and to serve private interests, and we think that the request of Mr. Maclachlan cannot therefore properly be complied with.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 182.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 26.)

*Lincoln's Inn, June* 26, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid, with its inclosures, respecting the seizure and condemnation by the Spanish authorities of Algeciras of the British trading vessel the "Maria Tadeo;" and that he was to request that we would take those papers into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That with the information before us we can only say that the conduct of Her Majesty's Minister at Madrid in the matter of the "Maria Tadeo" may properly be approved.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 183.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 6.)

*Lincoln's Inn, July* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd June ultimo, stating that on the receipt of our Reports of the 26th May ultimo, your Lordship addressed to Her Majesty's Minister at Madrid instructions, drafts of which were inclosed,[‡] relative to the recent proceedings of Spanish customs cruizers in the neighbourhood of Gibraltar. That since those instructions were sent, the accompanying despatch had been received from Mr. Layard[§] reporting the seizure by two Spanish guardacostas on the 28th May ultimo of another British vessel, the "Volta," while on a lawful voyage from Gibraltar to Laraiche with a general cargo, and having her papers in perfect order.

That we would see that in the course of the case pretensions were put forward on the part of the Spanish authorities, first to the right of searching vessels of any nationality that might come within seven and a-half statute miles of the Spanish coast, although they might not be bound to any Spanish port; and, secondly, to the right to insist, under penalty of fine or confiscation, upon the production by such vessels of manifests drawn up in accordance with Spanish Customs Regulations.

That these pretensions appearing to your Lordship to be totally inadmissible, your Lordship had caused the accompanying draft to be prepared of an instruction to Mr. Layard approving the steps he had already taken in the matter, directing him to claim the payment of reasonable demurrage to the owners of the "Volta," and instructing him to address a strong protest to the Spanish Government against the unreasonable pretensions put forward by their Customs authorities, and warning them of the serious consequences which might ensue thereupon.

That a letter, with its inclosures, from the Colonial Office[*] upon the same subject was also sent therewith.

That he (Lord Tenterden) was to request that we would take the papers into our immediate consideration, and favour your Lordship with our opinion upon the proposed instruction to Her Majesty's Minister at Madrid.

In obedience to your Lordship's commands we have the honour to report—

That the proposed instruction to Her Majesty's Minister at Madrid is, in our opinion, proper.

We have, &c,
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 184.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 6.)

*Lincoln's Inn, July* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th June ultimo, stating that, with reference to our Report of the 26th May, he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office,[†] together with a despatch from Her Majesty's Minister at Madrid,[‡] respecting the case of the vessel "Jesu Nazareno;" and that he was to request that we would take the papers into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

For our convenience, Lord Tenterden also transmitted to us the previous correspondence connected with the case.[§]

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship properly approved of the letter from Her Majesty's Minister at Madrid inclosed in his despatch No. 382 to your Lordship.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 185.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

*Lincoln's Inn, July* 10, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd June last, stating that, with reference to our Report of the 26th May ultimo respecting the case of the "Sol," he was directed by your Lordship to transmit

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[*] Mr. Maclachlan, May 25, 1874.

[†] Consul Young, Nos. 47 and 48, July 30, 1873.

[‡] Nos. 164 and 165, June 12.

[§] No. 385, June 8.

[*] Colonial Office, June 20.

[†] June 11.

[‡] Mr. Layard, No. 382.

[§] Mr. Whitelaw, M.P., April 13; to ditto, April 22; to Colonial Office, April 22; to Mr Layard, No. 174, June 15, 1874.

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to us the accompanying letter from Messrs. Pirrie, Foote, and Co.,* the owners of that vessel, to whom your Lordship communicated the substance of our above-mentioned Report; and that he was to request that we would take this letter into our consideration, together with the previous papers connected with the case,† therewith returned to us, and favour your Lordship with our opinion as to the answer that should be returned thereto.

We are also honoured with a further letter from Lord Tenterden of the 30th June ultimo, stating that, with reference to his letter of the 22nd June ultimo, he was directed by your Lordship to transmit to us, to be considered together with the papers already before us, the accompanying letter from Mr. Whitelaw, M.P.,‡ inclosing a memorial from Messrs Pirrie, Foote, and Co., relative to the confiscation of the goods belonging to them which were seized on board the Spanish vessel "Sol" near Gibraltar.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That the regular mode and course of trial, both in the Court below and in the Court of Appeal, would appear to have been observed, and the two Courts were competent.

The ship was beyond British waters at the time of seizure, and was a Spanish ship, and therefore amenable and subject to Spanish law whether in Spanish waters or on the high seas.

In this state of the case, we are of opinion that Messrs. Pirrie may properly be answered that your Lordship cannot interfere on their behalf.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 186.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

*Lincoln's Inn, July* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 1st July instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Beynon and Co.§ relative to a claim which they proposed to make upon the Spanish Government for the value of certain coal shipped by them on board the Spanish vessel "Teresita," which vessel, though bound from Cardiff to Barcelona, was, Messrs. Beynon state, forced by stress of weather to put into Bermeo, a small port to the eastward of Bilbao, at that time in the possession of the Carlists, by whom the cargo of the "Teresita" was seized.

Lord Tenterden was also to state that the case did not seem to your Lordship to be one in which Her Majesty's Government could properly support a claim against the Government of Spain; but, before answering Messrs. Beynon to that effect, that your Lordship would be glad to be favoured with our opinion upon the subject.

In obedience to your Lordship's commands we have the honour to report—

That the claim of Messrs. Beynon cannot, in our opinion, properly be supported by Her Majesty's Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 187.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

*Lincoln's Inn, July* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th July instant, stating that, with reference to the Law Officers' Report of the 10th April last, upon the subject of the murder at Huelva, in Spain, on the 2nd July, 1871, of Mr. James Frederick Roberts, a British subject, he was directed by your Lordship to transmit to us two further despatches, and their inclosures, from Her Majesty's Minister at Madrid* upon the subject; and that he (Lord Tenterden) was to request that we would take these despatches into our consideration, together with the previous papers which were sent therewith, and favour your Lordship with our opinion as to whether any, and if so, what, further steps should be taken in the matter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That no further steps can, in our opinion, properly be taken in this matter.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 188.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 7.)

*Lincoln's Inn, August* 6, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st July ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid† upon the subject of a long-pending claim against the Spanish Government arising out of the capture, in 1860, off Cadiz, of the British schooner "Criticado," belonging to a Mr. Marcella, a British subject.

A memorandum upon the case is also inclosed,‡ from which we see that there is strong reason to suspect that, at the time of her capture, the "Criticado" was engaged in an illegal enterprise; but that, it having been proved that the capture took place out of Spanish waters, she was eventually acquitted and released, after a detention of twenty-three months, during which time both vessel and cargo suffered much deterioration, on account of which Mr. Marcella claims compensation.

The correspondence that has passed upon the subject is also inclosed,§ in case we should wish to refer to any of the papers mentioned in the memorandum.

Lord Tenterden was to request that we would take these papers into our consideration, and favour your Lordship with our opinion—

1. As to whether the claim of Mr. Marcella should be further pressed upon the Spanish Government; and

2. As to what notice should be taken of the principle laid down in the note from the Spanish Minister for Foreign Affairs to Mr. Layard of the 9th ultimo with regard to the general question of indemnity in cases of illegal capture.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the broad fact in this case is the seizure of a British ship on the high seas. This seizure, independent altogether of other circumstances, was illegal, and afforded grounds for insisting upon immediate redress from the Spanish Government, and that notwithstanding any rules or principles of Spanish procedure or Spanish law.

But the seizure was fourteen years ago, and though this delay is merely a matter for observation, yet a resort to strong measures now would not, in our opinion, be advisable on the part of Her Majesty's Government, particularly as the conduct of those connected with the ship and her voyage was entirely indefensible.

If the above were the only circumstances to be taken into consideration, we should be disposed to think that the claim of Mr. Marcella should not be further pressed upon the Spanish Government; but having regard to what we cannot but consider the extravagant and erroneous views put forward by the Spanish Minister for Foreign Affairs in his note of the 9th ultimo, we think that Mr. Layard may properly be instructed to state, in reply to that note, that Her Majesty's Government cannot recognize as consistent with international law the views put forward by him upon the general question of indemnity in cases of illegal capture, and that Her Majesty's

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* June 16.

† List.

‡ Mr. Whitelaw, M.P., June 26, 1874.

§ June 24, 1874.

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* Mr. Layard, No. 397, Confidential, June 15; ditto, No. 398, June 18, 1874.

† Mr. Layard, No. 31, Commercial, June 11, 1874.

‡ Memorandum, June 24, 1874.

§ One volume in wrapper, 1860–70.

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Government will consequently, unless the practice of the Spanish Courts and action of the Spanish Government are at once changed, be compelled to secure a proper indemnity by the detention of Spanish ships in every case where a British vessel has been illegally seized on the high seas.

Until the effect upon the Spanish Government of such a representation has been ascertained, we think that the claim in respect of the "Criticado" had better not be prominently referred to.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 189.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 10.)

*Lincoln's Inn, August* 8, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th July ultimo, stating that, with reference to our Report of the 29th April, he was directed by your Lordship to transmit to us a further correspondence, as marked in the margin,* relative to the claim of Mr. Pedro Cazacaro to be reimbursed the export duty levied on certain lead shipped by him from Escombreras in February last, on which he alleges he had already paid export duty to the insurgents at Carthagena.

We see that Mr. Cazacaro has now furnished a voucher in support of his statement that the payment made to the insurgents was on account of export duty; and Lord Tenterden was to request that we would be good enough to inform your Lordship whether we see any reason to modify the opinion given in our Report above referred to.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That in Mr. Cazacaro's letter to the Vice-Consul at Carthagena, dated the 21st February, 1874, he stated that, considering his property (certain pigs of lead) to be unsafe at Carthagena, he determined to remove it to Escombreras, and there deposit it at the works of M. Roux, in whose possession he considered it "would be safe and obtainable at any time for shipment." He further stated that the insurgent Junta allowed him to "retire the lead to Escombreras on the terms that he paid the export duty on the same," and that he paid such duty accordingly. It further appears from the same letter that no steps whatever were taken by him to export the lead from Escombreras until the following month of February, when, upon his applying for permission to ship the lead to England, the Government required payment of the full export duty. From this statement one inference only could be drawn, viz., that the payment made in September was for the removal of his property from Carthagena to a place of greater safety. In his letter, however, of the 23rd May, 1874, he states that the amount paid by him was the full amount of the export duty from Carthagena to England, and he produces a voucher for such payment, which, on the face of it, appears to be a receipt for the export duty to Escombreras and England. It is to be observed that there was no continuous transit of the property from Carthagena to England, nor any explanation offered why the property, having been dispatched from Carthagena to Escombreras in September 1873, remained there without any attempt to forward it until the following month of February. These facts are certainly more consistent with the view put forward by him in his first letter than with that adopted in the second.

It does not at present appear whether the Spanish Government demanded the second payment of export duty on the ground that they did not recognize the payment made to the insurgents in September, or upon the ground that the payment so made was for transit from Carthagena to Escombreras only.

Upon the whole, we think that, having regard to the form of the receipt given in September for the payment then made, Her Majesty's Minister at Madrid might properly be directed to draw the attention of the Spanish Government to the claim of Mr. Cazacaro in respect of his having been called upon to pay the export duty for his

lead a second time. The reply of the Government would probably indicate upon what ground the second payment was demanded.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 190.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 15.)

*Lincoln's Inn, August* 14, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 14th July ultimo, stating that upon receipt of the Law Officers' Report of the 31st March relative to Mr. Kynock's claim on the Government of Cuba, your Lordship addressed to Her Majesty's Consul-General at the Havana a despatch, draft of which was inclosed, informing him that under the circumstances Her Majesty's Government failed to see that any claim could properly be made by them on behalf of Mr. Kynock, but also instructing him to furnish a report upon certain American claims of a somewhat similar nature which were stated to have been paid, and that he (Lord Tenterden) was to transmit to us the reply which had been received from the Consul-General,* and to request that we would be good enough to inform your Lordship whether there is anything in that despatch which would induce us to modify the opinion expressed in the above-mentioned Report of the 31st March.

Lord Tenterden also stated that the previous papers submitted were therewith sent.†

We were also honoured with a further letter from Lord Tenterden dated the 20th July ultimo, stating that, with reference to his letter of the 14th July, he was directed by your Lordship to transmit to us the accompanying letter, and its inclosures, from the Colonial Office,‡ relative to the claim of Mr. William Kynock to compensation for property seized by the Spanish authorities in Cuba; and to request that we would take these inclosed papers into our consideration, together with those already before us.

We are also honoured with another letter from Lord Tenterden, dated the 28th July last, stating that, with reference to his letters of the 14th and 20th July, he was directed by your Lordship to transmit to us the accompanying further papers § relative to Mr. Kynock's claim against the Spanish authorities at Cuba, and to request that we would take those papers into our consideration, together with those already before us.

Lord Tenterden was also pleased to forward a note, dated the 29th July, 1874, in which he stated that he begged to forward therewith some further inclosures in Sir J. Elphinstone's letter of the 24th July, relative to the claim of Mr. Kynock on the Spanish authorities in Cuba.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That, in our opinion, the statements in Mr. Dunlop's despatch, and in the further papers transmitted to us, very materially alter the position of Mr. Kynock's claim.

It appears that he had a claim on the estate recognized by Spanish law at the time when the estate was seized by the military authorities.

That by the military occupation of the estate the sale of part of the stock and general wreck of the property consequent upon the military occupation, Mr. Kynock was unable to realize or obtain a money value for his claim.

It also appears that the Spanish Government has derived a benefit from the embargoed estate, but has kept no separate account of the funds arising out of that estate.

Moreover, certain American claims, though under a Commission, have been satisfied in cases similar in principle to that of Mr. Kynock.

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* List.

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* Mr. Dunlop, No. 22, June 10, 1874.
† Colonial Office, November 19, 1872; Mr. Dunlop, No. 8, Consular, February 4, 1874.
‡ Colonial Office, July 17, 1874.
§ Inclosures in Sir J. Elphinstone, July 24, 1874.

We are of opinion that the Spanish Government cannot refuse to entertain Mr. Kynock's claim because no separate account has been kept of the estate, and that Mr. Kynock's loss was occasioned by the action of the Spanish Government and its officials, and consequently that his claim is one which Her Majesty's Government may properly support.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 191.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 15.)

*Lincoln's Inn, August* 14, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 29th July last, stating that, with reference to our Report of the 13th July, he was directed by your Lordship to transmit to us a letter from Messrs. Beynon and Co.,* inquiring why Her Majesty's Government decline to support their claim against the Spanish Government on account of certain goods shipped by them on board the Spanish vessel "Teresita" for Barcelona, which goods were seized by the Carlists at Bermeo, on the coast of Biscay.

Lord Tenterden further stated that he also inclosed a draft of the answer which it is proposed to return to Messrs. Beynon; and that he was to request that we would favour your Lordship with our opinion as to whether it properly explains the grounds upon which the support of Her Majesty's Government is refused. Lord Tenterden was pleased to add in a postscript that the previous papers were also sent therewith.†

In obedience to your Lordship's commands we have the honour to report—

That the proposed letter, in our opinion, properly explains the grounds upon which the support of Her Majesty's Government has been refused.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 192.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 28.)

*Lincoln's Inn, August* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th August instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch, and its inclosures, from Her Majesty's Chargé d'Affaires at Madrid, relative to the proceedings of Spanish Customs authorities near Gibraltar in searching British vessels beyond the usually recognized limits of 3 miles from the Spanish coast.

That, from this despatch, the Spanish Government maintain their right to search all vessels, of whatever nationality, coming within the distance of 6 miles from the coast, even though such vessels may be apparently bound to foreign ports.

That this claim was founded on a Royal Order dated the 17th December, 1760, confirmed by further Orders dated the 1st May, 1775, and the 3rd May, 1830, and that, according to the assertion of the Spanish Minister for Foreign Affairs, no protest or reclamation had been made against these Orders, all Maritime Powers had acquiesced therein.

That it was unnecessary to lay before us all the correspondence that had passed upon this long-pending question, the papers sent therewith being amply sufficient to show that, so far from having acquiesced in the pretension put forward by Spain to a maritime jurisdiction of 6 miles, Great Britain had uniformly and strenuously resisted such pretension.

That the undermentioned papers left no doubt upon this point:—

Mr. Aston to Viscount Palmerston, No. 81, July 18, 1840.
Viscount Palmerston to Mr. Aston, No. 45, September 7, 1840.
Mr. Aston to Viscount Palmerston, No. 69, April 4, 1841.
Viscount Palmerston to Mr. Aston, No. 60, April 29, 1841.
Mr. Aston to Viscount Palmerston, No. 119, June 13, 1841.
Lord Howden and General Leisundi, May 11, 1853 (inclosed in No. 102 to the Earl of Clarendon).
The Earl of Clarendon to Lord Howden, No. 35, May 31, 1853.
The Earl of Clarendon to Mr. Otway, No. 55, September 20, 1853.
The Earl of Clarendon to Lord Howden, No. 12, April 14, 1852.
The Earl of Clarendon to Mr. Otway, No. 13, June 30, 1852.
Lord John Russell to Mr. Buchanan, No. 153, November 30, 1859.
Lord John Russell to Mr. Buchanan, No. 177, December 26, 1859.

That the collection of Law Officers' Reports would show the views taken of the question by successive legal advisers of the Crown.

That, in the various cases of seizure of British vessels which had lately taken place near Gibraltar, Her Majesty's Government, acting upon our advice, had maintained the same view that had been held throughout by Great Britain, *i.e.*, that Spain had no right to exercise maritime jurisdiction at a greater distance than 3 miles from her coasts seaward, or within bays of the Spanish shore, and they had warned the Spanish Government of the serious consequences that might ensue from a persistence in the claim to a 6-mile limit.

Lord Tenterden was to request that we would take all these papers into our consideration, and favour your Lordship with our opinion as to the answer that should be returned to the note of the Spanish Minister for Foreign Affairs inclosed in Mr. Macdonell's despatch No. 53 of the 4th August.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the Spanish Minister for Foreign Affairs may properly be answered that Her Majesty's Government cannot recognize the right of the Spanish Government to extend its maritime jurisdiction beyond the general acknowledged limits of 3 miles.

Her Majesty's Government does not think it necessary to refer to the authority of writers upon international law, or to the decisions of the Courts of various countries, all agreeing in fixing 3 miles as the limit of territorial jurisdiction.

Indeed, if some limit were not agreed upon by different nations, some nations might claim an unlimited jurisdiction, and assume the right to stop and search vessels sailing under a foreign flag on any part of the high seas.

Her Majesty's Government regrets that the Spanish Minister has been, by inadvertence, led into the assertion that no protest or reclamation whatever has been presented against Orders issued by the Spanish Government founded upon the claim of that Government to a maritime boundary extending beyond 3 miles, and that all Maritime Powers have acquiesced in such Orders.

Her Majesty's Government has always uniformly and strenuously resisted that pretension on the part of the Spanish Government.

And if that pretension is still persisted in, and a ship sailing under the British flag is, whilst more than 3 miles from the Spanish coast, stopped, visited, detained, or seized by a Spanish vessel of war or custom-house vessel, Her Majesty's Government will immediately give orders for the seizure and detention of Spanish vessels wherever found, till full compensation is made to the Government for the insult to the British flag, and to the owners of the ship and cargo for the loss or inconvenience which they may have sustained.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* July 23, 1874.

† Messrs. Beynon and Co., June 24; to Law Officers, July 11; Law Officers, July 13; to Messrs. Beynon, July 15, 1874.

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### No. 193.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received September 26.)*

*Lincoln's Inn, September* 25, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us representations which had been addressed to your Lordship relative to certain Consular fees which the Spanish Government had recently ordered its Consular Agents in England to levy on merchandize exported from this country to Spain; and that Mr. Lister was to request that we would that matter into consideration at our earliest convenience, and favour your Lordship with our opinion as to the right of Spanish Consular officers in this country to levy the duties or fees in question.

That there did not appear to be any Treaty stipulations between this country and Spain which bore on that particular point.

We are also honoured with a further letter, bearing date the 9th instant, respecting fees of Spanish Consuls in England.

We have also the honour to acknowledge a further letter from Mr. Lister, of the 14th instant, stating that, with reference to his letter of the 9th instant on the subject of the fees or duties levied by Spanish Consular officers in this country, he had the honour to inclose therewith a despatch from Mr. Macdonell, inclosing the Tariff of Consular fees recently established by the Spanish Government, Article 48 of which appeared to concern more immediately the matter under consideration.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That, in our opinion, the Spanish Government has the right to require Consular certificates for goods shipped from this country for Spanish ports, a right which it may enforce by refusing admission into Spain of goods not so certificated.

For his certificate the Spanish Consul has a right to demand a fee.

The question, if we are right, is therefore, in the present case, not to be confused by calling the fee a tax levied in this country on exports to Spain; nor to be affected by the amount of the fee.

The amount may be excessive, and out of all proportion to the value of the goods, and impolitic as a discouragement to trade.

And the fee may in effect, and therefore practically, and especially if Spanish Consular officers are paid by salary and not by fees, be a tax on exportation.

But these, which are the consequences of the fee, do not affect the right to levy the fees.

It is possible that the Spanish Government has been induced to take this objectionable step with a view of preventing the importation of arms and ammunition and articles of warlike use from this country into Spain, and any representation on the part of Her Majesty's Government might provoke an answer to which it would be difficult to find a reply.

But we think your Lordship might not improperly instruct Her Majesty's Representative at Madrid to bring the subject officiously to the notice of the Spanish Government, and to point out the impolicy of the step that Government has taken, and the injury which the persistence in levying the fees will do to the trade between the two countries.

Should your Lordship think fit to adopt this course, you would probably think it advisable to inform the persons who have complained of the imposition of the fees that the matter will be inquired into.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 194.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received September 30.)*

*Lincoln's Inn, September* 29, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 29th August ultimo, stating that, with reference to our Report of the 10th July, he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Pirrie, Foote, and Co.,* containing inquiries as to the principles upon which Her Majesty's Government had acted in refusing to support their claim against the Spanish Government on account of the condemnation, by a Spanish Court, of certain goods shipped by them on board the Spanish vessel "Sol."

That he (Mr. Bourke) was also to inclose a draft of the reply which your Lordship proposed to return to Messrs. Pirrie, Foote, and Co.;† and to request that we would favour your Lordship with our opinion as to whether the draft properly expresses the principles by which Her Majesty's Government should be guided in the case of the "Sol," and in similar cases.

That the previous correspondence was inclosed for convenience of reference, if required.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft properly expresses the principles by which Her Majesty's Government should be guided in the case of the "Sol," and in similar cases.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 195.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October 7.)*

*Lincoln's Inn, October* 5, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 24th September ultimo, stating that he was directed by your Lordship to transmit to us a letter, with inclosures, just received from the Lords Commissioners of the Treasury,† together with a letter also received on the 24th September ultimo from Mr. Palmer,† respecting the "Notre Dame de Fourvierès," said by him to be laden with a cargo of arms for the Carlist forces in Spain, and to be sailing under a false register; and

That we should observe that Her Majesty's Commissioners of Customs reported that their Solicitor had advised them that there was now sufficient evidence to justify the detention of the vessel; and

That the "Notre Dame de Fourvières" was, however, reported to have sailed for a French port; and that he (Mr. Lister) was therefore to request that we would take the papers into our immediate consideration, and favour your Lordship with our opinion whether any, and if so, what, action should now be taken with respect to the vessel, and, further, what instructions, if any, should be issued respecting her to Her Majesty's Consuls at the ports at which she might touch, and to the Commanders of Her Majesty's ships who might meet with her either in foreign waters or upon the high seas.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the evidence adduced to prove that the "Notre Dame de Fourvières" is not entitled to a British register, or to sail under the British flag, is so slight and so suspicious that it is, in our opinion, unnecessary to give any other instructions respecting that vessel either to Her Majesty's Consuls or Her Majesty's naval officers than that they should watch her proceedings, should she come under their cognizance, and report thereon, as circumstances may require.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* August 21, 1874.

‡ September 23, 1874.

† August , 1874.

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## No. 196.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 8.)

*Lincoln's Inn, October* 8, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 22nd September ultimo, stating that, with reference to our Report of the 9th May last, he was directed by your Lordship to transmit to us the accompanying copy of a telegraphic despatch which had been received from Her Majesty's Chargé d'Affaires at Madrid,[*] in regard to the settlement by the Spanish Government of the claims of British subjects arising out of the proceedings of the insurgents at Carthagena in November last; and that he (Mr. Lister) was to request that we would take the telegram, together with the previous correspondence in the matter, therewith returned to us, into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we have no means of forming an opinion whether the deduction, which the Spanish Government proposes to make on account of exaggerated prices, is or is not right.

But the claims of British subjects should be admitted, and the amount of compensation calculated upon principles as similar as circumstances will allow with those principles upon which compensation has been made to Italian and German subjects.

Unless, therefore, there is some error in the proposed calculation, or some inconsistency in the principle of compensation applied to British claims as compared with the principle applied to Italian and German claims, we think Mr. Macdonell may properly be instructed to accept the offer as final, so far as supported claims are concerned.

We presume the claims disallowed for want of proof are not at present in question, but are suspended.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 197.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 15.)

*Lincoln's Inn, October* 14, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 2nd instant, stating that, with reference to the correspondence which has passed in regard to the case of the vessel "Notre Dame de Fourvières," he was directed by your Lordship to transmit to us a letter which your Lordship has received from the Board of Admiralty (dated the 24th September, 1874), inclosing a copy of one from Mr. Wigdahl, the alleged owner of the "Notre Dame de Fourvières," claiming compensation on account of the recent detention of his vessel at Southend; and Mr. Lister was to request that we would take this application into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to the Board of Admiralty in the matter.

In obedience to your Lordship's commands we have taken the matter into consideration, and have the honour to report—

That the Board of Admiralty may properly, in our opinion, be answered that Mr. Wigdahl be informed that his claim for compensation for the detention of the ship "Notre Dame de Fourvières" will be taken into consideration on his proving to their Lordships' satisfaction that he is the owner of that ship, and that she is entitled to a British register.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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[*] Mr. Macdonell, Telegraphic, September 17, 1874.

## No. 198.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 3.)

*Lincoln's Inn, November* 2, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 26th ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at Manila, inclosing the copy of a will of a British subject lately deceased there, and, with regard to the question raised by Mr. Ricketts respecting the validity of that will, Mr. Bourke was to state that your Lordship would be glad to be favoured with our opinion on the point, and as to what instructions should be sent to the Consul for his guidance in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the will of Mr. Honiss, although made in conformity with English law, is not therefore valid, unless Mr. Honiss had an English domicile at the time of his decease.

As regards property in Manila, the question of domicile would have to be decided by the Spanish Courts, and we presume that effect would not be given by them to the will unless they were satisfied that Mr. Honiss' domicile was English, and that his will was in conformity with English law.

Unless Mr. Honiss had personal property in England, there is no use in attempting to take out probate in the English Court. Such Court would only grant probate on proof that Mr. Honiss' domicile was English at the time of his death.

A Consul in the dominions of Spain has no power that we are aware of to grant probate of a will.

Under these circumstances, we think that Mr. Ricketts has acted quite properly in not interfering in the administration of the estate.

We see no objection to the letter addressed by Mr. Ricketts to Mrs. Gee, and we think that it may properly be sent to her.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 199.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 9.)

*Lincoln's Inn, November* 7, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 10th October ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from a Mr. W. H. Ross,[*] relative to certain taxes which he states have lately been ordered by the Captain-General to be levied in Cuba nominally for the purpose of suppressing the insurrection in that island.

Mr. Lister was also to inclose two despatches from Her Majesty's Consul-General at the Havana,[†] in which these taxes are alluded to; and Mr. Lister was to request that we would favour your Lordship with our opinion as to whether Her Majesty's Government can properly claim for British subjects exemption from the payment of such taxes.

A memorandum upon the subject of forced loans and extraordinary contributions on British subjects in Spain was inclosed therewith, together with two Reports upon the subject,[‡] furnished to Earl Granville by the late Law Officers of the Crown.

We are also honoured with Lord Tenterden's letter of the 22nd October ultimo, stating that, with reference to Mr. Lister's letter of the 10th October, he was directed by your Lordship to transmit to us two further despatches from Her Majesty's Consul-General at the Havana,[§] relative to the taxes lately ordered to be levied in that island; and Lord Tenterden was to request that we would take these papers into our consideration together with those already before us.

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[*] Mr. Ross, September 30, 1874.

[†] Mr. Dunlop, No. 12, Political, July 15; ditto, No. 15, Political, August 11, 1874.

[‡] Printed Memorandum, October 23, 1868; Law Officers, September 15; ditto, December 24, 1873.

[§] Mr. Dunlop, Nos. 31 and 32.

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We are also honoured with Lord Tenterden's further letter of the 31st October ultimo, stating that, with reference to his letter of the 22nd October, he was directed by your Lordship to transmit to us the accompanying copy of a telegraphic despatch which has been received from Her Majesty's Consul-General in Cuba, in regard to the exaction by the Spanish authorities in that island of a tax of 5 per cent. on the capital of foreign merchants.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the letter of Mr. Ross and the despatches of Mr. Dunlop, inclosed in Mr. Lister's letter of the 10th October last, did not afford sufficient information as to the nature and incidents of the taxes proposed to be levied in Cuba to enable us to satisfactorily reply to the question put to us, but since the receipt of Lord Tenterden's letter of the 22nd October we have carefully considered the two further despatches and other papers inclosed in it, and particularly the précis drawn up by Her Majesty's Consul-General, and the letters (A) and (B), and we are of opinion that neither the tax on incomes nor that on capital can be considered as a forced loan or a war contribution from the payment of which Her Majesty's subjects might claim exemption.

Both taxes are equally imposed on all persons resident in the island having incomes or capital beyond a certain amount, and as these persons all equally enjoy the protection of the Government of that island, we are of opinion that the taxes are in principle free from objection, and the imposition of them on Her Majesty's subjects legitimate, and that Her Majesty's Government cannot properly instruct the Consul-General to offer any opposition to them.

The questions of amount, whether it be excessive or not, of the mode and time of levying the taxes, and of the penalties to be inflicted for non-compliance with the Decree imposing the taxes, are immaterial, provided no distinction is made against British subjects in favour of the subjects of Spain or of other countries.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 200.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 9.)

My Lord,
*Lincoln's Inn, November* 9, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 30th October ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid,* reporting a conversation with the Spanish Minister for Foreign Affairs relative to the recent proceedings of the British steamer "Notre Dame de Fourvières" in landing arms on the coast of Spain for the use of the Carlists, and that the Spanish Minister appeared to have admitted that it would be difficult for Her Majesty's Government to interfere with the export of arms from Great Britain, but he suggested that the false representations made as to the destination of the "Notre Dame de Fourvières" might afford sufficient ground for taking proceedings against her.

Lord Tenterden also stated that the point had already been raised in the letter from the Foreign Office to the Treasury, dated the 12th October last, the draft of which was inclosed, but we would see by the answer returned by the Treasury,† also sent therewith, that their Solicitor is of opinion that, on the evidence hitherto adduced, there is no tangible ground for a prosecution against the "Notre Dame de Fourvières."

That, under these circumstances, Lord Tenterden further stated that he was to transmit to us the whole of the correspondence that had passed upon the subject,‡ and to request that we would inform your Lordship whether we concur in the opinion of the Treasury Solicitor, and favour your Lordship with any further observations which we might have to offer on the case.

In obedience to your Lordship's commands we have the honour to report—

That we agree with the opinion of Mr. Hamel transmitted to the Foreign Office by the Treasury, to the effect that there is no evidence at present in the possession of the Government and communicated to us which would justify the prosecution of the registered owner of the ship "Notre Dame de Fourvières."

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Layard, No. 436, October 12, 1874.

† October 15, 1874.

‡ List.

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## No. 201.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 8.)

My Lord,
*Lincoln's Inn, December* 7, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th November ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatches (Nos. 456 and 482) from Her Majesty's Minister at Madrid, relative to the claims of certain British firms at Bilbao to be compensated by the Spanish Government for losses occasioned to them by the civil war in Spain, which losses appear to have been caused partly by Government troops and partly by Carlists.

Lord Tenterden was also to inclose a memorandum drawn up in the Foreign Office (November 13, 1874) upon the question of the liability of the Government of a country in which war is being carried on to make good such losses, together with various other papers, as marked in the margin,* relating to the subject; and Lord Tenterden was to request that we would take all these papers into our consideration, and favour your Lordship with our opinion as to the instructions that should be sent to Mr. Layard with regard to the claims of the British firms above referred to.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we have carefully considered the papers transmitted to us, and we are of opinion that British subjects carrying on their business or resident in Spain have no claim upon the Spanish Government for compensation for the losses which they may have sustained by the acts of the troops and insurgents during the civil war, except in the event of the Spanish Government compensating Spanish subjects who may have incurred similar losses.

That Mr. Layard may, therefore, properly be instructed that Her Majesty's Government cannot interfere on behalf of the British firms and subjects referred to in his despatches.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 202.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 11.)

My Lord,
*Lincoln's Inn, December* 9, 1874.

We are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st November ultimo, stating that he was directed by your Lordship to transmit to us a letter from Mr. William Shaw (dated the 26th September, 1874), and a despatch (No. 32 of the 21st October, 1874), with inclosures, from Her Majesty's Consul at Cadiz, respecting the detention in quarantine of the British ship "Lindsay," notwithstanding that the ship had left Liverpool previously to the date on which quarantine was ordered on arrivals from that port.

Lord Tenterden was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in instructing Her Majesty's Minister at Madrid to press the claim for compensation which he has already made on the Spanish Government in reference to the matter.

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* List.

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In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the Spanish Government having returned no answer apparently to Mr. Layard's letter, Mr. Layard may properly be instructed to bring the case again to the attention of that Government, with a view of obtaining either an explanation, or compensation if the act of the official authorities cannot be satisfactorily explained.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 203.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 22.)

*Lincoln's Inn, December* 19, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us the correspondence, marked in the margin,* relative to a tax levied by the Municipality of Bilbao on iron ore exported from that place; and that he was to request that we would take the matter into consideration, and favour your Lordship with our opinion thereupon, with especial reference to the English interests concerned.

That the last Treaty engagements on matters of trade and navigation between this country and Spain are contained in the Additional Article of the 28th August, 1814, which, together with the Treaties previously existing and thereby renewed, would be found in the second volume of Hertslet's Treaties.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship cannot properly press this matter any further upon the Spanish Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 203*.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received January* 1, 1875.)

*Lincoln's Inn, December* 31, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st December instant, stating that, with reference to our Report of the 25th September last, he was directed by your Lordship to transmit to us a note from the German Ambassador at this Court,† stating the views of the German Government with regard to the new Table of Spanish Consular fees.

Lord Tenterden also stated that he inclosed Mr. Macdonell's despatch transmitting a copy of that document,‡ together with the correspondence which had passed with Mr. Layard subsequent to the date of our above-mentioned Report;§ and that he was to request that we would take the matter again into consideration, and favour your Lordship with such observations as we might have to offer on Count Münster's note.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully considered the papers transmitted to us, our former Report, and Count Münster's note; the only question seems to be whether the proposed charges are Consular fees rightly so called, in which case no objection in principle could be properly made to them, or whether they are in fact export duties, in which case they would be altogether inadmissible.

From Mr. Layard's last two despatches we see that the Spanish Governmen in some way modifying the original Tariff, and we think it is inexpedient, if not impossible, to say anything as to the legality of these proposed charges before they are finally settled by the Spanish Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Macdonell, No. 4, Commercial; to Mr. Macdonell, No. 24, Commercial; Cantabrian Iron Company, October 7; to Mr. Layard, No. 35, Commercial; to Cantabrian Iron Company, October 12; Mr. Layard, No. 42, Commercial; ditto, No. 51, Commercial.

† Count Münster, December 9.

‡ No. 7, Commercial.

§ To Mr. Layard, No. 32, Commercial; Mr. Layard, Nos. 44 to 53, Commercial.

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## Sweden.

### No. 204.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 18.)

*Temple, February* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us a letter, with its inclosure, from Messrs. Elmslie, Forsyth, and Sedgwick, in which the intervention of Her Majesty's Government was requested with regard to a decision of the Supreme Court of Norway in the matter of a suit arising out of a disputed claim for payment of freight on a cargo of coals shipped on board the Norwegian vessel "Esmeralda;" and that he was to request that we would take the same into our consideration, and favour your Lordship with our opinion as to whether that matter was one for the interference of Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, this matter is not one for the interference of Her Majesty's Government. The only reason which is suggested for such interference is that the Norwegian municipal authorities have acted in a private matter, properly within their cognizance, upon a mistaken view of the law in a difficult question of mixed law and fact; and even assuming that the views of the applicants are correct, we think that such an error as is alleged to have been committed constitutes no ground for diplomatic action.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 205.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 9.)

*Temple, April* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands as signified in Mr. Lister's letter of the 26th March ultimo, stating that, with reference to the Law Officers' Report (therewith inclosed) of the 17th February ultimo, he was directed by your Lordship to transmit to us, together with the previous papers, a further letter from Messrs. Elmslie, Forsyth, and Sedgwick, relative to the legal proceedings in the Supreme Court of Norway relative to the vessel "Esmeralda;" and he was to request that we would take the same into our consideration, and favour your Lordship with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the decision of the Norwegian Tribunal, supposing that decision to have been founded on error or mistake, affords no ground for diplomatic interference, and we agree with the late Law Officers that Her Majesty's Government cannot properly take any action in the matter.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 206.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 4.)

*Lincoln's Inn, June* 4, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 25th May last, stating that, with reference to the Law Officers' Report of the 16th June last, therewith inclosed, relative to the compensation claimed from the Swedish Government by the Tyne and Wear Iron Steam-ship Insurance Association on account of the damage caused to the steam-ship "Stagshaw" by the Swedish frigate "Vanadis," he was directed by your Lordship to transmit to us a letter, with its inclosures, from the above Association,* wherein it is stated that the Swedish Government decline to entertain the claim in question.

Mr. Lister also stated that the previous papers in the case were inclosed, and that he was to request that we would take the correspondence into our consideration, and favour your Lordship with our opinion as to the course which should be adopted by your Lordship in the matter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That the Swedish Government has pointed out to the Tyne and Wear Iron Steamship Insurance Association the proper means of obtaining a remedy for the injuries alleged to have been received, namely, the institution of proceedings against the Swedish Government, and that the only course which your Lordship can, in our opinion, properly adopt is to inform the Association that Her Majesty's Government cannot interfere in the matter, which is a subject for legal proceedings and not diplomatic inteference.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Switzerland.

### No. 207.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 13.)

*Temple, June* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 29th May ultimo, stating that he was directed by your Lordship to transmit to us a printed copy of a Convention between Great Britain and Switzerland, for the mutual surrender of fugitive criminals, which was signed on the 31st March last, but which had not yet been ratified, and that he was to call our attention to Article XVI, which made the stipulations of the Treaty applicable to the Colonies and foreign possessions of Her Britannic Majesty.

That Mr. Lister was to observe that in the corresponding Article in the various Extradition Treaties which Great Britain had concluded with foreign Powers since the passing of the Extradition Act of 1870, it was stipulated that the requisition for the surrender of a fugitive criminal who had taken refuge in a British Colony should be made to the Governor or Chief Authority of such Colony by the chief Consular officer in the Colony or the country making the demand for his surrender.

That as, however, Switzerland had no Consuls in any British Colony, with the exception of the Mauritius, the Swiss Government altered paragraph 2 of Article XVI so as to allow the requisition for a fugitive criminal who might have taken refuge in a British Colony to be made by the Swiss Consul-General in London to the Secretary of State for Foreign Affairs, as in the case of a fugitive criminal supposed to be in some part of Her Majesty's dominions other than a Colony.

That as some doubts had arisen as to whether the Governor of a British Colony could, according to the Act of 1870, act upon a demand made by some person other than a Consular officer, Mr. Lister was to request that we would take that point into our consideration, and favour your Lordship with our opinion, at our earliest convenience, whether, as the word employed in the 17th section of the Extradition Act of 1870, which stated how the requisition for the surrender of a fugitive criminal was to be made in a British Colony, was "may" and not "shall," a Governor of a British Colony was precluded from acting upon a requisition made to the Secretary of State, as stipulated in Article XVI of the Treaty with Switzerland.

In obedience to your Lordship's commands we have the honour to report—

That the 17th section of the Extradition Act, 1870, provides that the requisition for the surrender of a fugitive criminal who is in, or suspected of being in, a British possession, may be made to the Governor of that British possession by any person recognized by that Governor as a Consul-General, Consul, or Vice-Consul.

In our opinion, though the word used is "may," the clause is directory, and that the requisition must be made by and to the persons indicated by the Act.

The printed Convention between Her Majesty and the Swiss Confederation in its XVIth Article provides that the requisition for the arrest and surrender of a fugitive criminal who has taken refuge in any of Her Majesty's Colonies or foreign possessions shall be made through the Swiss Consul-General in London to the Secretary of State for Foreign Affairs.

We think that this portion of the Article is not in accordance with the provisions of the Extradition Act, and should be omitted.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 208.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 6.)

*Lincoln's Inn, October* 6, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 7th September ultimo, stating that, with reference to our Report of the 13th June last, on the XVIth Article of the Convention of the 31st March last, between this country and Switzerland, for the mutual surrender of fugitive criminals, in which we state our opinion that the portion of the Article which provides that the requisition for the arrest and surrender of a fugitive criminal who has taken refuge in any of Her Majesty's Colonies or foreign possessions shall be made through the Swiss Consul-General in London, is not in accordance with the provisions of the Extradition Act, and should be omitted, and that he (Mr. Lister) was directed by your Lordship to transmit to us copy of a Protocol which it was proposed to annex to the Convention; and that he was to request that we would take the Protocol into our consideration, and favour your Lordship with our opinion, at our earliest convenience, whether its addition to the Convention will be sufficient to cancel that portion of the XVIth Article which was not in accordance with the Extradition Act, and whether the stipulations contained therein will possess the same force as if they had been embodied in the original Article of the Treaty.

In obedience to your Lordship's commands we have the honour to report—

That the addition of the proposed Protocol to the Convention will be sufficient to

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* Tyne and Wear Association, May 16, 1874.

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cancel that portion of the XVIth Article which is not in accordance with the Extradition Act, and that the proposed stipulations will have the same force as if they had been embodied in the Treaty of which they are a modification.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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# Tripoli.

## No. 209.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received September* 28.)

*Lincoln's Inn, September* 25, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th August ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office,* inclosing a copy of a Report by a Commission appointed to inquire into certain allegations made by the United States' Consul in Malta against the police there in regard to their alleged connivance in slave-dealing practices. A note and its inclosures from the United States' Chargé d'Affaires at this Court, which gave rise to the inquiry, is also inclosed.†

The Colonial Office letter also treats of the general question of the prevention of the passage of slaves through Malta, which we see by the accompanying correspondence,‡ amongst which are the Reports of the late Law Officers of the 16th December, 1872, the 22nd April, 1873, and the 24th January last, is a question of somedifficulty.

Lord Tenterden was to request that we would take these matters into our consideration, and inform your Lordship whether we concur in the finding of the Commission in regard to the conduct of the Malta police, and favour your Lordship with our opinion on the Ordinance prepared by Sir A. Dingli with a view to stopping the transport of slaves through British territory.

In obedience to your Lordship's commands we have taken these matters into consideration, and have the honour to report—

That we have not before us the details of the evidence which was adduced before the Commissioners at Malta, but upon the assumption that it was to the effect stated in their Report of the 6th June last, we are of opinion that it was sufficient to negative the allegations and suggestions of misconduct on the part of the police officers at Malta, contained in the depositions of the Janissary of the United States' Consul at Tripoli, and of the negro woman who accompanied him in his voyage to Malta in August 1873.

With respect to these depositions, we may perhaps be permitted to observe that they appear to us to have been obtained and made under circumstances of a most unusual character, and that, having regard as well to such circumstances as to the contents of the depositions themselves, they do not appear to us to be entitled to much, if any, credit.

We think, therefore, that the conclusion at which the Commissioners have arrived is correct, so far as it in effect finds that there is no foundation for the accusations made against the police officers (and particularly against Aloisio and Gerada) in the papers received from the United States' Chargé d'Affaires.

If, however, we correctly read the Report of the Commissioners, they go further than this, and find that there is no ground for any charge against any police or other public officer of connivance at or indifference to the slave traffic reported to be going on through Malta; as to what the facts as to this part of their Report may be, we are not in a position to express an opinion, but it appears to us that the evidence before the Commissioners, so far as we can judge of its effect, was substantially confined to the particular case referred to in the above-mentioned depositions, viz., the voyage of the "Trabulus Garb" to Malta in August 1873, and was not sufficient to support so general a finding, especially having regard to the fact that there undoubtedly exists a considerable slave traffic from Tripoli to Constantinople viâ Malta, and that the suspicions of connivance or complicity on the part of the Maltese officials is not confined to United States' authorities.

As regards the draft Ordinance prepared by the Crown Advocate at Malta, we feel great hesitation in differing from a legal adviser of the Crown, whose knowledge of the facts and of the practices to be dealt with, and consequently of the means of suppressing the slave trade, must necessarily be much greater than our own; but whilst agreeing with him as to the general principles of his proposed Ordinance (if it should be deemed necessary to issue one), we think that it is in some respects open to objection, and, at any rate, will require amendment.

1. We assume that the object of Her Majesty's Government in issuing such an Ordinance is to prevent the traffic in slaves, and that they have no intention of interfering with the existence of slavery as a domestic institution. And we make this assumption because the 1st Article of the draft Ordinance is directed against persons, "seemingly Africans," coming to Malta from Africa; but it is silent as to persons, "seemingly Africans," coming from any other part of the world, and also as to persons other than those "seemingly Africans" coming to Malta from any part of the world (including Africa), though the members of a Turkish family arriving at Malta from Constantinople may comprise not only black slaves, "seemingly Africans," but also white slaves who are not of negro origin.

If we are right in this assumption, it will be necessary that the expression "African" or "seemingly African" should be more strictly defined and limited; otherwise some such case as the following might occur. A Turk having black slaves in his family may travel with them from Constantinople to Malta, and thence to any African port between Egypt and Algeria, without any interruption by the Maltese authorities, but on his return to Constantinople by the same route and with the same slaves in his retinue, he would be liable, on his arrival at Malta, to all the penalties imposed by the Ordinance.

2. In our opinion, the draft Ordinance is not too stringent where the traffic in slaves exists, but we think that, instead of a variety of small fines or penalties being imposed under several heads (as for having the slaves on board, for their maintenance and clothing, and for their passage back, &c.), one larger penalty should be imposed, of such an amount as, on an average, would defray the expenses incurred by the Government.

3. We feel very strongly the difficulty of requiring a certificate of a free status as an absolute condition in all cases, though it may eventually become necessary to adopt such a rule should other means fail to check the traffic.

Upon the whole, however, we would suggest for your Lordship's consideration whether a strict examination of the ship's papers, and a careful inquiry conducted by competent persons, assisted by a good and independent interpreter, into the status of persons arriving for the first time at Malta from the African coast, may not be made effectual for the suppression of the traffic in slaves without the necessity of issuing any such Ordinance as that the draft of which is at present before us.

Should any changes be made in the regulations at Malta in respect to persons supposed to be slaves, your Lordship may probably think it proper to communicate the new regulations to foreign Governments, in order to obviate any complaints which might otherwise be made on the ground of detention of vessels or infliction of penalties.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* August 5, 1874.

† Mr. Moran, March 17, 1874.

‡ Volume; List of Papers.

# Tunis.

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## No. 210.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received May* 28.)

*Lincoln's Inn, May* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th day of May instant, stating that with reference to the Report of the Law Officers of the 13th June last, on the subject of the establishment of Mixed Tribunals at Tunis for the purpose of deciding civil and commercial suits between natives and foreigners in that Regency, he was directed by your Lordship to transmit to us therewith a despatch from Her Majesty's Agent and Consul-General,* reporting that certain modifications had been introduced into the rules of procedure as originally proposed, and that the foreign Representatives had assented to them pending the sanction of their respective Governments; and that he (Lord Tenterden) was to request that we would take the despatch into our consideration, together with the former papers which were inclosed therewith,† and advise your Lordship as to the answer which should be returned to Mr. Wood.

In obedience to your Lordship's commands we have taken the papers into consideration and have the honour to report—

That the modifications suggested by Mr. Wood may, in our opinion, properly be approved by your Lordship, and Mr. Wood be answered to that effect.

We have, &c.

(Signed) WILLIAM BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 211.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 26.)

*Lincoln's Inn, September* 24, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th August ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Mr. Stanley, late Her Majesty's Consul at Alexandria,‡ relative to the overcrowding of pilgrim ships at that port; and Lord Tenterden was to request that we would favour your Lordship with our opinion as to the correctness of Mr. Stanley's views, as therein expressed, relative to the legal powers possessed by Her Majesty's Consuls under "The Foreign Jurisdiction Act, 1843," "The Passengers Acts, 1855 and 1863," and the Orders in Council regulating the exercise of Consular jurisdiction in Tunis and Egypt.§

A copy of the Order in Council affecting Tunis, a letter from the Board of Trade, and a despatch and its inclosures from Her Majesty's Consul-General at Tunis relating to this subject,‖ were inclosed therewith for our information.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we entertain considerable doubt whether any of Her Majesty's Consular officers, either under the Foreign Jurisdiction Act, or the Passengers Acts, or any of the Orders in Council with which we are acquainted, could legally, in Egypt or at Tunis, detain a British ship on the ground that she was overcrowded, and we are unable

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* No. 25, April 27, 1874.

† The List annexed.

‡ Consul Stanley, August 14, 1874.

§ See Hertslet's Treaties, vol. vi, p. 500; vol. x, p. 348; vol. xii, p. 1014.

‖ Order in Council, Tunis, June 29, 1871; Board of Trade, June 1; Mr. Wood, No. 9, Consular, March 10, 1874.

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## No. 209 A.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 23.)

*Temple, February* 21, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th December last, stating that early in that year, at the solicitation of the Bey of Tunis, Mr. Wood, Her Majesty's Agent and Consul-General, put himself in communication with Mr. Ranking for the purpose of ascertaining whether or not it would be feasible to establish within the Regency a British Bank, which would be ready to advance money to Tunisian subjects upon the security of the produce of the country on terms more equable than they were then able to obtain it.

That Mr. Ranking thereupon applied to the Tunisian Government to ascertain the conditions upon which they would be willing to grant a Concession to a Bank established for that purpose.

That the Tunisian Government had replied, stating the terms which they would be prepared to grant.

That immediate steps were then taken to commence operations; a Board of Directors was chosen, and on the 5th September last the London Bank of Tunis (Limited) was started.

That much opposition had, however, taken place. The majority of the foreign Representatives in Tunis appealed to the Bey to withdraw the Concession, strongly objecting to any preferential privileges being granted to any particular Bank, and insisting that the Tunisian Government had no power to grant a Concession without the previous consent of the Finance Commission established in 1869 for liquidating the debts of the Regency to the subjects of foreign Powers.

That the French Ambassador in London had warmly opposed the scheme on the plea that a promise of preference to any particular Bank would lead eventually to the creation of a Government Deposit Bank, injurious to the public interest.

That numerous other objections had been raised by the enemies to the project, amongst whom might be numbered the two British Delegates to the Finance Commission.

That we would perceive that the chief opposition was aimed at the 3rd and 5th Articles of the Concession, a copy of which we would find in the inclosed papers now submitted to us, namely:—

"(3). To have the assistance of and the preference on the part of the Government as much as is in its power," &c.

"(5). The Government does not guarantee the papers (bank-notes), but should the Bank issue them, it will be on the credit of the Bank, signed by Moustapha, Prime Minister and Minister for Foreign Affairs."

That Lord Tenterden inclosed, together with all the papers on that question, a Memorandum on the case; and that he was directed by your Lordship to request that we would take that matter into our consideration, and favour your Lordship with any observations we might have to offer, more especially as regards the power to issue notes upon the sole credit of the Bank.

P.S.—That the Decree under which the Finance Commission above alluded to was established would be found at p. 134 of the accompanying volume of the "Archives Diplomatiques," and the negotiations which led to that Decree were set forth in the printed collection of correspondence also inclosed therewith.

In obedience to your Lordship's commands we have the honour to report—

That we are unable to give any opinion whether the Concession granted by the Tunisian Government is valid and binding according to the law of Tunis; but it having been given by the Chief Minister to Mr. Ranking, we think it is to be assumed, as against the Tunisian Government, to be valid.

It does not appear that if the Concession be acted on there will be any infraction of the Decree of the 5th July, 1869.

Tunisian finance will not in any way be affected.

We think your Lordship may make representations to the French and Tunisian Governments in support of Mr. Ranking's right in the sense expressed in Lord Lytton's despatch of the 17th October.

We have, &c.

(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 209 B.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 11.)

*Temple, April* 10, 1874.

My Lord,

WE are honoured with Lord Granville's commands signified in Lord Tenterden's letter of the 10th February last, stating that he was directed by Lord Granville to transmit to us a despatch which he had received from Her Majesty's Agent and Consul-General in Tunis, on the subject of the proposed Commercial Treaty between Great Britain and Tunis.

That it appeared from that despatch that the Bey of Tunis wished that certain modifications should be made in the draft Treaty submitted to the Tunisian Government by Mr. Wood in August last; and that Lord Tenterden was to request that we would take the matter into our consideration, and favour Lord Granville with our opinion as to whether those modifications should be allowed by Her Majesty's Government.

That, on referring to the draft of Treaty inclosed in Mr. Wood's despatch, we would observe that Article XXV established the mode of trial of all criminal and correctional cases and complaints, and of all civil and commercial suits arising between British and Tunisian subjects.

That the Bey, however, objected to that Article, and proposed to substitute for it Article XIV of the Treaty between Austria and Tunis of the 17th January, 1856, with the addition of the last paragraph of Article XXV of the British draft, which paragraph merely referred to the establishment in Tunis, at some future time, of Mixed Courts.

That as, however, Article XIV of the Treaty between Austria and Tunis only provided for the trial of civil and commercial cases, and did not deal with crimes committed in Tunis, the Bey consented, provided that the British Government accepted that Article in lieu of Article XXV of the British draft, to the insertion of a further Article, similar to Article XV of the above-mentioned Treaty between Austria and Tunis, but that he, at the same time, expressed a hope that Her Majesty's Government would not think it necessary to confirm a stipulation of so humiliating a character for the Chief of a State.

That the humiliation alluded to was that the Bey had passively to assist at the trial of a criminal by his Consul, without the right of interfering, except in concurring with the Consul as to the degree of punishment to be inflicted upon the prisoner.

That with regard to the Bey's admission, in his conversation with Mr. Wood, that he no longer exercised criminal jurisdiction over foreigners, and his assurance that he had no intention of altering the mode of trial actually in force, Lord Tenterden was to observe that although that might be His Highness' intention, it by no means followed that his successors would hold the same views, and that Lord Granville therefore thought that it would be more prudent to secure that arrangement by Treaty than to leave it dependent on the will of an individual.

That Lord Granville would be glad to hear if we concurred in that opinion.

That with reference to the question of the Bey's jurisdiction, he (Lord Tenterden) was to refer us to the inclosed Law Officers' Report on the case of the Maltese named Chircop, accused of the murder of a Tunisian, in which Report it was stated that, should the Bey claim to exercise his jurisdiction, Her Majesty's Government could not resist that claim, or exercise a jurisdiction over the accused person against the Bey; and that Lord Tenterden was to observe that although it was perfectly true that the present Bey did not claim to try the Maltese, Chircop, he might have done so; and that calling to mind the case of Paulo Xureb, who in the year 1844 was tried and condemned to death by the Government of the Bey for the murder of one of his subjects, it was clear that such power was vested in the Bey, and that it rested with him to exercise it or not, unless he was debarred from so doing by a stipulation such as that inserted in Article XV of the Treaty between Austria and Tunis.

That Lord Tenterden was further to call our attention to the fact that although provision was made in the draft Treaty with Tunis for the trial of suits arising between British subjects and between British subjects and Tunisians, there was no provision for the trial of suits arising between British subjects and other foreigners, not subjects of the Bey; and that Lord Tenterden was to observe that Lord Granville considered that that omission deserved especial attention in consequence of the recent case of the trial before the British Vice-Consul at Mogador of a suit between an Italian firm and an English Company.

That in the Law Officers' Report on that case it was stated that as the Order in Council of the 27th August, 1857, which gave effect to the Treaty of 1856 with Morocco, did not provide for the trial of cases between British and foreign, other than Moorish, subjects, the Vice-Consul at Mogador had no jurisdiction in the matter, and that his decision should be cancelled. But that Lord Tenterden was to observe that although there was no provision made in the Order in Council, such provision was made in Article XIV of the Treaty with Morocco, in the following words, which were inserted on the suggestion of the Law Officers of the day:—

"Such cases shall be decided solely in the Tribunals of the foreign Consuls, without the interference of the Moorish Government, according to the established usages which have hitherto been acted on or may hereafter be arranged between such Consuls."

That Lord Tenterden was therefore to request that we would take that point also into our consideration, and favour Lord Granville with our opinion whether it would not be expedient to make provision for similar cases in the proposed Treaty with Tunis, and, if so, that he was further to request that we would insert a clause to that effect in the draft Treaty inclosed in Mr. Wood's despatch No. 22 of the 4th August last.

In obedience to Lord Granville's commands we the honour to report—

That we are of opinion that it is necessary to make express provision in the Treaty for the trial by the British Consular Court of British subjects charged with having committed crimes on Tunisian territory.

With respect to the jurisdiction in civil cases between British subjects and the subjects of foreign States, we think that it will be desirable to follow the precedent of the Treaty with Morocco, and we have accordingly inserted a clause for that purpose in the XXIVth Article of the printed draft.

We see no objection to omitting in Article XXV (MS.) the words "in concurrence with His Highness the Bey." In fact, the power of the Consul will be enlarged, and that of the Bey diminished, by the omission of those words.

With respect to Article XVI, we desire to suggest, for your Lordship's consideration, that it may be desirable to introduce a provision expressly recognizing the existing Bank of Tunis, or, at any rate, stipulating that nothing in the Article shall prejudice any right or claim of the Bank of Tunis under any Concession given or alleged to have been given before the conclusion of the Treaty.

Subject to these observations, we are of opinion that the modifications proposed in the draft, and approved by Mr. Wood, may properly be made.

We have, &c.

(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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to agree with Mr. Stanley's views on the extent of Consular jurisdiction in those countries.

As the mischief is increasing, and the attention of foreign Governments has been called to it, we submit to your Lordship's consideration that the measures suggested by the Board of Trade (1st June, 1874) are the most proper and effective which can be taken to stop the evil.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 212.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received November 9.)*

*Lincoln's Inn, November* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 10th October ultimo, stating that, with reference to our Report of the 27th May last, he was directed by your Lordship to transmit the accompanying despatches, as marked in the margin,* relating to certain observations which the Italian Chargé d'Affaires at this Court has been instructed to make to your Lordship respecting the proposed scheme of judicial reform in Tunis.

Mr. Lister was to request that we would take these papers into our consideration, together with our Report of the 10th April last on the general Treaty which is now being negotiated with Tunis, and favour your Lordship with our opinion as to the answer which should be returned to the Italian Chargé d'Affaires and the course to be taken by Her Majesty's Government.

The previous correspondence on this subject was inclosed for convenience of reference.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, the Italian Chargé d'Affaires may properly be answered that, admitting the general correctness of the principles of territorial and national jurisdiction to which he refers, those principles are not to their full extent applicable to the state of things existing at Tunis, where the Government is willing to give up some of the rights of territorial jurisdiction in favour of various nationalities.

That even if under the proposed system anomalies in theory may be found, the advantages in practice which will follow the adoption of the new system far outweigh such anomalies.

And that Her Majesty's Government hopes that on further consideration the Italian Government will take the same course which Her Majesty's Government is taking and adopt the proposed scheme.

And we are of opinion that whatever may be the policy and action of the Italian Government, Her Majesty's Government should go on with the proposed scheme of judicial reform.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* To Mr. Wood, No. 20, August 22; Mr. Wood, Nos. 44 and 45, September 22; ditto, No. 46, September 29, 1874.

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# Turkey.

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## No. 213.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 6.)

My Lord, *Temple, January* 5, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Sailor,[*] who has a claim against the Egyptian Government for a sum of money which he states is due to him for salary.

He was also pleased to inclose a despatch from Her Majesty's Agent and Consul-General in Egypt[†] upon the case; and to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to whether this is a claim which Her Majesty's Agent and Consul-General can properly be instructed to support officially or unofficially.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That, in our opinion, Major-General Stanton may be instructed to continue to use his good offices on behalf of Mr. Sailor, but this is not a case in which any formal demand should be made on the Egyptian Government.

We think that your Lordship must accept General Stanton's statement that he is unable to verify the order respecting dismissals mentioned by Mr. Sailor, and we observe that no example of any reinstatement or pension since its date, November 1870, is given by Mr. Sailor.

No representation in support of any right of Mr. Sailor should be made by General Stanton, but there is no reason why he should not unofficially exert his influence on Mr. Sailor's behalf.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 214.

*The Attorney- and Solicitor-General to Earl Granville.*—(*Received January* 20.)

My Lord, *Temple, January* 19, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence regarding G. P. Costello, a Maltese subject, expelled from the Ottoman dominions by order of the Consular Court at Alexandria; and that Mr. Lister was to request that your Lordship might be informed whether we concurred in Sir P. Francis' opinion that the sentence must either be maintained or absolutely rescinded.

That a copy of the Levant Order in Council was also inclosed for reference if required.

In obedience to your Lordship's commands we have the honour to report—

That, assuming the sentence of deportation to be legal, we do not concur in the opinion of Sir P. Francis that Her Majesty's Secretary of State has no power to relax the sentence unless such remission is unconditional.

We think that it is competent to the Secretary of State to give a remission limited in respect either of time or place, or subject to any other reasonable condition, and we are of opinion that effect may properly be given to the opinion of Mr. Lane.

Very serious questions appear to us to arise with respect to the legality of the practice of deportation itself, to which we have called your Lordship's attention in our

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[*] November 3, 1873.

[†] No. 51, December 11, 1873.

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## No. ~~208~~ A.

*The Solicitor-General and Dr. Deane to Earl Granville.*—(*Received January* 26.)

My Lord, *Temple, January* 24, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 3rd instant, stating that he was directed by your Lordship to request that we would favour your Lordship with our opinion on certain notices which it was proposed to issue to the owners and masters of vessels trading in the Mediterranean, with a view to putting a stop to a Traffic in Slaves which there was reason to believe was carried on between the North Coast of Africa and Constantinople, frequently through Malta, in British vessels.

That that subject was referred to the then Law Officers on the 8th April last, and their opinion was requested on the drafts of those notices inclosed in the accompanying letter from the Board of Trade, and on the question of the competency of Her Majesty's Government to prohibit the embarkation of any negroes, unprovided with Consular papers, on British vessels.

That the Law Officers, in their reply of the 22nd April, stated that the proposed notices were too wide in their terms, and inclosed a draft notice to be issued by Consuls on the North Coast of Africa, in regard to the necessity for Consular papers to negroes embarking on British ships.

That Mr. Lister was then to request that we would take those notices, together with the whole subject, into our consideration, and that we would state our opinion what alterations were necessary in the notices intended for ship-owners and ship-masters in order to bring them into accordance with the Slave Trade Statutes.

That when their form was settled they would be issued by the Board of Trade, and copies of the notices respecting Consular papers for negroes would be sent at the same time for publication at North African Consulates, and in other places where it might appear to be necessary.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft communications and notices prepared by the Board of Trade may properly be issued at once, with the corrections we have inserted in the margin. We do not think it necessary to limit the caution to the carrying of slaves for sale, since the communications are to be addressed to British subjects, and the Acts, so far as they affect British subjects (5 Geo. IV, cap. 113, sec. 2; 6 & 7 Vict., cap. 98), are not so limited.

With respect to the practical measures to be adopted to put an end to a traffic which is clearly carried on from the African ports, through Malta, and also by way of Egypt, there is considerable difficulty.

The circumstance that the supposed slaves declare themselves to be free, and to be satisfied with their condition, makes it extremely difficult to treat them, or those who are concerned with them, on the footing of slavery.

It will be obviously very difficult to obtain convictions under such circumstances, and the suggested expedient of stationing a vessel of war in the Dardanelles, though it might have a deterrent effect in the first instance, would probably soon become a *brutum fulmen*, as its only authority would be to bring vessels suspected of such traffic in for adjudication; nor is this a measure which we can recommend.

If any effectual security is to be obtained, we think it must be in the African ports. And we would suggest for the consideration of the Board of Trade whether, in the case of British ships, some provisions similar to those contained in "The Kidnapping Act, 1872," 35 & 36 Vict., cap. 19, might not be applied to those ports. It might be possible to insist, in the case of all negroes embarked in African Consular ports on British vessels (especially those trading to the Mediterranean or the Ottoman dominions), that bonds should be given (see the Act just cited, section 3), conditioned for the production of all such negroes at the port of delivery to the Consular officer there, in order to their being provided with letters of manumission in the manner now practised at Constantinople whenever the imported negroes can be found. It will be for the Board of Trade to consider how far such regulations would injuriously affect British trade. And precautions should be taken not so far to interfere with the domestic usages and social habits of the nations with whom we must necessarily have

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commercial relations in the Levant, as to obstruct persons *bonâ fide* travelling with their domestic servants from port to port in the Mediterranean on board British ships.

With reference to foreign vessels trading at British ports, the case is much more difficult. We have not before us the Treaty stipulations applying to the matter in hand. But in case such stipulations are insufficient, application might be made to foreign States to adopt a similar system of bonds to that above suggested.

At all events, it might be provided that no negroes should be embarked or re-embarked (as appears to occur at Malta) in foreign vessels except on the condition of giving bonds, as in the case of African ports.

If the suggested system of bonds should be approved by the Board of Trade, it will require consideration how far it can be carried into effect in foreign Consular ports by Order in Council, and how far additional legislation may be required.

We have, &c.
(Signed) W. V. HARCOURT.
J. PARKER DEANE.

P. S.—It has been thought better, in the absence of the Attorney-General from town, and the difficulty of communicating with him, to send in these papers.

W. V. H.

Report dated 12th instant, relating to the revised Order in Council for China and Japan.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.

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### No. 215.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 4.)

*Temple, February* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 28th ultimo, stating that he was directed by your Lordship to transmit to us a letter which had been received from Lord Henry Scott relative to the claim of a Miss Harris for compensation from the Egyptian Government on account of damage done to her house at Alexandria by the explosion of some gun-cotton which had been stored by the authorities in an adjacent building.

That we would perceive from the correspondence also therewith inclosed that Her Majesty's Agent and Consul-General in Egypt and another claimant, a Mr. Wilson, were informed in 1871, on the advice of the then Queen's Advocate, that in the absence of any suggestion that the explosion of the magazine in question was the work of design the Egyptian Government would not be held responsible for the damage done by it.

That the present application was merely for unofficial support of a petition to be addressed by Miss Harris to the Khedive, but that as it was probable that the claim, if allowed, would be followed by others on the part of other sufferers from the same explosion, your Lordship would be glad to have our opinion whether the circumstances, as detailed in the papers, entail such a moral responsibility on the Egyptian Government as would justify Her Majesty's Government in supporting Miss Harris' petition unofficially.

In obedience to your Lordship's commands we have the honour to report—

That we see no objection to an instruction to General Stanton that he may unofficially present Miss Harris' petition, with a request for its favourable consideration, if the terms of the petition appear to him to be proper.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 216.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 18.)

*Temple, February* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul-General and Judge at Constantinople,* regarding the fees payable in Consular Courts in the Levant, together with a memorandum which had been drawn up on the subject by Mr. Reilly;† and that your Lordship would be glad to be favoured with our opinion upon the suggestions contained in those papers.

In obedience to your Lordship's commands we have the honour to report—

That we concur in the views expressed by Mr. Reilly as to the expediency of altering the table of fees, and as to the necessity for an Order in Council for this purpose.

We are further disposed to think that there is no power either in the Secretary of State or in the Treasury to dispense with the payment of any fees which may have already become payable under the existing Order in Council in the particular matter now in question, but we believe that a similar question has been raised in several cases with respect to marriage and other fees, and before expressing an opinion upon this point we desire to be referred to any opinions or minutes relating to such cases.

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* No. 11, January 19, 1874.

† February 3, 1874.

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We do not express any opinion as to the extent of the alteration which is desirable in the scale of fees except to observe that the amount suggested by Sir P. Francis will still leave the fees unnecessarily high.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 217.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received February* 18.)

*Temple, February* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us two despatches, with their inclosures, from Her Majesty's Chargé d'Affaires at Constantinople, relative to the proposed imposition of a stamp duty in Turkey.

That Mr. Lister also inclosed copies of the Capitulations and of the Commercial Treaty of 1861 between this country and the Porte; and that he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to whether the imposition of the proposed law would be in contravention of the Treaty stipulations existing between Great Britain and Turkey.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the proposed tax would not be in contravention of the Treaty stipulations existing between Great Britain and Turkey, provided it is levied equally on the subjects of other countries and on Turkish subjects.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 218.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received April* 25.)

*Lincoln's Inn, April* 25, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 24th April instant, stating that, with reference to his letter of yesterday's date, he is directed by your Lordship to transmit to us a note from the Austro-Hungarian Ambassador at this Court, containing inquiries as to the course to be adopted by the captains of British vessels in regard to payment of the Suez Canal dues; and Mr. Lister was pleased to request that we would take this note into consideration, together with the papers on this subject already before us, and favour your Lordship, at our earliest convenience, with our opinion as to the answer which should be returned to the Austro-Hungarian Ambassador on this subject.

A copy of a letter from the Board of Trade on the same subject is also inclosed for our opinion.

In obedience to your Lordship's commands we have taken these papers into our consideration, and have the honour to report—

That, in our Report of this date, made in obedience to your Lordship's commands communicated by Mr. Lister's letter of the 23rd instant, we have expressed an opinion that instructions should be given to the Captains of Her Majesty's ships that in the event of the Suez Canal Company opposing their transit through the Canal, except upon the payment of dues upon gross tonnage, they should put themselves in immediate communication with General Stanton, and should on no account endeavour to force the passage; and we have suggested that, either through General Stanton or by such other means as your Lordship may think fit, the Egyptian Government should be at once communicated with on the subject.

Having now taken into consideration the note of the Austro-Hungarian Ambassador, we would add to the opinion so expressed by us that it would not, in our opinion, be desirable that the Captains of Her Majesty's ships should pay under protest the dues demanded by the Company, if such dues are not in accordance with the Report of the International Commission, unless for some very special reason it was deemed essential that the voyage of some particular vessel should be immediately prosecuted.

Having regard to the terms of the letter addressed by the representative in England of the Suez Canal Company to the President of the Board of Trade, we would suggest to your Lordship that Her Majesty's Representative at Cairo should be directed to urge upon the Egyptian Government the necessity of some steps being at once taken by that Government to prevent the threatened violation of the concession by the Company, and the responsibility it will incur if such violation is not prevented.

We would further suggest that a notification should be made to all British vessels arriving at either end of the Canal that the dues properly payable after the 29th April for transit through the Canal will be those fixed by the International Commission.

As regards vessels, not being Her Majesty's ships, we think that the captains should, as far as conveniently can be, be informed of the instructions given to the Captains of Her Majesty's ships, but that they should be left to act upon their own responsibility as to paying any overcharge under protest to secure immediate transit.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 219.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received April* 25.)

*Lincoln's Inn, April* 25, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 23rd April instant, stating that, with reference to the letter from the Foreign Office of the 18th instant, he was directed by your Lordship to transmit to us therewith a letter from the Board of Admiralty inquiring whether, in consequence of the decision of the International Tonnage Commission in regard to the Suez Canal dues, repayment of the sums hitherto paid under protest upon gross tonnage by the Captains of Her Majesty's ships passing through the Canal can be claimed from the Company from the date when the dues were first raised, or from that of the Commissioners' Report. That the papers now before us would show that the new system of dues had been fixed to take effect from the 29th instant; and Mr. Lister stated that he was to request that we would take the matter into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to the Board of Admiralty on the subject, and also to request that we would favour your Lordship with our opinion as to the instructions which should be issued to the Captains of such of Her Majesty's ships as may arrive at the mouth of the Canal after the 29th instant, in the event of the Company opposing the transit of vessels except upon payment of the dues upon the gross tonnage, supposing that no steps should be taken in the meantime by the Egyptian Government to prevent such an obstruction of the traffic.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion that the sums which have been paid under protest by the Captains of Her Majesty's ships passing through the Canal upon the gross tonnage of such ships may be properly claimed from the Company from the date when the dues were first raised. We are also of opinion that the Captains of such of Her Majesty's ships as may arrive at the mouth of the Canal after the 29th instant, in the event of the Company opposing the transit of such ships except upon the payment of dues upon the gross tonnage, should be instructed to put themselves in immediate communication with General Stanton, and on no account to endeavour to force the passage; and we would suggest to your Lordship that, either through General Stanton or by such other means as your Lordship may think fit, the Egyptian Government should be at once communicated with on the subject.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 220.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 25.)

*Temple, April* 25, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us the papers noted in the margin,* relative to the circumstances under which the Suez Canal Company had notified, through M. de Lesseps, to the Government of the Porte their intention, in the event of the decision of the International Commission as regarded the Suez Canal dues being enforced, to oppose the passage of any vessel which declined to pay on gross tonnage, to refuse pilots, and stop the telegraph, so as to render the passage of the Canal impracticable.

That Mr. Lister was to request that we would take those papers into our consideration, and favour your Lordship, at our earliest convenience, with our opinion as to the right possessed by the Khedive, in the above-mentioned event, to assume the management of the Canal, having regard to the terms of the Act of Concession of the 5th January, 1856, with especial reference to Articles 7 and 18 of the Act, wherein provision was made for the maintenance of the Canal in good order, and the reservation of an annual percentage of the profits to the Egyptian Government (State Papers, vol. lv, pp. 976 and 978), and generally whether the proceedings threatened by M. de Lesseps would constitute a violation of the terms of the Concession.

In obedience to your Lordship's commands we have the honour to report—

That, in answering the two questions contained in Mr. Lister's letter, we think it desirable to first give your Lordship our opinion upon the second of those questions.

Article 17, section 3, of the Concession of 1856 fixes the maximum of duty "par tonneau de capacité."

Upon these last words the International Commission put one construction, M. de Lesseps another; and M. de Lesseps, by the action which he threatens to take, asserts, as indeed he has on several occasions asserted, that he alone has the right to construe these words, and he now proposes to practically interdict the use of the Canal to those vessels which do not pay the dues upon the tonnage according to his system of calculation.

We are of opinion that M. de Lesseps, in taking the proceedings which he threatens, will violate the terms of the Concession, for we assume that the construction put upon the words "tonneau de capacité" by the International Commission is the true construction, and that which the Porte or the Khedive has the right to insist upon.

The Act of Concession has no clause which provides for any contingency by which the Canal may be arbitrarily closed, but on the construction of the Act of Concession, and having regard to the objects for which the Canal was allowed to be made, and the control which should, as we think, be taken as reserved either by the Porte or the Khedive over the use of the Canal, we are of opinion, in answer to the first question, that the Khedive may assume the management of the the Canal, if M. de Lesseps refuses to keep it open for the purposes of navigation.

The case is analogous to a neglect on the part of M. de Lesseps to maintain the Canal in good repair and working order, in which case the management might clearly be assumed by the Khedive.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 221.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 30.)

*Temple, April* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Turner,* inclosing a petition from Mrs. Madeline Rassam, praying the intercession of Her Majesty's Government on her behalf in reference to certain proceedings with regard to her alleged divorce from, and also with regard to the estate of, her deceased husband, together with a memorandum upon the subject which had been drawn up by Her Majesty's Ambassador at Constantinople;† and that Mr. Bourke was to request that we would favour your Lordship with our opinion as to whether any, and if so what, steps should be taken in the matter by Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That the case of Mrs. Rassam is one in which the rights of Turkish subjects under the law of Turkey are concerned, and it appears from paragraph 34 of her petition that Mrs. Rassam is about to take proceedings before the Court at Constantinople to obtain whatever redress she may be entitled to.

In this state of things, we are of opinion that Her Majesty's Government cannot properly take any steps diplomatically in the matter, but we see no objection to your Lordship's adopting the suggestion in the memorandum of Sir H. Elliot, and instructing the British Consul or Vice-Consul to watch over the matter, though we think Sir H. Elliot is mistaken in calling Mrs. Rassam and her child a British widow and child, since by the marriage Mrs. Rassam became a Turkish subject.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 222.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 28.)

*Lincoln's Inn, May* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 15th instant, stating that he was directed by your Lordship to transmit to us the accompanying papers, as marked in the margin,‡ upon the subject of the claim preferred by Captain Vella, a British subject, against the Egyptian Government for alleged wrongful dismissal from his employment; and that he (Mr. Lister) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship cannot properly support the claim preferred by Captain Vella against the Egyptian Government.

It appears to us that, under the terms of his contract, Captain Vella was subject to immediate dismissal, and that the proceedings in his behalf against the Agha were not rightly conducted.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 223.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 4.)

*Lincoln's Inn, June* 4, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 25th May last, stating that he was directed by your Lordship to transmit to us a letter, with its inclosures, from the India Office,§ relative to the charges levied by the Suez Canal Company upon certain vessels employed as tenders to Indian troop-ships passing through the Canal, such charges being made on the assumption that the vessels in question are used as tugs.

Mr. Lister was further pleased to state that he inclosed a despatch from Colonel

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* Volume of Correspondence; Lord Tenterden's Memorandum; Report of Commission; General Stanton, February 11, 1879.

* March 18.

† April 7.

‡ Captain Vella, February 28; to General Stanton, No. 8; General Stanton, No. 31, 1874.

§ India Office, May 13, 1874.

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Stokes, and the previous correspondence on the subject therein referred to;[*] and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the rights of the Canal Company to levy the tolls complained of under the terms of the Act of Concession of the 5th January, 1856 (State Papers, vol. lv, p. 976).

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That, in our opinion, the Suez Canal Company has no right to levy the toll of 50 c. per ton on the tenders "Prompt" and "Hasty," for there is no provision in the Concession of the 5th January, 1856, giving the Company power to impose a toll above the maximum of 10 fr. a ton.

We agree entirely with the opinion of Colonel Stokes, in his letter to your Lordship of the 19th instant, and in his letter to Captain Willoughby of the 21st February last.

But we submit, for your Lordship's consideration, that it may be inconvenient to introduce into any discussion with the Suez Canal Company the suggestion made by Colonel Stokes in paragraph 6 of the above letter to your Lordship.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 224.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 16.)

*Lincoln's Inn, June* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 25th May ultimo, stating that he was directed by your Lordship to transmit to us the papers noted in the margin,[†] relative to the circumstances under which the Suez Canal Company, in applying the new Tariff according to the recommendations of the International Tonnage Commission, insist upon measuring the vessels passing through the Canal, instead of accepting the ships' registers as a basis for the calculation of the dues.

Mr. Lister also inclosed the draft of an instruction which your Lordship proposes to address to Her Majesty's Ambassador at Constantinople on this subject; and Mr. Lister was to request that we would take the same into consideration, and favour your Lordship, at our earliest convenience, with such observations as we may have to offer thereupon.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we are of opinion that the Suez Canal Company cannot insist upon measuring the tonnage of vessels passing through the Suez Canal in cases where such vessels are furnished with tonnage certificates delivered by the competent Government authorities in accordance with the provisions prescribed in the Report of the International Commission held at Constantinople (see p. 8 of printed despatch No. 7).

In the case where vessels intended to pass through the Suez Canal have not been provided with the tonnage certificates given according to the recommendations of the Constantinople Commission, we are of opinion that the Suez Canal Company cannot insist upon remeasuring the vessels if they are properly, and according to the law of the country to which they belong, furnished with ships' papers or other evidence showing their net tonnage.

The draft instructions may therefore, in our opinion, be properly addressed to Her Majesty's Minister at Constantinople upon the subject.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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[*] In India Office letter of May 13, 1874.

[†] General Stanton (Telegraphic), April 30; Colonel Stokes, No. 6, May 4; Board of Trade, May 12; Report of Tonnage Commission.

### No. 225.

*Dr. Deane to Mr. Lister.*—(*Received June* 19.)

(Private.)

*Temple, June* 19, 1874.

Dear Mr. Lister,

I HAVE seen the Attorney- and Solicitor-General on the question put in your letter of yesterday, "whether the Suez Canal Company had any right to remeasure ships which were not provided with the tonnage certificates given according to the recommendations of the Constantinople Commission instead of calculating the new net tonnage from their registers?"

We are of opinion that the Suez Canal Company is not entitled to remeasure ships where the tonnage of such ships is regularly certified in, and can be ascertained by an inspection of, the ship's papers, those papers being in accordance with the law of the country to which the ship belongs.

Shall we recast the Report, or will this letter be sufficient from Lord Derby?

Yours, &c.
(Signed) J. PARKER DEANE.

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### No. 226.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 25.)

*Lincoln's Inn, June* 24, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 17th June instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Agent and Consul-General in Egypt,[*] requesting instructions as to the Court before which proceedings instituted against the Suez Canal Company, on account of overcharges, should be heard.

Mr. Lister further stated that he was to inclose a despatch[†] on this subject from Colonel Stokes, the British Commissioner at the late International Tonnage Commission at Constantinople, together with copies of a despatch, and of its inclosures, from Her Majesty's Ambassador at Constantinople,[‡] from which it would be observed that, in the month of May 1872, the Egyptian Government designated the Tribunal of the Governor of Alexandria as that before which plaints against the Canal Company should be heard; and that he (Mr. Lister) was to request that we would take those papers into our consideration, in connection with the terms of the concession granted to the Company by the Viceroy on the 5th January, 1856 (State Papers, vol. lv, p. 976), and favour your Lordship, at our earliest convenience, with our opinion as to the answer which should be returned to General Stanton respecting the matter.

Mr. Lister was also pleased to say that he was further to transmit to us, for our consideration in connection with the question, the despatches, noted in the margin, from Her Majesty's Consul-General and Judge at Constantinople (No. 8), and Her Majesty's Agent and Consul-General in Egypt (Nos. 61–63), relative to suits hitherto brought against the Canal Company before French Consular Courts and other Tribunals.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That the Suez Canal Company being an Egyptian Company, as M. de Lesseps admits in Article XVI of the Convention of the 22nd February, 1866 (State Papers, vol. lvi, p. 283), all proceedings against the Company must be taken in that Court—whether the Mixed Commercial Tribunal of Alexandria, or the Civil Courts of the country—which would have jurisdiction over the cases if the suit were brought against an Egyptian subject.

In the particular case referred to us, that of "overcharges," we are of opinion that the Civil Court of the country is the right Court, and that General Stanton may be answered to that effect.

Should there be any difficulty in procuring the intervention of the Civil Court, General Stanton might, with advantage, state to your Lordship wherein that difficulty

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[*] No. 57, Commercial.

[†] No. 12.

[‡] No. 27, Commercial, July 4, 1872.

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lies, and the means which his local experience may suggest for getting over the difficulty.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 227.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 11.)

*Lincoln's Inn, July* 10, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 3rd July instant, stating that, with reference to the Law Officers' Report of the 17th March, 1873, therewith inclosed, relative to the piratical attack at Bushire upon the steamer "Cashmere," he was directed by your Lordship to transmit to us a letter, with its inclosures, from Mr. W. Bradford, late an officer of that vessel, requesting reconsideration of his claim for compensation from the Turkish Government on account of wounds received by him during the attack.

Mr. Lister was also pleased to transmit to us, together with the previous papers in the case, a despatch, and its inclosure, from Her Majesty's Consul-General at Bagdad, reporting on Mr. Bradford's claim, and to say that he was to request that we would take these papers into our consideration, and favour your Lordship with our opinion whether there is anything in them to alter the opinion already expressed by the Law Officers in regard to this matter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we see no reason for altering the opinion already expressed by the Law Officers in this matter.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 228.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

*Lincoln's Inn, July* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 26th June ultimo, stating that, with reference to the Law Officers' Report of the 26th June, 1873, therewith inclosed, Mr. Lister was directed by your Lordship to transmit to us a letter with its inclosures from the Danube and Black Sea Railway and Kustendje Harbour Company,* relative to the recent action of the Porte in regard to that Company; and Mr. Lister was to request that we would take the same into our consideration, together with the previous papers in the case which were inclosed, and favour your Lordship, at our earliest convenience, with our opinion as to the further instructions which should be addressed to Her Majesty's Ambassador at Constantinople in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the only obligation on the Company, except the cost of maintaining the harbour and lighthouse in Article V, is in Article VII of the Convention of the 10th October and the 28th September, 1870.

By this Article the Company contracted to extend the south jetty to 700 feet English, and to complete the work before the 1st September, 1873. Payment to be made in three payments of 10,000*l.* each, on the 1st March in each year, on proof that at each recurring 1st March one-third, at least, of the above work has been completed.

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* Danube and Black Sea Railway Company, June 20, 1874.

Nothing in this Article is said as to—

1. The width of the jetty.
2. The security of the foundation and protection by outlying stones.
3. The height of the jetty above the sea level.

We think that the Turkish Government have, however, the right to insist upon the jetty being sufficiently wide, safe, and high for the purposes for which it was constructed before the payment, either of a part or of the whole of the 30,000*l.*, can be deemed due.

We doubt whether the 4th condition named by the Turkish Minister, namely, widening of the entrance to the harbour, comes within the Company's obligation to maintain the harbour in working order.

Her Majesty's Ambassador at Constantinople may, in our opinion, properly be instructed again to use his influence to induce the Porte to submit the three first points, the sufficiency of the jetty as to width, safety, and height, to arbitration or to a Mixed Commission.

And, as to the 4th point, to urge upon the Porte that the Company is not, under the Convention of 1870, obliged to widen the entrance of the harbour.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 229.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

*Lincoln's Inn, July* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 26th June last, stating that he was directed by your Lordship to transmit to us the papers noted in the margin* relative to the effect upon the export trade of the new Regulations in Turkey respecting the manufacture and sale of tobacco; and that he was to request that we would take the same into our consideration, and favour your Lordship, at our early convenience, with our opinion as to the question raised by Sir Henry Elliot whether, under the Anglo-Turkish Treaty of Commerce (Hertslet's Treaties, vol. xi, p. 561), exporters of cigars, cigarettes, snuff, or cut tobacco could claim the restoration of the duty levied upon the manufacture.

In obedience to your Lordship's commands we have to report—

That, as the duty is imposed on the manufacture and not on the exportation of the tobacco, we are of opinion that such duty is not within the Anglo-Turkish Treaty of Commerce, and that consequently the restoration of the duty cannot be claimed on exportation.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 230.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 17.)

*Lincoln's Inn, July* 16, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th July instant, stating that, with reference to our predecessors' letter of the 3rd January, 1873, he was directed by your Lordship to transmit to us, together with the previous papers, the accompanying despatch which had been received from Her Majesty's Agent and Consul-General at Alexandria, together with its inclosures, respecting the proposals which had been made for the settlement of outstanding claims against the Egyptian Government; and Lord Tenterden also stated that he was to request that we would take these papers into our consideration, and favour your Lordship with our opinion thereupon.

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* Mr. Locock, No. 76; to ditto, No. 68, Commercial; Mr. Locock, No. 82, Commercial; Sir H. Elliot, No. 15, Commercial.

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In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That, in our opinion, the proposal made for the settlement of outstanding claims against the Egyptian Government may properly be acceded to by Her Majesty's Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## No. 231.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 25.)

*Lincoln's Inn, August* 25, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th August instant, stating that he was directed by your Lordship to transmit to us the papers noted in the margin* relative to a project on the part of the Ottoman Government to impose a tax upon trading licences, and to request that we would take the same into our consideration, and favour your Lordship with such observations as we might have to offer with regard to the question whether the application of the tax to British subjects constitutes an infraction of the Treaty rights of Great Britain under the Capitulations between this country and the Porte, and inform your Lordship whether we agree in the opinion expressed thereupon by Sir Philip Francis.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the proposed tax would be a direct infraction of Treaty rights between this country and the Porte.

We entirely agree with the opinion expressed by Sir Philip Francis, and have nothing to add to the observations made in his despatch.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## No. 232.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 28.)

*Lincoln's Inn, August* 25, 1874.

My Lord,

WE are honoured with your Lordship commands signified in Mr. Bourke's letter of the 14th instant, stating that he was directed by your Lordship to transmit to us a despatch, and inclosures, from Her Majesty's Consul-General and Judge at Constantinople† regarding the levying of a fee upon the personal estate of the late Mr. C. J. Hanson, and stating that your Lordship would be glad to have our opinion as to the instructions which should be given to Sir P. Francis in this case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the sum payable under the Order in Council on probate or letters of administration is a fee, and not a tax or duty, the reference to the stamp duty payable in like cases in England being merely for purposes of fixing the amount of a fee, varying with the circumstances of each case, and Sir Philip Francis may be properly instructed to this effect.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Locock, No. 96, Commercial, Sir H. Elliot, No. 25, Commercial; Italian Chargé d'Affaires, July 29.

† Sir P. Francis, No. 57, May 28; Order in Council of December 1873.

## No. 233.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 28.)

*Lincoln's Inn, August* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 5th instant, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul-General and Judge at Constantinople, inclosing a proposed amended scale of fees leviable in Consular Courts in the Levant; and that he was to request that, in taking that amended scale into our consideration, we would favour your Lordship with any observations you might have to offer thereupon.

That the previous correspondence on that subject was also inclosed for our information, and for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully considered the despatch, dated the 22nd June, 1874, from Sir P. Francis, the scale of fees to which he refers, and his observations upon the subject of Consular fees, and the amount and system of assessing such fees, and we are of opinion that the amended scale of fees, as indicated in the paper, marked X, annexed to the despatch of Sir P. Francis, may properly be adopted.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## No. 234.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 26.)

*Lincoln's Inn, September* 25, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 25th ultimo, stating that, with reference to our Report of the 13th July last, he was directed by your Lordship to transmit to us, together with the previous papers in that case, a further letter from the Danube and Black Sea Railway Company, containing observations relative to the points at issue between that Company and the Porte which the former desired to submit to arbitration; and that he was to request that we would take the same into our consideration, and favour your Lordship with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That our Report of the 13th July last was confined to the points immediately raised by the Danube and Black Sea Railway Company in their letter of the 20th June.

The whole of the matters in difference between the Company and the Porte were, by the directions of Lord Granville (on the 7th July, 1873) to Sir H. Elliot, to be pressed upon the Porte, with the view of bringing the case, without further delay, to a just and satisfactory conclusion; and Sir H. Elliot was, at the same time, instructed to use his influence to induce the Porte to submit those matters to arbitration or to a Mixed Commission.

On the 25th May last your Lordship requested Sir Henry Elliot to continue to press the Porte for a settlement of the matter.

These instructions are, we apprehend, still in force, and will doubtless be acted upon by Sir H. Elliot, notwithstanding the introduction of the new points of difference raised by the Porte, which cannot prejudice the rights of the Company to a settlement of the former questions.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 235.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 6.)

*Lincoln's Inn, October* 6, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 5th September ultimo, stating that, with reference to our Report of the 10th July last, Mr. Lister was directed by your Lordship to transmit to us a letter from the British India Steam Navigation Company, soliciting the intervention of Her Majesty's Government with a view to recovering from the Government of the Porte the value of such portion of the property stolen from the steamer "Cashmere," on the occasion of the piratical attack upon that vessel at Bussorah, as still remains unrestored.

The previous papers in this case were likewise inclosed, and Mr. Lister was to request that we would take the same into our consideration, and favour your Lordship with our opinion as to the course which should be adopted in this matter.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That, in our opinion, Her Majesty's Government cannot, as requested by the British India Steam Navigation Company, urge the Turkish Government to make good the value of the property unrestored.

But we see no objection to Sir H. Elliot being instructed to thank the Turkish Government for the exertions which have hitherto been successful, and to express a hope that the balance still unaccounted for may yet be recovered.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 236.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 6.)

*Lincoln's Inn, October* 6, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 5th ultimo, stating that, with reference to our letter of the 25th August, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Ambassador at Constantinople, commenting upon certain observations contained in a *note verbale* of the Italian Chargé d'Affaires at that Court, with regard to the proposed tax on trading licences in Turkey.

That the previous papers in that case were also inclosed, and that Mr. Lister was to request that we would take the same into our consideration, and favour your Lordship with such further observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we gather from Sir H. Elliot's despatches of the 6th July and the 19th August that, though he does not consider the question altogether free from doubt, he is of opinion, and has so expressed himself in his note of the 4th July to the Ottoman Minister, that the imposition of the proposed tax would be an infraction of Treaty obligations. As this opinion is in concurrence with the views expressed by us in our Report of the 25th August, it does not occur to us to add more in reference to this portion of Sir H. Elliot's despatch of the 19th August, than to observe that his comments appear to us to have reference rather to the insufficiency of the reasons assigned by the Italian Chargé d'Affaires than to any substantial doubts in his own mind as to the subject-matter under consideration.

We entirely agree with Sir H. Elliot that Her Majesty's Government should not recommend any counter-project, and his reasons for that recommendation, in his despatch of the 19th August, seem to us conclusive.

This, however, is a question simply of policy, and for your Lordship's judgment.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 237.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 12.)

*Lincoln's Inn, October* 12, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 12th September ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,[*] upon the subject of the suppression by the Turkish Government of the "Levant Times," an English newspaper published at Constantinople; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the course which should be pursued by Her Majesty's Government.

We are also honoured with a further letter from Mr. Lister of the 14th September ultimo, stating that he was directed by your Lordship to transmit to us a further despatch, and its inclosures, from Her Majesty's Ambassador at Constantinople[†] respecting the suppression of the "Levant Times" by the Turkish Government, and to request that we would take the papers into our consideration, together with the correspondence which was inclosed in his letter of the 12th September ultimo.

We are also honoured with a further letter from Mr. Lister of the 6th instant, stating that, with reference to his letter of the 14th ultimo on the suppression of the "Levant Times" at Constantinople, he was directed by your Lordship to transmit to us a further despatch which had been received from Her Majesty's Ambassador at Constantinople,[‡] and to request that we would take the same into our consideration, together with the papers previously submitted to us on the subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government cannot officially take any steps in this matter.

But Sir Henry Elliot may be instructed, if he sees a proper opportunity, and the Bulgarian paper is discreetly conducted, officiously to mention the case of the suppression of the "Levant Times" to the Turkish Minister, with the suggestion that the proprietor, having been sufficiently punished, the suppression might be rescinded.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 238.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 17.)

*Lincoln's Inn, November* 14, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 20th October ultimo, stating that, with reference to our Report of the 27th August, relative to an amended Table of Fees to be substituted for the one in the Turkish Order in Council of the 12th December last, he was directed by your Lordship to transmit to us a letter from Mr. Reilly, inclosing a draft of an amended Table of Fees, and calling attention to the desirability of making a further alteration.

That the papers which had already been before us on that question had dealt with the limitation of most fees calculated on a percentage of the amount at stake, and that Mr. Reilly now recommended that that limitation should be extended to the percentage charge on the grant of probate or administration by the Consular Courts in the Levant.

That that class of charge formed the subject of a representation from a Mr. Clifton, on which we furnished a Report dated the 25th August last, in which we discussed the question of whether the charge was to be regarded as a "fee" or a "tax," without expressing an opinion as to the policy of continuing the levy of the charge, and that Sir P. Francis' despatch, inclosing Mr. Clifton's letter, and our Report, were again sent to us for facility of reference.

That Mr. Bourke was to request that we would take that matter into our consideration, and favour your Lordship with our opinion whether, looking to the system

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[*] Sir H. Elliot, Nos. 123 and 124; to ditto, Nos. 125 and 126; Mr. Hanley, August 14; to ditto, August 29, 1874; Sir H. Elliot, Nos. 141, 152, and 159.

[†] Sir H. Elliot, No. 170, September 2, 1874.

[‡] Sir H. Elliot, No. 186, September 10, 1874.

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to be adopted of limiting other percentage fees with a view of not making them a source of revenue so much as a means of assisting to defray the administration of justice, it would be proper to adopt Mr. Reilly's views in regard to the limitation of the fee at present charged on probate being granted.

In obedience to your Lordship's commands we have taken those papers into our consideration, and have the honour to report—

That, in our opinion, Mr. Reilly's suggestion in regard to the limitation of fees on probate or letters of administration is not entirely free from objection.

Mr. Reilly proposes to leave the fee the same in amount as would be charged for stamp duty in like cases in England, such fee, however, not to exceed 100*l.*

In England 100*l.* is the duty payable on probate where the property exceeds 5,000*l.*, and is under 6,000*l.*

Where there is no will, and administration is taken out, there is no duty of 100*l.*, but the duty where the property exceeds 3,000*l.*, and is under 4,000*l.*, amounts to 90*l.*; where the property exceeds 4,000*l.*, and is under 5,000*l.*, the duty amounts to 120*l.*

Mr. Reilly's suggestion, therefore, is this—that in case of all estates of less than 6,000*l.* where there is a will, or less than 4,000*l.* where there is no will, a fee shall be charged equal to the duty in England, but that in the case of estates in excess of those sums no more shall be levied.

In other words, the same amount shall be levied where the estate is worth only 5,000*l.*, which is levied where the estate is worth 100,000*l.*

We cannot help thinking that such a rate of charge will be unfair to the smaller properties, and unduly favourable to the larger estates.

We may observe, however, that the question is one of policy and not of law. It may be that the estates of deceased persons in Turkey in respect of which probate has to be granted or administration taken out, very rarely exceed in value 4,000*l.* to 6,000*l.*, or other circumstances may exist with which we are not acquainted which may render the adoption of Mr. Reilly's proposal desirable.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 239.

*The Attorney- and Solicitor-General to the Earl of Derby.*—(*Received December* 7.)

*Lincoln's Inn, December* 5, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th November ultimo, stating that he was directed by your Lordship to transmit to us therewith two despatches, with their inclosures, from Her Majesty's Agent and Consul-General in Egypt,* relative to the circumstances of the detention by the officials of the Suez Canal Company of the British steamer "Mesopotamia."

Lord Tenterden also inclosed a memorandum prepared by Colonel Stokes, C.B., R.E., and a letter from the Board of Trade on the subject,† together with the draft of an instruction thereupon which your Lordship proposes to address to General Stanton; and Lord Tenterden was to request that we would take these papers into our consideration, in connection with the terms of the Act of Concession granted to the Canal Company by the Viceroy of Egypt (State Papers, vol. lv, p. 976), and favour your Lordship with such observations as we may have to offer thereupon.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we have no observations to make upon the papers which your Lordship has directed to be transmitted to us other than that the instructions which your Lordship proposes to address to General Stanton may, in our opinion, properly be sent.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.

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* General Stanton, Nos. 89 and 92, Commercial.

† Colonel Stokes, Memorandum, October 11; Board of Trade, October 21, 1874.

### No. 240.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 9.)

*Lincoln's Inn, December* 8, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 30th November ultimo, stating that he was directed by your Lordship to acquaint us that Her Majesty's Agent and Consul-General at Bucharest had inquired of your Lordship whether an Englishwoman married to a Roumanian, but divorced from him according to the law of Roumania, which legalizes divorce on very slight pretexts, had the right to claim British protection on the plea that she reverts, by reason of her divorce, to her original nationality.

Lord Tenterden was pleased to state that Mr. Vivian's inquiry was made in consequence of an application to him in connection with a law-suit regarding the woman's claim to inherit from her husband real property in Roumania; and that he was to request that we would take the matter into our consideration, and report to your Lordship our opinion as to the answer which should be returned to Mr. Vivian.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the original nationality of an Englishwoman who has married a Roumanian does not revert on her divorce from her husband, and that consequently she is not entitled to claim British protection.

And that Mr. Vivian may properly be answered to that effect. Mr. Vivian might, however, be instructed to afford the woman in question any assistance in his power, taking care not to do so officially.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 241.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 18.)

*Lincoln's Inn, December* 16, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us a correspondence, as marked in the margin,* regarding the sale of the English burial-ground at Smyrna, and the removal of the remains to the new burial-ground which had been granted by the Turkish Government.

That it appeared from the inclosed petition from British residents in Smyrna that they objected to the sale of the cemetery, and to the removal of the remains, on the ground that that proceeding must come under the Act 6 Geo. IV., cap. 87, by which the administration of Church affairs abroad must be left to the general meetings of the British residents; and that your Lordship would be glad if we would take the case into our consideration, and inform your Lordship whether we considered that either the new or old cemetery come under the Consular Act, or whether in any way the British residents could be considered to have any lien upon them, or right to interfere in the arrangements which Her Majesty's Consul had been authorized by Her Majesty's Government to carry out.

In obedience to your Lordship's commands we have the honour to report—

That we gather from the papers which have been transmitted to us that the old cemetery was ceded to Her Majesty's Government by the Levant Company, and that apparently the British residents at Smyrna have not contributed either to the old or new cemetery in such a way as would bring those cemeteries within 6 Geo. IV., cap. 87. If so, the British residents have no lien upon either cemetery, nor any right to interfere with the arrangement which Her Majesty's Consul has been authorized to carry out.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J PARKER DEANE.

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* List.

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# United States.

## No. 242.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 10.)

*Temple, January* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office,* expressing the wish of the Government of the Dominion of Canada to arrange with the authorities of the United States in Montana for a joint pursuit of the murderers of certain Assiniboine Indians, which would involve the grant of permission to the American force to cross the British territory, and a corresponding permission to the British force to enter the United States; and inquiring on the part of the Governor-General of Canada whether this can be done.

Lord Kimberley was of opinion that it is very doubtful whether the proposed arrangement could be sanctioned, but your Lordship would be obliged to us if we would take the proposal, together with a Report of the Law Officers of the Crown, inclosed in the letter from the Colonial Office, and which bears on the subject, into our consideration, and favour your Lordship with our opinion thereon.

He (Lord Tenterden) was, however, pleased to point out to us that that Report was drawn up some months before the passing of the "Rupert's Land Act,"† by which the lands of the Hudson's Bay Company became incorporated in the Dominion of Canada.

He (Lord Tenterden) was pleased also to transmit to us a printed draft of a proposed Extradition Treaty between Great Britain and the United States; and he was pleased further to request that we would favour your Lordship with our further opinion whether, with the view of carrying out in future cases the wish of the Canadian Government, it would be expedient to insert a clause in that Treaty; and if so, he (Lord Tenterden) was pleased to request that we would frame such clause, and insert it in its proper place in the draft.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, it is not advisable to enter into the arrangement suggested by the Governor-General of Canada, which would involve the grant of permission to American forces to enter upon British territory.

Taking this view, we have not framed any clause for insertion in the draft Treaty.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 243.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 4.)

*Temple, February* 4, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 30th ultimo, stating that, with reference to our Report of the 23rd December last, he was directed by your Lordship to transmit to us, for our consideration, a further letter from Messrs. Whitley and Maddock, respecting Messrs. Wilson's claim against the United States; and that he was to request that we would favour your Lordship with our opinion thereupon.

That the former papers connected with that case were returned therewith for convenience of reference.

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* December 22, 1873.

† 31 & 32 Vict., cap. 105.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, no sufficient explanation has been given on Messrs. Wilson's behalf, either of the delay of nearly five years in bringing their claim to the notice of Her Majesty's Government, or of their omission to take any steps for their own protection, or even to inquire as to their position in the matter between July 1871, when they received notice that they must apply to the Mixed Commission, and November 1873, when they first applied for information to the British Agent at Washington.

We think that Messrs. Wilson may properly be informed that under these circumstances no representation can, in the opinion of Her Majesty's Government, be made with any prospect of success.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 244.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received February* 28.)

*Temple, February* 26, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 20th instant, stating that, with reference to our Report of the 4th instant, in regard to Messrs. Wilson's claim against the United States' Government, he was directed by your Lordship to transmit to us herewith a further letter from Messrs. Whitley and Maddock,* expressing the hope that Her Majesty's Government will bring their client's claim to the attention of the United States' Government.

Mr. Lister further stated that your Lordship proposes, with our concurrence, to inform them that if the proposal of the President of the United States for the appointment of a Court of Claims is adopted by Congress they will have an opportunity of bringing their claim before that Court.

Mr. Lister also stated that he was to request that we would take this letter into our consideration, together with the previous papers, which were returned therewith for convenience of reference, and favour your Lordship with our opinion as to the reply that should be addressed to Messrs. Whitley and Maddock.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Messrs. Whitley and Maddock may properly be answered that Her Majesty's Government is unable, as they have been already informed, to support the claim of Mr. Wilson.

And that they may, if the proposal of the President of the United States for the appointment of a Court of Claims be adopted by Congress, have an opportunity of bringing the claim before that Court.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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## No. 245.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 28.)

*Temple, March* 28, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 27th March instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence on the subject of the claims put forward by certain British subjects to be compensated for losses sustained by them through the acts of the "Alabama" and other Confederate cruizers, and that we would see that the late Law Officers of the Crown were of opinion that Her Majesty's Government are not liable to British subjects for the acts of those vessels.

Lord Tenterden also stated that he was to request that we would take the papers into our consideration, and inform your Lordship whether we agree in the opinion of the late Law Officers, and added that, notice having been given of a motion in the House of Commons on the subject on the 31st instant, your Lordship would be glad to have our answer before that date.

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* February 13, 1874.

In obedience to your Lordship's commands we have the honour to report—

That we agree with the views expressed by the late Law Officers, 6th December, 1872, and with those expressed by Lord Tenterden in his memorandum.

Some of the applicants admit that they have no claim which constitutes a right to be enforced by means of any legal Tribunal, but they ask for the liberal consideration of Government, *i.e.*, for a Parliamentary grant to indemnify them against losses sustained by them by reason of the "Alabama" having burnt the American merchant-vessels in which their goods were being conveyed, uninsured against war risk (letter of the 23rd June, 1873, from Atkyn and Co.), and if they had been so insured the underwriters would doubtless have claimed repayment.

It may be taken to have been established in this case that Great Britain has omitted, as between herself and the United States, to perform a duty in letting the "Alabama" sail from our ports, but it does not follow that British subjects have any right to say that for this breach of duty to the United States they should be indemnified by the British taxpayer.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 246.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 29.)

*Lincoln's Inn, April* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th April instant, stating that, with reference to the Report of the late Law Officers of the Crown of the 24th March, 1873, he was directed by your Lordship to transmit to us therewith a despatch from Her Majesty's Minister at Washington (No. 110), containing some observations made by Mr. Carlisle, the legal adviser of that Legation, in regard to the British settlers in the Island of San Juan.

Lord Tenterden also stated that he was to request that we would take that despatch into our consideration, together with the previous papers, which were inclosed therewith for convenience of reference, and favour your Lordship with any observations that we might have to offer thereupon.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we agree with the opinion of Mr. Carlisle that the Island of San Juan must be taken to have formed a part of the United States previous to the award of the Emperor of Germany and during the controversy between Great Britain and the United States.

We are also of opinion that Sir E. Thornton may properly be instructed to bring the case of those British subjects who are not within the beneficial provisions of the United States' statutes, and who settled in the island on reliance on the title of Great Britain, to ask for a favourable consideration of their case, that they may be protected by the further legislation of Congress.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 247.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 22.)

*Lincoln's Inn, May* 21, 1874.

My Lord,

WE are honoured with a letter from Lord Tenterden, dated the 18th February ultimo, stating that, with reference to his letter of that day's date, in which he transmitted for the Law Officers' consideration the draft of a Consular Convention which Lord Granville proposed to offer to conclude with the United States, and that he was further directed by his Lordship to transmit for consideration the heads of a General Act relating to foreign Consuls in Her Majesty's dominions; and that he (Lord Tenterden) was to request that the Law Officers would favour Lord Granville with their opinion whether the inclosed scheme, which had been prepared after communication with Dr. Deane and the Board of Trade, is one which might properly be submitted to the Government Draughtsman with the view of his framing a Bill to be brought before Parliament.

Lord Tenterden was further directed to transmit to the Law Officers therewith three memoranda which bore upon the subject.

In obedience to the commands contained in Lord Tenterden's letter we have the honour to report—

That, in our opinion, the Act should be confined to Great Britain and Ireland, and should not extend to India or the Colonies.

Head 1.—The proposed exemption of Consular officers, being subjects or citizens of the nation by which they are employed or appointed, from serving on juries would be better dealt with (if any change in the law is thought desirable) by a Juries Act. At present they are exempted (as are all aliens) until they have been domiciled for ten years. There does not appear to us to be any necessity for legislation to exempt them from military and naval service, or from judicial or municipal functions, from which they are already, in Great Britain and Ireland, substantially exempt.

Head 2.—It would be desirable, we think, to add to the words "house or part of the house," the words "being a separate tenement."

Head 3.—We think that the depositions of persons belonging to ships should be limited to matters connected with such ships.

Head 4.—We presume that the object of the directions given under this head is not to deprive the local authorities of any jurisdiction that they at present possess, but to confer upon them, in particular cases, and when applied to for that purpose by the Consul, a jurisdiction that they would not, or might not, otherwise possess; and that the words "but not otherwise" are inserted for the purpose only of securing that the applications by the Consul shall be made in writing. Care must, however, be taken in preparing the draft Act that these words, if used at all, shall be so used as to confine their operation within these limits, for, as employed in the draft at present before us, they give rise to the doubt whether their effect would not be to deprive the local authorities of some at least of their present jurisdiction.

Similar observations apply to the use of like words in the paragraph which has reference to offences committed on board ships within the local jurisdiction. We think also that the Act should provide to whom the notices are to be given.

We doubt the expediency of the provisions limiting the amount of punishment in each of the above classes of cases; if such provisions are retained, two persons might be sentenced for the same offence to very different degrees of punishment.

Head 5.—Similar observations apply to the use under this head of the words "but not otherwise." And we would suggest that it would be expedient to insert a clause in the Act providing for the retention by the local authorities of all such jurisdiction as they at present possess.

Head 6.—We see no objection to the principle of this head, but care will be required in framing the clauses of the Act to give effect to it.

To Heads Nos. 7 and 8, when put in proper form, we see no objection.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 248.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 25.)

*Lincoln's Inn, June* 23, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us the accompanying draft of a Reciprocity Treaty which had been submitted to the United States' Government by Sir E. Thornton and Mr. Brown, of Canada, who had

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been authorized to negotiate on the subject; and that he (Lord Tenterden) was to request that we would take the same into our consideration, and favour your Lordship with our opinion whether the wording of the Article is right and proper, and whether there are any objections in English law to the draft being approved.

Copies of the Treaty of Washington and of the Reciprocity Treaty of 1854* were inclosed for reference if required

In obedience to your Lordship's commands we have the honour to report—

That we see no objections in English law to the draft being approved.

Your Lordship is aware of the difference between Her Majesty's Government and the French Government with reference to the rights claimed by French subjects in the so-called French shores of Newfoundland. Should Newfoundland, therefore, be hereafter included in the Treaty under Article XIV, some provision with respect to these rights will be necessary.

We do not understand the note of interrogation after the word "port," line 3, Article VII. In other respects the wording of the Article seems to us right and proper.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 249.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 25.)

*Lincoln's Inn, June* 24, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th June instant, stating that, with reference to his letter of the 12th instant, he was directed by your Lordship to transmit to us the accompanying copies of a further telegram which has been received from Sir E. Thornton, stating the form in which Mr. Fish has agreed to submit the draft Treaty of Reciprocity to the Senate of the United States, for their opinion as to its signature; and Lord Tenterden was to request that we would take the same into our consideration, and favour your Lordship with our opinion whether there are any objections to the draft being approved.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we are aware the objections to the Treaty which we submit to your Lordship's consideration may be caused by the Constitution of the United States, and the Government of each independent State, and therefore insuperable.

But we desire to point out to your Lordship that the Government of Canada is under the obligation to enlarge certain canals (Article V), and to construct (Article VI) certain other canals, and to deepen (Article V) certain parts of the channel of the St. Lawrence. The time for the completion of such works is specified.

The United States, however, only engage (Article VI) to urge upon the Government of the State of New York to cause existing canal from Whitehall, on Lake Champlain, to Albany to be enlarged, and other works, if necessary, carried out.

The difference is obvious. The Treaty on the part of the United States will be satisfied by a mere request made by that Government upon that of New York to do the works named, and no date is mentioned. On the other side, the Dominion is absolutely bound to complete the works by a given time. The works need not even be commenced, much less completed, by the United States.

It seems to us that reciprocity is entirely absent from such an agreement as this, and we cannot find that paragraphs 2 and 4 of Article VIII constitute a reciprocity, either as to the construction, time of construction, or use of the canals named in those paragraphs.

We submit that the Dominion should not be put under the positive obligation to the United States to construct certain works, unless the United States are put under a corresponding obligation to construct the works required of the United States, and that a time should be named for the completion of the works to be done by the United States.

The last sentence of paragraph 1 of Article VIII is, in our opinion, extremely ambiguous.* The words "free navigation" have no definite meaning, and the laws and regulations of the United States, or of the States bordering on the Lakes Champlain and Michigan may impose upon the subjects of the Dominion navigating those waters tolls and duties not imposed upon subjects of the United States, and yet these tolls and duties may not be inconsistent with some sense or interpretation of the words "free navigation."

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* Treaty of 1871. See Hertslet's Treaties, vol. ix, p. 998.

We think that it would be most advisable to avoid this ambiguity, which may lead to future complications, and impair the reciprocity which is a leading object of the Treaty.

We respectfully submit to your Lordship, with this view, that the United States and Government of New York should be put under explicit obligation to make and complete the works assigned to them *pari passu* with the works undertaken by the Dominion.

And that as to the navigation of Lakes Champlain and Michigan, that navigation should be enjoyed by subjects of the Dominion on terms of equality with inhabitants or citizens of the United States.

The use of the canal or canals in connection with Lake Champlain, and the navigation of the Hudson, should, as it seems to us, be open to subjects of the Dominion in the same way, and on the same terms, as the use of the waters within the Dominion is open to citizens of the United States.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 250.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 9.)

*Lincoln's Inn, July* 7, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 25th June last, stating that he was directed by your Lordship to transmit to us the papers noted in the margin† relative to a complaint on the part of the Exchequer Gold and Silver Mining Company Limited, respecting the effect upon their interests of the laws of the United States concerning the tenure of mining property; and that he was to request that we would take the papers into our consideration, and favour your Lordship with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Chalmers wishes some change to be made in a law of the United States introduced so lately as 1872.

Without entering upon the particular grievance of which Mr. Chalmers complains, and with which we think Mr. Carlisle has satisfactorily dealt, we are of opinion that on general grounds Her Majesty's Government cannot properly interfere with the view of inducing the American Government to change a law passed, it is to be presumed, in favour of national interests. But we see no objection to Sir Edward Thornton's being instructed to bring Mr. Chalmers' case officiously to the notice of the American Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 251.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 21.)

*Lincoln's Inn, July* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th July instant, stating that he was directed by your Lordship to

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* It is taken from Article XXVIII of the Treaty of 1871, which was again taken from some precedent.—T.

† Exchequer Gold and Silver Mining Company, February 23; Sir E. Thornton, Nos. 10 and 19, Commercial; Exchequer Gold and Silver Mining Company, June 18, 1874.

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transmit to us the accompanying correspondence relative to the treatment of the British vessel "Grace" by the United States' authorities at Darien, Georgia; and to request that we would take the papers into our consideration, and report to your Lordship whether we saw any reason to differ from the opinion given by the late Law Officers in their letter of the 19th July, 1873.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we see no reason to differ from the opinion given by the late Law Officers on the 19th July, 1873.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 252.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 29.)

*Lincoln's Inn, August* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 28th ultimo, stating that, with reference to our Report of the 21st May last, on the subject of the Bill relating to Foreign Consuls in Her Majesty's dominions which Her Majesty's Government were desirous of proposing to Parliament, he was directed by your Lordship to transmit to us a printed copy of the correspondence which had taken place on that subject, and that Lord Tenterden was to call our attention to a memorandum drawn up at the Foreign Office by your Lordship's direction, which would be found at p. 28 of that correspondence.

That, while reminding us of the urgent necessity for legislation on that subject, Lord Tenterden was to request that we would take the matter again into our consideration, and favour your Lordship with our opinion thereon.

That, with regard to Head IV, which dealt with offences committed on the high seas, Lord Tenterdon was to suggest, as a means of removing the difficulty with regard to the jurisdiction of British Local Courts, that the following words, or other words to the same effect, be inserted at the end of paragraph 1:—

"This, however, not to interfere with any jurisdiction the Court may at present possess."

In obedience to your Lordship's commands we have the honour to report—

That the objection to the provisions of the draft Bill is that, in certain cases, they limit the jurisdiction of the existing Courts, and we doubt whether Parliament would allow such an extensive limitation as the Bill proposes.

Whilst we agree with Mr. March in thinking that the words "but not otherwise" may be retained in that paragraph of Head IV which deals with offences committed on the high seas, we are of opinion that the paragraphs of the same head which relate to offences committed on board ship within the local jurisdiction should be omitted altogether. We think that, under the law as it now stands, the local jurisdiction will have power to deal with the offences mentioned in these paragraphs; and, of course, such offences would be dealt with on the application of the Consul of the foreign State, or of any other person, upon a proper case being made out.

Mr. March is quite right in presuming that, in our Report of the 21st May last, "Head V" is an error for "paragraph 5, Head IV."

This provision 5, Head IV, is of such great importance that if the American Government will agree to a similar enactment on their part, we are of opinion that such a clause should be introduced; but then, in order to make the provision such as will effect the purposes intended and those only, it will be essential that, in framing the clause, great care shall be taken to define the cases in which the local Courts shall act only on the application of the Consul.

In making this suggestion we are aware that it may be objected that a wrong may be done to a British subject serving on board an American ship by the refusal of the American Consul to apply, but these difficulties will rarely occur, and the Act can be amended if experience proves that it works more harm than good.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 253.

*The Attorney-General to Mr. Lister.*—(*Received September* 9.)

*Aldingbourne House, Chichester, September* 8, 1874.

THE Attorney-General presents his compliments to Mr. Villiers Lister, and sends, accompanying this note, the papers relating to Mr. Gerard's claim under the Washington Arbitration, with an opinion thereon, signed by himself alone, and for which he is alone responsible. The opinion had been drafted by the Attorney-General, with the intention of its being sent, first to the Solicitor-General, and afterwards to Dr. Deane, for their approval, and it was sent to London on Saturday for that purpose; but, in consequence of the receipt of Mr. Villiers Lister's letter, which had been forwarded from the Solicitor-General's chambers, the Attorney-General's clerk at once copied the Report and sent it for the Attorney-General's signature.

The approval and signature of the Solicitor-General and Dr. Deane could not be obtained under several days, but a joint opinion shall be sent on, if one is desired, as soon as it can be obtained. As regards the Solicitor-General, the Attorney-General has no reason to think that there will be any difference of opinion between them, as the whole matter was very fully discussed, in Mr. Howard's presence, at a lengthened conference in Lincoln's Inn, and views were then expressed by the Law Officers and Mr. Bowen, who was then associated with them, substantially to the effect of the accompanying opinion.

To Dr. Deane the matter is entirely new, as he was not associated with the Law Officers on the former occasion, and many matters would have to be explained to him which do not appear upon the papers.

The Attorney-General will only add that it is extremely difficult to advise upon a hypothetical view of what the facts may turn out to be; at present nothing is known of the transactions subsequent to the award beyond the fact that Mr. Gerard has assigned the amount awarded to him to Mr. Whitworth, but under what circumstances the assignment was made, and whether or not with the assent of the parties for whom Mr. Gerard was a trustee, does not appear. In such a case, a cautious answer is the only one that can be advised, especially when regard is had to the large amount of the sum in question. The Attorney-General can sympathize with Mr. Howard in his wish to satisfy all the claimants. He may desire to have their money paid to them at the earliest moment, but prudence requires that he should be well assured of the right of the party to receive it, before the payment is made.

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### No. 254.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 9.)

*Lincoln's Inn, September* 8, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 28th August last, stating that he was directed by your Lordship to transmit the accompanying letter,* together with its inclosure, which had been received from Mr. Henry Howard, the British Agent, for the payment of the awards made under the XIIIth Article of the Treaty of Washington, respecting Mr. Gerard's case; and to request that we would take the papers into our consideration, and favour your Lordship, with as little delay as possible, with our opinion thereupon.

We were also favoured with a note, dated the 31st August last, from Mr. Bourke, forwarding further papers in reference to the same matter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we should much regret that Mr. Gerard should, as is suggested in Mr. Howard's letter, be put to any serious pecuniary embarrassment by reason of the payment of the amount of the award in his favour being delayed beyond the middle of October; but should such delay occur, it will be entirely due to his own act, in making, after the date of the award, an assignment of the sum awarded in his favour.

It would appear, from the documents laid before the Commission, that, if not the whole, at the least the greater part of the sum awarded to Mr. Gerard on the 28th April, 1873, was so awarded to him as a trustee for the Insurance Companies, underwriter, and others. Now, though, as regards the sum of which he is a trustee, he is authorized to give receipts, he has no authority whatever to assign it, or any portion of it, to any other person. We are consequently of opinion that Mr. Howard, as Her Majesty's Agent, cannot with propriety pay any portion of the awarded sum to Mr. Whitworth, the assignee under the deed of the 23rd December, 1873, without the assent of all the Insurance Companies and others for whom Mr. Gerard is a trustee, nor can he, having regard to the fact that he has had distinct notice of the assignment, pay the money to Mr. Gerard without the assent of Mr. Whitworth.

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* Mr. Howard's letter of August 28, 1874.

The question remains whether he can properly pay the awarded sum to Mr. Gerard, with Mr. Whitworth's assent. This is a question of much greater difficulty, so far as we can infer from the materials before us; the assignment to Mr. Whitworth is, or at any rate may be, an attempt to commit a breach of trust, of which attempt Her Majesty's Agent has distinct notice, and the payment of the awarded sum to Mr. Gerard, under circumstances which, so far as we can at present judge, are so suggestive of the probability of its being immediately afterwards handed over by him to Mr. Whitworth, would certainly not be viewed with favour by an English Court of Equity. On the other hand, it may be, though we have no evidence of it, that the assignment to Mr. Whitworth was one to which no objection could be raised. Under these circumstances, much as we regret the delay and consequent inconvenience which may arise, we cannot advise that Mr. Howard can properly pay any portion of the awarded sum either to Mr. Gerard or to Mr. Whitwith, without the assent of the parties represented by Mr. Gerard in the proceedings before the Commission.

As all the parties interested in the present question are English Companies or individuals (so far as we can gather from the proceedings before the Commission), we would again suggest the expediency of some arrangement being come to by which the fund could be remitted to this country for distribution.

I have, &c.
(Signed) RICHARD BAGGALLAY.

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### No. 255.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 30.)

*Lincoln's Inn, September* 29, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 17th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,* with reference to the extradition of a man named Robbins, in the case of whom jurisdiction is at the same time claimed by, and admitted to belong to, Her Majesty's authorities of New Brunswick and the State of Maine respectively; and that he (Mr. Lister) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to whether any, and what, instruction should be addressed to Her Majesty's Chargé d'Affaires at Washington with reference thereto.

We were also honoured with a further letter from Mr. Lister of the 24th instant, stating that he was directed by your Lordship to transmit to us therewith a further despatch from Her Majesty's Chargé d'Affaires at Washington in regard to Robbins' extradition, and to request that we would take it into consideration, together with the inclosures in Mr. Lister's letter of the 17th instant, and favour your Lordship with our opinion in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the only instructions which, in our opinion, can properly be addressed to Her Majesty's Chargé d'Affaires at Washington with reference to the man named Robbins are that his extradition should be demanded if he be not tried, or there be a failure of justice on his trial in Maine.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Watson, Nos. 72 and 80; Consul Murray, No. 21.

### No. 256.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 8.)

*Lincoln's Inn, October* 8, 1874.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 19th September ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Her Majesty's Consul at San Francisco (No. 33), relative to a claim made by a British subject named David Calderwood against the United States' Government for damages for an imprisonment under an order of the County Court of San Francisco, which order was subsequently declared to be void by the Supreme Court of the State of California.

That a copy was also inclosed of a petition which had been addressed by Mr. Calderwood to your Lordship requesting you to present the claim; and that he, Mr. Lister, was to request us to take the papers into our consideration, and to report to your Lordship our opinion as to the manner in which the case should be dealt with.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That Mr. Calderwood has suffered from an error in judgment on the part of one of the Judges of a United States' Court, the Judge of that Court having, according to the decision of the Superior Court, acted in excess of his jurisdiction when he committed Mr. Calderwood.

But this error of judgment and the consequences, however hard, do not, in our opinion, afford any ground for your Lordship's interference, and we think that Mr. Calderwood may properly be answered that Her Majesty's Government cannot comply with his petition and bring his case as a diplomatic matter to the notice of the Government of the United States.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 257.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 24.)

*Lincoln's Inn, October* 24, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us a despatch from Mr. Henry Howard (No. 2) requesting instructions in regard to the course he should pursue with reference to a claim put forward by the heirs of John Purvis to receive the amount due to them under the award of the Claims Commission at Washington; and Mr. Lister was to request that we would take this despatch into our early consideration, and favour your Lordship with our opinion as to the instructions that should be addressed to Mr. Howard in the matter.

Mr. Lister was further to inclose, for convenience of reference, as suggested by Mr. Howard, a copy of vol. x of the printed Record of the Commission, together with a copy of the Treaty of Washington of the 8th May, 1871.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That Mr. Howard may, in our opinion, properly be instructed to pay Mr. King without requiring any further proof.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 258.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 10.)

*Lincoln's Inn, November* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 27th October ultimo, stating that he was directed by your Lordship to transmit to us therewith a despatch from Mr. Henry Howard (No. 7) requesting instructions in regard to the course he should pursue with reference to the award of the Claims Commission at Washington in the case of John Haskins, a British subject; and that he was to request that we would take the despatch into our early consideration, and favour your Lordship with our opinion as to the instructions that should be addressed to Mr. Howard in the matter.

That he (Lord Tenterden) was further to inclose a statement of the facts of the case received from Mr. Haskins, together with two printed volumes, as suggested by Mr. Howard, for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Howard may properly be instructed to inform Mr. Davis that his claim, if any, is against Messrs. Denver and Peck, and that Mr. Davis has no right to stop the payment of the amount awarded to Mr. Haskins.

Mr. Howard may also properly be instructed to pay the sum in his hands as requested by Mr. Haskins.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 259.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 9.)

*Lincoln's Inn, November* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 28th October ultimo, stating that, with reference to our Report of the 8th October, he was directed by your Lordship to transmit to us herewith a letter from Mr. David Calderwood (October 2) forwarding a supplemental statement of his claim against the United States' Government for damages for imprisonment under an order of the County Court of San Francisco; and Lord Tenterden was to request that we would take this statement, together with the previous papers in the case, into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That, in our opinion, there is nothing in Mr. Calderwood's supplemental statement which alters the original statement, and we are still of opinion that your Lordship cannot properly take any steps in support of his case.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 260.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby*—(*Received November* 18.)

*Lincoln's Inn, November* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th instant, stating that, with reference to our Report of the 29th September, he was directed by your Lordship to transmit to us the accompanying further despach from Her Majesty's Chargé d'Affaires at Washington (Mr. Watson,

No. 136, October 13), together with its inclosures, on the subject of the Robbins Extradition case; and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion thereupon.

That the previous papers were likewise inclosed for convenience of reference.

We are also honoured with a further letter from Lord Tenterden of the 10th instant, stating that he was directed by your Lordship to transmit to us therewith a further despatch from Her Majesty's Minister at Washington in regard to the Robbins Extradition case, and to request that we would be good enough to take that despatch into our consideration, together with the inclosures in Lord Tenterden's letter of the 6th instant, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That although considerable feeling was shown at the trial, and the jury may have given a verdict contrary to that which might have been expected, yet the decision of the question of guilty or not guilty, and the question of sanity or insanity, was one which rested entirely with them, and we are of opinion that your Lordship cannot properly move any further by asking for the extradition of Robbins, either on the grounds of failure of justice on his trial for murder, or on the ground of his having committed some other extraditional offence.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 261.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 10.)

*Lincoln's Inn, December* 9, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th November ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Board of Trade, commenting on our Report of the 27th August last on the subject of the proposed Consular Convention Bill; and Lord Tenterden was to request that we would take the same into our consideration and inform your Lordship whether, in view of the explanations offered as to the nature of the offences with which it is proposed to give the local authorities power to deal under the 3rd paragraph of the 4th section of the Heads of the Bill, we see reason to alter our opinion on that paragraph.

Lord Tenterden further stated that your Lordship would also desire to call our attention to the remarks made by the Board of Trade with regard to the question of reciprocity, in which your Lordship entirely concurs.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the difficulty which occurred to us was that the paragraph 3, whilst extending the jurisdiction of the local authority to certain offences, limited the jurisdiction which might already exist with respect to other offences.

We think that difficulty might be got over by framing paragraph 3 in the following manner:—

"Offences committed on board a foreign ship within the local jurisdiction of the country in which the Consular officer resides, and over which offences, by reason of their being committed on board such foreign ship, the local authorities cannot now exercise jurisdiction," to be tried on the application, &c.

The suggestions made by the Board of Trade with regard to the question of reciprocity will, if adopted, secure the attainment of that object, which, we ventured to submit to your Lordship, was to be desired.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Venezuela.

### No. 262.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.*—(*Received January* 8.)

*Temple, January* 7, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 29th December ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch, and its inclosures, from Her Majesty's Minister in Venezuela, together with the previous papers, respecting the plundering of the cargo of the British vessel "Ines," on the occasion of her being wrecked in the Bay of Maracaibo.* The losses incurred through these events having fallen on persons who are not British subjects, he (Lord Tenterden) was pleased to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to whether Mr. Middleton should be instructed to take any further action in the matter.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we think undue prominence is attached by Señor Gutierrez to the statement made by the master of the "Ines" that the pillaging of the cargo took place during the night of the 6th, whilst the sale by auction was on the 6th, and therefore before the alleged act of pillage. If the master's narrative be carefully perused, it is quite clear that he intends to allege that the pillaging preceded the sale, and he probably uses the words "night of the 6th" as meaning a time on the morning of the 6th when it was dark.

It seems, however, that the loss of cargo, whether from the stranding or pillage, has fallen on an American Insurance Office, and, if so, the owners of cargo ought not to receive further compensation.

We think also this is a case in which the remedy, if any, may be sought in the Tribunals of Venezuela, and we therefore advise your Lordship to instruct Mr. Middleton not further to urge any claim for compensation on the Venezuelan Government.

We have, &c.
(Signed) HENRY JAMES.
W. V. HARCOURT.
J. PARKER DEANE.

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### No. 263.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 7.)

*Temple, March* 6, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 27th February ultimo, with reference to the Report of the Law Officers, dated the 12th November last, Mr. Lister was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Carácas, inclosing a copy of the answer returned by the Venezuelan Government to his representations respecting the prejudicial effect upon British trade of certain Articles of the Financial Code of Venezuela; and to request that we should take this despatch into our consideration, together with the various papers relating to this case, which were inclosed for convenience of reference, and favour your Lordship with our opinion on this matter.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That Her Majesty's Government having informed the Venezuelan Government of the steps which Her Majesty's Government might be obliged to take if certain Articles of the Financial Code of Venezuela injuriously affected British trade, the necessity of replying to or further noticing the answer of the Venezuelan Minister has not, in our opinion, become pressing; and it will be sufficient to wait for any cases of injury should such arise.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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* Mr. Middleton, No. 67, November 20, 1873; ditto, No. 28, May 10; ditto, No. 33, June 22; to ditto, July 17, 1871.

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### No. 264.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 1.)

My Lord, *Temple, March* 21, 1874.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence with Her Majesty's Minister Resident at Carácas respecting the refusal of the Venezuelan Government to allow interest on the amounts awarded to British claimants by a Mixed Commission which sat at Carácas in 1868-69, under a Convention concluded between Great Britain and Venezuela in 1868.

That Lord Tenterden was also to transmit to us copies of the Convention and of the Report of the Commissioners referred to; and that he was to request that we would take the matter into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government were justified in claiming interest on the amounts awarded by the Mixed Commission.

In obedience to your Lordship's commands we have the honour to report—

That, in the absence of fuller information on the subject, it is difficult to advise your Lordship as to the course to be followed.

The Convention certainly does not stipulate that interest is to be paid on the amount due on claims awarded by the Commissioners.

But it was doubtless within the power of the Commissioners to award *interest*, and in *some* cases they seem to have done so by the awards set out in the "Report" accompanying the papers sent to us.

But in these awards, when interest is given, it is awarded by reference to some future award or determination of the Commissioners.

In the case of the "Grace," p. 51, no interest is awarded.

In Romberg's case, p. 56, "interest for the future at the rate which the Commissioners may establish for all the other British claims is given."

In Jelleret's case, p. 61, "a moderate rate of interest from 1st July, 1863, until the same be paid" is suggested by the British Commissioner, and by the award (p. 62), "interest at 9 per cent. is allowed in making up the *total* sum awarded," with the addition of such interest as may be agreed upon to be paid upon the full amount of the British claims.

At p. 75, Court and Bordé claim the award is of "interest hereafter at the same rate as may be agreed upon shall be paid to all other British claims."

These instances will suffice.

The papers before us are silent upon the subject whether any rate has been since agreed upon. If so, what is the rate? and, if not, why has no agreement been come to on the subject?

Upon these matters further information should, we think, be obtained.

We remark that, according to Mr. Middleton's letter of the 6th February, 1874, interest has been allowed (though the rate is not mentioned) to *English bondholders*, and though it is stated that interest has been also allowed to French, American, and other creditors, we cannot say that the distinction made is invidious until more is known as to the nature of the debts, the terms of the award, &c., under which the payment of interest has been made. Mr. Middleton can probably further elucidate these matters.

We would remark, in conclusion, that, in our opinion, a further interest on money due is not necessarily payable unless such interest has been expressly or implicitly

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agreed upon, or awarded, at all events unless and until great and improper delay in liquidating the amounts awarded has taken place.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 265.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 14.)

*Temple, April* 13, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 14th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relative to the case of the "Violet."

That we would see that the "Violet" was seized by the police at Trinidad in February, 1872, for having on board arms and ammunition suspected of being intended for exportation to Venezuela at a time when such exportation was forbidden; that the Jury before whom the "Violet" was tried were unable to agree upon a verdict; that, acting upon the advice of the late Law Officers of the Crown, the Governor of Trinidad proposed to Messrs. Zwicher, the charterers of the "Violet," that further proceedings on the part of the Crown should be abandoned, the bail of the vessel discharged, and the arms restored, on condition that they, on their part, would abandon further proceedings, and pay the costs; that Messrs. Zwicher had demurred to that proposal, and claimed compensation, and that eventually an arrangement had been come to, by which the proceedings had been abandoned, and the arms given up, the Governor undertaking to refer Messrs. Zwicher's claim to compensation to Her Majesty's Secretary of State for the Colonies; and that the Earl of Carnarvon had requested that our opinion might be taken as to whether any, and if any, what amount of compensation should be awarded to Messrs. Zwicher.

That Lord Tenterden was accordingly to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to the answer that should be returned to the Colonial Office letter of the 7th instant.

In obedience to your Lordship's commands we have the honour to report—

That we think that, under all the circumstances of the case, reasonable compensation may properly be paid to Messrs. Zwicher and Co. for the seizure and detention of the "Violet" and her cargo.

But we think that it should be distinctly intimated to these gentlemen that in adopting this course it is by no means to be understood that there were not ample grounds of suspicion to warrant the seizure, and that the money is paid *ex gratiâ*, and not as an admission that any claim enforceable at law by them exists.

We presume that this is a solitary case, and that it cannot be relied on by others in Trinidad as furnishing a precedent.

We have not any information which will enable us to form a judgment whether or no the amount claimed by Messrs. Zwicher is a fair estimate of their loss. Unless there is some considerable exaggeration in the claim, it may be best, to save further delay and expense, to pay Messrs. Zwicher and Co. the sum which they ask. And that the Colonial Office letter of the 7th ultimo may be answered to that effect.

We have, &c.
(Signed) JOHN B. KARSLAKE.
RICHARD BAGGALLAY.
J. PARKER DEANE.

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### No. 266.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 29.)

*Lincoln's Inn, April* 29, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th April instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office,[*] with its inclosures, with respect to the alleged existence in the Island of Trinidad of a Committee having for its object the overthrow of the Venezuelan Government, and also to transmit to us a memorandum[†] on the question of a conspiracy to incite rebellion in a foreign country, together with further papers, as marked in the margin,[‡] bearing upon the subject. And Lord Tenterden further stated that he was to request that we would take the papers into our consideration, and favour your Lordship with any observations we might have to offer thereupon, and with our opinion as to whether the reply of the Governor of Trinidad to the Venezuelan Government should be approved by Her Majesty's Government.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That the opinion of the Acting Attorney-General inclosed in the Trinidad despatch of the 14th January, 1874, seems by the first sentence to be limited to cases in which there have been overt acts on the part of the refugees, and, if that is the meaning of his opinion, we should be disposed so far to agree with him.

In his more general observations upon conspiracy to excite revolt we cannot concur, unless there be overt acts.

The memorandum drawn by Lord Tenterden is, we think, entirely correct.

We have read the correspondence of the Governor of Trinidad and his letter to Lord Kimberley, and, in our opinion, the Governor's reply to the Venezuelan Government may properly be approved by Her Majesty's Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 267.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 29.)

*Lincoln's Inn, June* 29, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 15th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Agostini[§] respecting his claim against the Government of Venezuela, and also to transmit to us the previous correspondence[||] connected with the claim; and to request that we would take all those papers into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to Mr. Agostini.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we infer that Mr. Middleton either was not instructed to move the Venezuelan Government in accordance with the Reports of the Law Officers of the 24th June and 4th July, 1873, or that, having been so instructed, he has received no subsequent communication from the Venezuelan Government in the matter.

The only answer which can in this state of things be made to Mr. Agostini is that his case is still under consideration, or, if the fact should be so, that Her Majesty's Government cannot press the claim any further.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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[*] March 4.

[†] March 29.

[‡] Señor Barrio, February 1; Mr. Middleton, No. 9, February 15; to Señor Barrio, March 7 and 26, 1873.

[§] May 7.

[||] List.

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## No. 268.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 28.)

*Lincoln's Inn, August* 26, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 31st July ultimo, stating that he was directed by your Lordship to transmit to us the accompanying papers, as marked in the margin,* relative to certain British claims against the Government of Venezuela, which were withdrawn from the consideration of the Mixed Commission of 1868-69, the particulars of which claims are explained in Lord Clarendon's despatch to Mr. Middleton, Her Majesty's Minister at Carácas, No. 19 of the 26th February, 1870, and in your Lordship's No. 9 of the 27th February last. As regards the claims of Christopher Home and Thomas, there is no doubt, and Mr. Middleton has urged upon the Venezuelan Government that they should be fully and impartially considered.

That with regard, however to the claims of Stevenson, Desuse, Award, and Romberg, and also to those of Schloss and Michelsen, your Lordship finds considerable difficulty in coming to a decision; we would see that on the 27th February last your Lordship called on Mr. Middleton for a report upon those claims, but Mr. Middleton, in his No. 41 of the 6th June, states that he is unable to furnish any information respecting them beyond that contained in the Report of the Mixed Commission, and in the despatches to which he refers, and which were sent therewith.

Lord Tenterden was pleased further to say that, in these circumstances, he was to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to the instructions that should be given to Mr. Middleton with regard to the claims in question.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That as regards the two claims of Stevenson, the two claims of Desuse, and the one claim (No. 1) of Romberg (being respectively Nos. 37 and 45, 55 and 56, and 28 in the "Summary of Decisions and Awards"), it appears, from the records of daily proceedings of the Commission, that on the 18th September, 1869, it was agreed by the Commissioners, after long conference, that all these claims should be withdrawn from the Commission without prejudice to the claimants, to whom were reserved all the rights which might appertain to them. A similar agreement was come to as regards the claim of Paul Award (No. 63) on the 25th September, 1869.

These several claims (six in all) were not dealt with by the Commission in consequence of the proofs in support being formalized after the date of the Convention by which the Commission was established for the purpose of fixing the amount of all *pending* claims. Such being the state of the case so far as those claims are concerned, we are of opinion that they cannot be considered as reserved in any other sense than that the claimants were not, by reason of their claims having been withdrawn from the Commission, to be deprived of any rights that they might possess in respect of the subject-matter of their several claims.

Now, such claims ought, *primâ facie*, to be brought forward before the Venezuelan Law Courts with a view to their establishment, and both Mr. Middleton and Señor Gutierrez agree in opinion that the High Federal Court of Venezuela is the proper Tribunal for that purpose. Under these circumstances, we do not think that the views expressed by Mr. Middleton in his letter of the 6th June, 1874, as to the probable result of a recourse to the ordinary legal Tribunal, are sufficient to induce your Lordship to support these claims diplomatically. We are strengthened in this opinion by the fact that Her Majesty's Government appear to have no more material information as to these claims than when your Lordship addressed to Mr. Middleton your letter of the 27th February, 1874, in which you urged upon him to furnish to your Lordship a full report as to the merits of each case, to enable Her Majesty's Government to decide upon the course to be pursued.

As regards the claim of MM. Schloss and Michelsen (No. 1 of the Summary), the state of the case appears to be somewhat different. It was not withdrawn from the Commission by agreement, but the Venezuelan Commissioner refused to entertain it, whilst the British Commissioner protested formally against such refusal. It would appear from the letter of Señor Gutierrez, under date the 13th January, 1874, that the refusal of the Venezuelan Commissioner to entertain the claim was based upon the allegation that the claim had been previously rejected by the Chamber of Deputies.

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* Mr. Middleton, No. 41; List.

If this be so, there would be but little prospect of any application to the ordinary Tribunals being successful, even if it were competent to prosecute such an appeal, which is apparently suggested by Señor Gutierrez's letter. We think, therefore, that this claim, if prosecuted at all, may properly be made the subject of further diplomatic support. But, as regards this claim also, there is the same deficiency of material information which we have remarked upon in connection with the other claims. It does not, however, appear that any reason has yet been assigned by the Venezuelan Government for the rejection of the claim of Messrs. Schloss and Michelsen, whilst the general circumstances of the case, so far as they are indicated in Lord Clarendon's letter to Mr. Middleton of the 26th February, 1870, appear to support it.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 269.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 28.)

*Lincoln's Inn, August* 27, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 29th July ultimo, stating that, on receipt of our Report of the 21st March, your Lordship instructed Her Majesty's Minister at Carácas to furnish further information upon certain points connected with the question whether interest should be allowed on the amounts awarded to British claimants by the Mixed Commission of 1868-1869.

A draft of the instructions was sent therewith.*

Lord Tenterden transmitted to us the reply which had been received from Mr. Middleton,† and Lord Tenterden was to request that we would be good enough to inform your Lordship whether the information contained therein was sufficient to enable us to form a decided opinion upon the question at issue.

The previous correspondence was also sent therewith.‡

In obedience to your Lordship's commands we have taken this matter into consideration, and have the honour to report—

That, in our opinion, the reasons suggested by Mr. Middleton in his despatch of the 6th June last why some of the decisions give, while others do not give, interest, are probably well founded.

We apprehend that effect was intended to be given to the decisions (as is expressed in the Convention), "without objection or delay," and it is obvious that the delay may be indefinite, and the consequences of non-payment ruinous to the persons in whose favour the decision has been given unless interest be paid.

Mr. Middleton states that in a variety of similar cases interest has been paid by the Venezuelan Government to the subjects of different nations, but we gather from his letter that in these cases the payment of interest was expressly stipulated for.

The difficulty in the present case has arisen in part from the absence of any provision in the Convention for payment of interest in the event of the payment of the awarded sums being delayed, and in part from no agreement having been arrived at by the Arbitrators upon the subject of interest, though it appears to have been present to the mind of some of the parties by whom the award was made. Upon the whole, however, we are of opinion that the justice of the case and the precedents show that interest ought to be paid. There is nothing in the Convention to negative the right to payment of interest where great delay is made in payment of the principal sum; on the contrary, the provision that full effect shall be given to the decisions without objection or delay implies the making an equivalent for delay, and we are of opinion that Her Majesty's Government will be justified in claiming interest on the awards made.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* To Mr. Middleton, No. 18, April 10, 1874.

† Mr. Middleton, No. 42, June 6, 1874.

‡ List.

### No. 270.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 8.)

My Lord, *Lincoln's Inn, October* 8, 1874.

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 18th September ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister Resident in Venezuela* respecting the claims of the estate of Messrs. Gilbert, Kerr, and Co. on the Government of that country, and reporting that the dividends hitherto paid monthly to Her Majesty's Legation for the claimants under the Mixed Commission, John Giuseppe and Henrique Schmale were embargoed in March last by a judicial resolution communicated to Mr. Middleton by the Venezuelan Government; and that he (Mr. Lister) was to request that we would take the despatch into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

That the previous correspondence in regard to the cases was likewise therewith transmitted to us.†

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Middleton may properly be instructed to state in writing to Señor Blanco that, no further objection being made to the payment of the amount of Messrs. Gilbert, Kerr, and Co.'s claims, Mr. Middleton will proceed to pay that sum to their representative.

It is possible, with regard to the cases of John Giuseppe and Henrique Schmale, that there may be valid claims against the sums paid to their account under the Mixed Commission, and now in Mr. Middleton's hands; and, with our present information, we can only advise your Lordship that Mr. Middleton should be instructed that, in the cases of Messrs. Giuseppe and Schmale, and in all similar cases, he should inform the persons interested that the payment to them out of funds in his hands has been stopped by notice from the Venezuelan Government, under a process from the Venezuelan Courts, and that they must take measures to have the notice withdrawn.

Mr. Middleton may also be instructed to report to your Lordship upon any cases requiring special attention.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 271.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 28.)

My Lord, *Lincoln's Inn, October* 27, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 7th instant, stating that, with reference to his letter of the 18th ultimo, he was directed by his Lordship to transmit to us the accompanying despatches which had been received from Her Majesty's Minister Resident at Carácas,‡ by the latter of which it would appear that the claim of Messrs. Gilbert, Kerr, and Co. had been settled.

In obedience to your Lordship's commands we have the honour to report—

That the claim of Messrs. Gilbert, Kerr, and Co., is, as suggested in Mr. Lister's letter of the 7th instant, satisfactorily disposed of. The other claims referred to in our former Report of the 8th are, we presume, still unsettled.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Middleton, No. 54, August 7, 1874.

† List.

‡ Mr. Middleton, No. 59, August 20; ditto, No. 62, September 1, 1874.

### No. 272.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 17.)

My Lord, *Lincoln's Inn, November* 16, 1874.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 23rd day of October last, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,* relative to the claims of certain British subjects against the Government of Venezuela.

That we would see that the claims in question—those of Messrs. Syers, Grup, Foote, Myer and Co., Andral, and Sprick—amounted, in the year 1865, to 105,000 dollars, and that in that year an arrangement for their payment was come to between the Venezuelan Foreign Office and Mr. Edwards, then Her Majesty's Chargé d'Affaires at Carácas.†

That in 1868 a large number of other claims were adjudicated upon by a Mixed Commission established under a Convention between Great Britain and Venezuela, and since that date various sums had been, from time to time, paid by the Venezuelan Government on account of the claims allowed by that Commission; that in spite, however, of the representations of Her Majesty's Government, the Venezuelan Government have refused to allow the claims arranged in 1865 to be placed upon the same footing as those adjudicated upon in 1868, and that they had insisted upon referring the arrangement of 1865 to the Venezuelan Congress.

That that body had now decided not to approve the arrangement of 1865, and had returned the papers relating thereto to the Executive Power, in order that a fresh arrangement may be concerted, and submitted for the consideration of Congress.

That it appeared from Mr. Middleton's last despatch that a similar decision had been come to with regard to French and Danish claims, but that Dutch and Spanish claims in the same position were receiving payment.

That, in these circumstances, it becomes necessary for Her Majesty's Government to consider whether they should admit the right of the Venezuelan Congress to disavow an arrangement made by the Venezuelan Foreign Office nine years ago; and, if not, whether Her Majesty's Government should take any steps, either alone or in concert with France and Denmark, to enforce the fulfilment of the arrangement of 1865.

That the case on behalf of the claim is clearly stated in the letter from Messrs. Syers and Braosch, inclosed in Mr. Middleton's No. 67 of the 8th September.

That the Acts of Congress of the 14th June, 1865, and the 18th May, 1869, referred to in that letter, had not been forwarded to the Foreign Office, but, assuming their purport to be correctly stated by Messrs. Syers and Braosch, as there was no reason to doubt that it is, it would seem to be clear that the Venezulean Executive was empowered, in 1865, to make the arrangement that it did make, and that the arrangement in question was subsequently sanctioned by an Act of Congress.

Mr. Lister was pleased to add that he was to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to the course that should be pursued by Her Majesty's Government in the matter to which they relate.

We were further honoured with a letter from Lord Tenterden, dated the 5th November instant, stating that he was directed by your Lordship to inclose a further despatch from Her Majesty's Minister at Carácas, relative to the claims on Venezuela which formed the subject of Mr. Edwards' arrangement of 1865, and that he (Lord Tenterden) was to request that this despatch might be considered together with those inclosed in the letter from the Foreign Office on the 23rd ultimo.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That, assuming the statements made by Messrs. Syers and Braosch in their letter inclosed in Mr. Middleton's despatch No. 67 of the 8th September, as to the purport of the Acts of Congress of the 14th June, 1865, to the 18th May, 1869, be correct, Her Majesty's Government will, in our opinion, be justified in enforcing the payment of the claims settled in 1865.

But even supposing some error to have been made as to the purport of those Acts of Congress, we think that, having regard to the general circumstances of the case, and particularly to the fact that the arrangement of 1865 was for several years

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* List.

† See Mr. Edwards, No. 48, June 24, 1865.

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recognized and acted upon by the Venezuelan Government, and that several payments were made in pursuance of it, Her Majesty's Government will still be justified in enforcing payment of the claims so settled.

With this view, Mr. Middleton may properly be instructed that Her Majesty's Government considers the Venezuelan Government bound by the obligations accepted and acted upon by that Government in former years, and will employ the means in its power to compel the observance of that obligation, and the payment of the claims without further delay.

Should your Lordship take the course which we have had the honour of suggesting, your Lordship will probably think it right to communicate your intention to the French and Danish Governments.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 273.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received December* 18.)

*Lincoln's Inn, December* 17, 1874.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Minister Resident at Carácas* relative to the seizure by the Venezuelan authorities at Ciudad Bolivar of the English vessel "Rosalina" on a charge of smuggling; and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the seizure of the vessel "Rosalina" may have been made upon evidence which would justify the act, and may lead to her conviction as being engaged in smuggling.

On the papers now before us we are, however, unable to form any opinion which would be of use to your Lordship.

Mr. Middleton might properly be instructed to watch the proceedings against the ship, and forward to your Lordship copies of the "Rosalina's" papers.

We observe that the Venezuelan Minister refers to the conduct of the ship's former owner, and to the fact that her Venezuelan register has not been returned, and he suggests that she may not be a British vessel. The conduct of the former owner and the fact that the register was not returned would not, in our opinion, justify the arrest of the vessel, if she was *bonâ fide* transferred to a British owner, and Mr. Middleton should ascertain whether she is entitled to sail under the British flag, having been properly transferred, and should report to your Lordship what are the real facts relating to the transfer of the ship and the dates of the sale and transfer.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Middleton, No. 75, October 7; ditto, No. 87, November 4, 1874.

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FROM

# LAW OFFICERS OF THE CROWN.

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| 15 | Law Officers and Dr. Deane | 27, | On claims of the Queen Insurance Company, and of Messrs. Taylor and Lyde, the Agents of the Company. The case of the Company should not be supported by Her Majesty's Government, but Messrs. Taylor and Lyde would be entitled to compensation. Her Majesty's Government should wait, however, for reply to Mr. Drummond's representations; but if not favourable, a resort to force would not be expedient. as Mr. Taylor is alleged to be a Brazilian and not a British subject .. .. .. .. | 13 |
| 16 | Attorney-General | Oct. 4, | As to the apprehension of certain persons implicated in a robbery of diamonds at Rio de Janeiro, and who had escaped from thence in Her Majesty's ship "Helen," bound for England, should they arrive in any Portuguese port; but the application should be made by the Brazilian Minister . .. .. .. .. .. | 14 |

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|---|---|---|---|---|
| 17 | Law Officers and Dr. Deane | Oct. 16, 1875 | On claim of Viscount de Mana against the English Company "San Paulo Brazilian Railway Company (Limited)." Her Majesty's Government should not interfere in a case now before the Brazilian Tribunals .. .. .. | 15 |
| 18 | Law Officers and Dr. Deane | Nov. 4, | As to the law passed in Brazil providing for the trial and judgment of crimes committed in foreign countries against Brazil and Brazilians, which might render British subjects liable to punishment for acts done out of Brazilian jurisdiction. Instructions should be sent to Mr. Drummond to inform the Brazilian Government that the trial of British subjects for offences beyond Brazilian territory, or in places not within Brazilian jurisdiction, cannot be allowed .. .. | 15 |

## CENTRAL AMERICA.

| | | | | |
|---|---|---|---|---|
| 19 | Law Officers and Dr. Deane | Feb. 22, 1875 | On claim of Mrs. Mitchell against the Honduras Government on account of property belonging to her husband, who was assassinated in 1873. If the statement of Vice-Consul Debrot is correct, Her Majesty's Government should not interfere on her behalf .. .. .. .. | 16 |
| 20 | Law Officers and Dr. Deane | May 11, | On claim of Mr. Hilario Goussen for reimbursement of money levied on him in 1863, as a military contribution, on the ground of his British nationality, and which has hitherto been supported by Her Majesty's Government. Her Majesty's Government should not have recourse to force to obtain payment of this claim, and it is not a case for arbitration, or reference to a third person .. .. .. | 16 |
| 21 | Law Officers and Dr. Deane | Aug. 17, | As to the complaint of Mr. T. J. D. Mackintosh against the Government of Ecuador, for not carrying out certain arrangements of 1857 and 1858 for the settlement of a claim which he represents. Her Majesty's Government would be justified in supporting his claim .. .. | 17 |
| 22 | Law Officers and Dr. Deane | Sept. 1, | As to the claims of Messrs. Johnston and Co. against the Government of Honduras on account of losses sustained by British subjects at Omoa in 1873, owing to the acts of General Streben, an officer in the service of the Honduras Government; a promise having been made by that General to Sir Lambton Loraine, of Her Majesty's ship "Niobe," that compensation should be paid. Her Majesty's Government should not support these claims; but those of Vice-Consul Debrot should be paid. Inquiry should be made, however, of his nationality .. .. .. .. | 17 |

## CHILE.

| | | | | |
|---|---|---|---|---|
| 23 | Law Officers and Dr. Deane | Feb. 15, 1875 | On the claim of Captain Hyde, of the "Tacna," to compensation on account of his arrest and imprisonment in Chile. Her Majesty's Government, in accepting the offer of arbitration, should adopt a certain form of words. Sends draft of assent for acceptance .. .. .. | 19 |
| 24 | Law Officers and Dr. Deane | May 7, | Further relating to the case of the "Tacna." Reasons for sending the draft form of assent of Her Majesty's Government to the proposed arbitration. Approves the proposal to invite the good offices of the German Government as mediator in the case of Captain Hyde, and the proposed reply to the proposal of the Chilean Government .. | 20 |

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## CHINA.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 25 | Law Officers and Dr. Deane | Jan. 9, 1875 | On suggestion of the North China Insurance Company for arrangements to be made by which public companies, having their head-quarters at Shanghae, could be registered under the Joint Stock Companies' Act, and as to a clause being inserted in the Revised Order in Council on the subject. The immediate issue of this clause would not be of any advantage to the Company .. .. .. | 21 |
| 26 | Law Officers and Dr. Deane | 30, | As to the desire of Sir E. Hornby for information relating to Consular jurisdiction over persons on board ships in Chinese waters when the nationality of such persons is different from the ship, in consequence of a Circular being issued by the United States' Consul at Shanghae in 1868 as to the jurisdiction claimed by him over American citizens on board foreign ships, or over foreign subjects on board American ships. A foreigner, for a criminal offence committed on board a British ship in Chinese waters, whether he belong to the ship or not, cannot be tried or punished by a British Court sitting in China. The United States' Government might be asked if they have approved Mr. Seward's Circular before replying to Sir E. Hornby .. | 21 |
| 27 | Law Officers and Dr. Deane | May 19, | Further relating to the right of Consular jurisdiction over persons on board ships in the waters of China when the nationality of such persons was different from that of the ship to which they belonged. Observations on the views expressed on the subject by the Board of Trade still adhere to their opinion; but the case should be carefully considered before a definite reply is sent to the United States' Government .. .. .. .. .. | 23 |
| 28 | Law Officers and Dr. Deane | July 23, | As to the draft Bill prepared by Sir H. Thring and Mr. F. S. Reilly for legalizing deportation from China and other countries where the Queen has jurisdiction. As it is insufficient, another draft has been prepared for consideration, and Parliament should not be asked to ratify the Orders in Council under the Foreign Jurisdiction Act without having the opportunity of inspecting them .. | 24 |

## FRANCE.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 29 | Law Officers and Dr. Deane | Mar. 1, 1875 | As to the course that should be pursued with respect to the renewed application of the Scottish Mineral Oils Association relative to the import duties in France on British mineral oils. Before reply is sent to Mr. Pender, or communication to the French Government, reference should be made to some independent person acquainted with the subject .. .. .. .. .. .. | 25 |
| 30 | Law Officers and Dr. Deane | 30, | Further relating to the representations of Mr. Pender on subject of the British mineral oil claims in France. Those of Messrs. Young and Co. and Messrs. Namshauer and Co., they should send further particulars .. .. .. | 26 |
| 31 | Law Officers and Dr. Deane | Apr. 19, | Further relating to the British mineral oil claims in France and complaints of Mr. Pender, on behalf of Messrs. Young and Co., on account of duties levied upon them, and their losses under the Awards .. .. .. | 27 |
| 32 | Law Officers and Dr. Deane | 19, | As to the claim on the part of Her Majesty's Government for British subjects to be exempt from compulsory ship-brokerage in France. As the Duc Decazes states British subjects are on an equality with French subjects in this case. Her Majesty's Government should not make any further representation .. .. .. .. | 29 |
| 33 | Law Officers and Dr. Deane | May 7, | The forgery of the stamp on the French "Régie" excise stamp on the State manufactured tobacco would not come under the statute 14 & 15 Vic., cap. 99, which punishes as felony the forgery of seals, stamps, &c., but would be punishable as the forgery of an ordinary trade mark .. | 29 |

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 34 | Law Officers and Dr. Deane | June 15, 1875 | Draft Order in Council applying the International Copyright Act of 1875 to France, with a slight alteration, and the draft Declaration, cancelling the third paragraph of the IVth Article of the Treaty with France of 1851, may properly be agreed to .. .. .. .. | 30 |
| 35 | Law Officers and Dr. Deane | 28, | As to the course that should be pursued in the case of a Creole of Mauritius named Motel, who wished to be married, under the Consular Marriage Act, to a native of the Island of Réunion, but who had been divorced from his second wife under a Decree of the Supreme Court of Mauritius. If already married according to the law of the country, Consul Perry should not marry the parties; but if not, he should warn the parties the Consular marriage would not be valid out of Her Majesty's dominions .. .. .. | 30 |
| 36 | Law Officers and Dr. Deane | July 22, | On the proposed exchange of territory belonging to Great Britain and France respectively on the West Coast of Africa, and as to the proposed form of exchange. The terms are properly expressed, but suggest the addition of a few words .. .. .. .. .. .. | 31 |
| 37 | Law Officers and Dr. Deane | Oct. 19, | As to the inquiry of Mr. Jung whether he and his family at Havre are, under a certificate of naturalization as a British subject obtained from the Government of India, British subjects. He should be informed that the certificate does not confer on him the rights and privileges of a British subject in Europe, and his children cannot be considered to have been born British subjects .. .. .. | 31 |

## GENERAL.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 38 | Law Officers and Dr. Deane | Apr. 10, 1875 | On application of Mr. Byrne for assistance to prevent the marriage of Nicolas Tindal, who had escaped to the Continent with Elizabeth Carili Worsley, a ward in Chancery and an infant, at one of Her Majesty's Legations abroad. Her Majesty's Government justified in sending instructions to Her Majesty's Representative abroad not to allow the marriage. Nothing else to be done .. .. .. | 32 |
| 39 | Law Officers and Dr. Deane | Oct. 19, | As to the propriety of submitting the transcript of a Bill which had passed the Legislative Council and Assembly of New South Wales, to amend the law relatng to aliens, for Her Majesty's assent. It would be proper to submit the Bill for Her Majesty's approval .. .. .. | 32 |

## GERMANY.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 40 | Law Officers and Dr. Deane | Jan. 30, 1875 | On request of Mr. Whinney for the diplomatic interference of Her Majesty's Government in his case. Her Majesty's Government should not interfere; his remedy is by an appeal to the German Law Courts .. .. .. | 33 |
| 41 | Law Officers and Dr. Deane | Feb. 15, | As to the proceedings against Mr. Kingston, the Correspondent of the "Daily Telegraph" newspaper, to compel him to furnish information respecting the origin of a telegram published on the 10th October, 1874, as having been sent by their Berlin Correspondent; and threats held out to him of imprisonment. Instructions should not be sent to Lord Odo Russell to interfere officially, as the case is one of the Law of Prussia, where Mr. Kingston is residing; but a mitigation of punishment may be urged if any is ordered .. .. .. .. .. .. | 33 |
| 42 | Law Officers and Dr. Deane | Apr. 14, | On application of Mr. Noepel for information respecting the disposal of the estate of General Köhler, who died in Jaffa in 1800, while in the employment of the British Government. As the administration of the estate is before the Court of Chancery, he may be referred to that Court for the information he desires .. .. .. .. | 34 |

| No. | | Date. | SUBJECT. | Page |
|---|---|---|---|---|
| 43 | Law Officers and Dr. Deane | Oct. 19, 1875 | On the dispute between an English Company, called the "Berlin Phosphate Sewage and Manure Company (Limited)," and the German authorities, relative to the provisions of the Declaration exchanged between the British and German Governments in 1874 on the subject of Joint Stock Companies. Her Majesty's Government cannot support them in their complaint, as they have not complied with the conditions of the Prussian Laws, under the IIIrd Article of the Treaty .. .. .. .. .. | 34 |

## GREECE.

| No. | | Date. | SUBJECT. | Page |
|---|---|---|---|---|
| 44 | Law Officers and Dr. Deane | May 11, 1875 | Claims of the Ionian Bondholders on the Greek Government. On dispute as to the rate of payment of the bonds to the £ sterling. The bondholders might be told that they were entitled to claim repayment of the amounts due at the rate of exchange on the day payment was offered to them .. | 35 |
| 45 | Law Officers and Dr. Deane | June 10, | Request of Messrs. Markby, Tarry, and Stewart to know the nationality of Mr. A. J. Ralli, formerly residing in the Ionian Islands. They might be informed that Mr. Ralli is not a British subject .. .. .. .. | 36 |
| 46 | Law Officers and Dr. Deane | Aug. 4, | Further relative to the claims of the Ionian Bondholders on the Greek Government, and the offer of M. Tricoupi to pay off the bondholders in silver Ionian dollars. Instructions should be sent to Mr. Stuart to inform them they cannot claim payment at the rate of exchange in London when payment was offered; but only to the value of £ sterling in Ionian currency, and no other interest than what is due on the bonds .. .. .. .. | 37 |
| 47 | Law Officers and Dr. Deane | 28, | As to the objections raised by Her Majesty's Consul at Corfu to obey a summons to give evidence before a Greek Court of Law; but being told he must obey the summons, he again objected on the ground that the facts only came to his knowledge as a servant of the Crown. Consuls may, in certain cases, refuse to give evidence where knowledge is obtained in their official capacity; but Consul Sebright is bound to give evidence with respect to the occupation of the house at Santa Maura which he occupied officially .. | 37 |
| 48 | Law Officers and Dr. Deane | Sept. 1, | As to the refusal of the Ionian bondholders to consider the jurisdiction of the local Courts for not accepting the terms offered to them by the Greek Government, and the action brought against them by the Greek Minister of Finance. M. Tricoupi should be reminded of his undertaking not to pursue this course. The bondholders should, however, appear, and protest against the proceedings .. .. | 38 |
| 49 | Solicitor - General and Dr. Deane | 21, | Further relative to the claims of the Ionian bondholders against the Greek Government and the right claimed by the Greek Minister for the Greek Tribunals to deal with the question. Have nothing to add to their former Report. | 39 |
| 50 | Law Officers and Dr. Deane | Oct. 25, | Further relative to the claims of the Ionian bondholders on the Greek Government. As to the interpretation by the Hellenic Government and of the bondholders on the views expressed by Her Majesty's Government, not coinciding. Explanation as to the words "Ionian currency." The bondholders are entitled to be paid for each sovereign the amount of such current coin at the rate of exchange in Corfu .. .. .. .. .. .. | 39 |
| 51 | Law Officers and Dr. Deane | Dec. 17, | Further relative to the claims of the Ionian bondholders on the Greek Government. Mr. Stuart might be properly instructed to communicate the note proposed to be sent to the Hellenic Minister for Foreign Affairs, and there would be no objection to omitting that part relating to the rate of interest .. .. .. .. .. .. | 39 |

## HAYTI.

| No. | | Date. | SUBJECT. | Page |
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| 52 | Law Officers and Dr. Deane | July 10, 1875 | As to the proceedings of the Haytian Government in the case of the claims of Mrs. Maunder, widow of a British merchant, against Messrs. Duffy, a French firm established at Port-au-Prince, and the interference of the French Chargé d'Affaires in the matter, as well as the rights claimed by Mrs. Maunder in the Island of Tortuga, belonging to Hayti. As both Mr. and Mrs. Maunder were Haytian subjects, Her Majesty's Government cannot support her claim against Messrs. Defly, a French firm, or against the Haytian Government, and the Commercial Banking Company at Liverpool must take the consequences for having advanced money on bad security .. .. .. .. .. | 40 |
| 53 | Law Officers and Dr. Deane | Aug. 27, | On claim of Messrs. Gerdes, a British firm in Hayti, to compensation from Haytian Government for certain coffee pillaged during the disturbances in 1868–69. Concur in opinion of former Law Officers, that the claim of Messrs. Gerdes and Co. cannot be maintained .. .. .. | 41 |
| 54 | Law Officers and Dr. Deane | Oct. 30, | Further relative to the claim of Mrs. Maunder against the Haytian Government and as to her nationality. Major Stuart should be called on to obtain evidence of the marriage of Frederic Maunder and Josephine Maunder before she is recognized as entitled to British protection .. | 42 |

## ITALY.

| No. | | Date. | SUBJECT. | Page |
|---|---|---|---|---|
| 55 | Law Officers and Dr. Deane | Jan. 15, 1875 | As to the right of an Italian named Vincenzo Cecchi to the property of his wife. The validity of the marriage between Vincenzo Cecchi and Catherine Mercieca must first be proved. Though a British subject before marriage, she became an Italian after, and as she did not recover her British nationality, the Italian Consulate should administer to her estate whether the will was valid or not. Should the marriage be invalid, she remained a British subject, and whether her will was valid or not, the British Consul should then administer to her estate. Suggests that the proceedings in Egypt should take their course .. .. | 42 |
| 56 | Law Officers and Dr. Deane | Mar. 23, | On a question raised by the British Consul at Cagliari relative to the competency of British Consular officers under certain circumstances to take or refuse to take affidavits of persons other than British subjects, British Consular Officers are competent to administer oaths under such circumstances, but it is not obligatory for them to do so. As a general rule, they should abstain as much as possible from discharging such duties otherwise than in relation to British subjects and their interests .. .. .. .. | 43 |
| 57 | Law Officers and Dr. Deane | Apr. 3, | As to the complaint of Mr. G. H. Shorting of the alleged acts of injustice towards him by the Italian authorities connected with the taxation of certain house property owned by him near Lake Como. No representation could properly be made to the Italian Government with respect to the increased assessment on his house property .. .. | 43 |
| 58 | Law Officers and Dr. Deane | 28, | Malta Ordinance for regulating the surrender of prisoners on board merchant vessels, and the proposed amendments by the Crown Advocate at Malta. Agree with him with certain exceptions, but the case should be again sent to him before reply is sent to Chevalier Cadorna .. .. | 44 |

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| No. | | Date. | Subject. | Page |
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| 59 | Law Officers and Dr. Deane | July 2, | As to the marriage at the British Consulate at Florence of a woman, an Italian by birth, but a widow of a British subject and the position of a British subject and widow whose husband accepted military service under the Papal Government. Her status as a British subject, on becoming a widow, would be a question of Italian law, upon which they offer no opinion. An English woman married to a foreigner, and becoming a widow, becomes a statutory alien, but may recover her British nationality. If, by the Italian law, the widow is an Italian subject, the validity of the marriage would be doubtful. The man and woman should both be warned of the Italian law. British subjects entering foreign service forfeit British protection in that country .. .. .. .. .. .. | 45 |
| 60 | Law Officers and Dr. Deane | 17, | As to whether the marriage of a woman, an Italian by birth, but a widow of a British subject, at the British Consulate at Florence, would be of doubtful validity in this country, or only within the dominions of the King of Italy. It would be doubtful in Italy and elsewhere, except in Her Majesty's dominions .. .. .. .. | 45 |
| 61 | Law Officers and Dr. Deane | 27, | As to the claim of Mr. S. D. Wolff, on behalf of the heirs of Madame Drölling, against the estate of Mr. John Manby, who died at Turin in 1869, and desire of Mr. Wolff to be furnished with the correspondence relative to the balance of the estate which has been handed over to the brother and administrator while the debt to Madame Drölling remains unpaid. The correspondence must not be given to him, and Consul Colnaghi did right in giving the property to Mr. Charles Manby, as administrator .. .. .. | 46 |
| 62 | Law Officers and Dr. Deane | Aug. 17, | Case of Mr. Adolphus Manduit, who alleges that his house was entered and searched by certain officers of the Neapolitan Excise and Custom-house without any legal warrant, on the plea of searching for tobacco, which he states to be contrary to a violation of the 17th Article of the Treaty of Commerce. The Italian version of the Treaty is correct, and the proceedings are justified by that version. No further representation need be made .. | 46 |
| 63 | Law Officers and Dr. Deane | Oct. 4, | Further relating to the question of the surrender of Italian prisoners who had been found on board Italian vessels in port of Malta under the Malta Ordinance, and explanation of the Crown Advocate of Malta on his statement of the law. The Italian Chargé d'Affaires might be told there was no practical difference between the Ordinance of 1873 and that of 1874 with respect to foreign prisoners accused of desertion found on board merchant ships. No assistance will be afforded by the authorities in Malta to the desertion of Italian seamen .. .. .. .. .. | 47 |
| 64 | Law Officers and Dr. Deane | Oct. 11, | As to the question of the surrender of persons who have been already convicted in contumaciâ to foreign Governments under the Extradition Treaties or Conventions, and especially with regard to the extradition of Italian subjects from Malta. Proposed Order in Council for giving effect to the amended Ordinance of 1874 is at variance with the 18th Article of the Treaty of Extradition with Italy .. | 48 |

## JAPAN.

| | | | | |
|---|---|---|---|---|
| 65 | Law Officers and Dr. Deane | Jan. 15, 1875 | On complaint of Japanese Government against Mr. Blakiston, a British merchant, residing at Hakodate, for an assault committed by him on two Japanese subjects in his employment, which caused the death of one of them; and of the mitigation of the penalty required by Consul Troup on the occasion. Mr. Blakiston should not be again put upon his trial or the sentence revised, as it would be contrary to the spirit of the British Criminal Law .. .. .. | 49 |

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| 66 | Law Officers and Dr. Deane | Mar. 22, 1875 | As to the proposed regulations to be issued by the Japanese Government with regard to practice of shooting in Japan. They are sufficient to meet the views of the Japanese Government. Fines, however, should be withheld, unless other foreign Governments having Treaties with Japan agree to the payment .. .. .. .. | 50 |

## MEXICO.

| | | | | |
|---|---|---|---|---|
| 67 | Law Officers and Dr. Deane | July 13, 1875 | Claim of Messrs. Kelly and Co., of Mazatlan, to be reimbursed the amount of certain duties levied by the Mexican Government authorities on goods imported by them, payment having previously been exacted by the insurgents. Her Majesty's Government cannot, as of right, claim the repayment of dues levied by a foreign Government in cases where they had first been levied by an insurgent force, and they should take no steps in the matter .. .. .. | 50 |

## MOROCCO.

| | | | | |
|---|---|---|---|---|
| 68 | Law Officers and Dr. Deane | Jan. 15, 1875 | As to whether the Moorish Government have a preferential claim over the creditors to be repaid their claim on the estate of the late Mr. Grace, a British subject. By the XVIIIth Article of the Treaty with Morocco they are bound to enforce the payment of the debt due to the estate, as it cannot be properly administered to until they are collected; and this should be done before the division of the assets .. .. .. .. .. .. | 51 |
| 69 | Law Officers and Dr. Deane | Mar. 18, | On the proposal of the Moorish Government for the settlement of the claims of Moorish merchants resident in Morocco, for sums advanced to Moorish Governors and Sheikhs by an offer of 50 per cent. on all *bonâ fide* claims, or the establishment of a tribunal at Tangier to adjudicate upon them. Instructions should be sent to Sir J. D. Hay to inform British subjects that Her Majesty's Government cannot support the cloims of British subjects who do not accept the compromfse .. .. .. .. | 52 |

## NETHERLANDS.

| | | | | |
|---|---|---|---|---|
| 70 | Law Officers and Dr. Deane | Jan. 27, 1875 | On complaint of Mr. Silley on the detention, by the Netherlands authorities at Curaçoa, of some gunpowder shipped on board a German vessel for Savanilla and Santa Marta, and whether, under the circumstances of an insurrection which had broken out in Venezuela, Her Majesty's Government would be justified in making any representation on the subject. Her Majesty's Government should not make any representation to the Netherlands Government .. .. | 53 |

## PACIFIC ISLANDS.

| | | | | |
|---|---|---|---|---|
| 71 | Law Officers and Dr. Deane | Apr. 19, 1875 | On request of the Commodore commanding on the Australian Station to know whether, under the 9th Section of "The Kidnapping Act of 1872," British naval officers have the right to arrest British subjects on shore who had rendered themselves liable, but who were commanding or serving on board a vessel under the French flag. British officers have not the right to arrest on shore British subjects under the Act of 1872, whether commanding or serving on board French vessels at the time of committing any such act .. | 54 |

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## PERU.

| No. | | Date. | Subject. | Page |
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| 72 | Law Officers and Dr. Deane | Mar. 24, 1875 | As to whether Her Majesty's Government would be justified in demanding the release of Messrs. Bell and Stirling, two British subjects, who had been condemned to nine years' imprisonment by the Supreme Court of Peru, on a charge of being concerned in a murder. Reasons why Her Majesty's Government might be justified in taking steps to obtain their release, but it must be done on surer grounds than impugning the administration of the law in a foreign country. A mitigation of the sentence might be urged if the release is refused .. .. .. .. | 54 |
| 73 | Law Officers and Dr. Deane | Apr. 21, | Instructions should not be sent to Her Majesty's Representatives in Peru to support the claim of the Subilaca Mining Company on account of the losses sustained by them through the outrage committed on Mr. Pascoe, a British subject, their mining engineer, by four police officers at Arequipa. The Government of Peru could not be made responsible for acts done beyond the scope of their authority | 55 |
| 74 | Law Officers and Dr. Deane | May 20, | As to the reconsideration of the arrest of Lawrence Higginson, a British subject, taken out of the steamer "Santiago," in the Bay of Callao, and detained there from the evidence of a person named Santana, and whether an apology should still be demanded as well as compensation. The explanation of the Peruvian Minister precludes Her Majesty's Government from further insisting on an apology or indemnity from the Peruvian Government; but they might express surprise and regret that the Peruvian authorities had been misled by Santana's evidence, and that Higginson was detained in prison so long without inquiry .. .. | 56 |

## PORTUGAL.

| No. | | Date. | Subject. | Page |
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| 75 | Dr. Deane .. | Jan. 30, 1875 | As to the wish of the French Commission on the Delagoa Bay Arbitration Case to be furnished with a more precise definition of the territories of Tembé and Mapoota, and the instructions to be sent to Lord Lyons on the subject. He may be instructed to state the exact definition of the territories in question .. .. .. .. .. | 57 |
| 76 | Dr. Deane .. | Feb. 15, | Further relative to the territories of Tembé and Mapoota connected with the Delagoa Bay arbitration. Practically there is no difference between the description of the limits in dispute given in the note of Lord Lyons and that of the Portuguese Envoy, but in the note of the former, the Mountains of Libombo are called the "Mountains of Dalombo".. | 58 |

## RUSSIA.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 77 | Law Officers and Dr. Deane | Mar. 4, 1875 | As to whether the evidence of money having been placed into the hands of Consul-General Murray belonging to Mr. Charles Pizzotti would justify Her Majesty's Government in accepting the responsibility for the amount. There is evidence of Mr. Murray having received the money, and Her Majesty's Government might accept the responsibility, but Consuls, as a general rule, cannot be recognized as receivers on behalf of the Government .. .. | 59 |

## SPAIN.

| No. | | Date. | Subject. | Page |
|---|---|---|---|---|
| 78 | Law Officers and Dr. Deane | Jan. 6, 1875 | As to further instructions to be sent to Consul Ricketts on the subject of the will of Mr. Albert Honiss, who died at Manila in August 1874, in consequence of the resignation of the executor to the will. No further instructions need be sent to Consul Ricketts .. .. .. .. | 59 |
| 79 | Law Officers and Dr. Deane | 9, | On the claim of British merchants to exemption from the payment of extraordinary contributions levied in the Island of Cuba on capital and property in trade by right of Treaties, Conventions, and Royal Orders. Her Majesty's Government cannot support the claim of the British merchants to exemption on account of the non-application of those Treaties to the Spanish Colonies. Remarks on the difference of the Memoranda of 1868 and 1874. The difference between persons and property insufficient to change their opinion .. | 60 |
| 80 | Law Officers and Dr. Deane | 30, | On detention of the British vessel "Victoria" at Barcelona by order of the local Court at the suit of the charterer, and claim for the release of the ship or for demurrage. Her Majesty's Government should not interfere, as the case is under the consideration of a special Court of Law .. | 61 |
| 81 | Law Officers and Dr. Deane | 30, | On the seizure and condemnation of the "Marie Tadeo" by the Spanish authorities of Algeciras suspected of smuggling. The Spanish Courts were competent, in the case of conflicting evidence, to take what evidence before them they pleased, and the Spanish Government were justified in refusing to disturb the decision, and no further remonstrance should be made by Her Majesty's Government .. .. | 61 |
| 82 | Law Officers and Dr. Deane | Feb. 2, | Approval of draft of reply to Her Majesty's Minister at Madrid on his statement that he had been called on by the Spanish Government to give evidence in a criminal trial. Cases in which a Diplomatic Agent might give evidence in a criminal trial .. .. .. .. | 62 |
| 83 | Law Officers and Dr. Deane | Mar. 2, | On the seizure of the British vessel "Louisa" off Cabrita Point in December 1874 by a Spanish guarda costa, and taken to Algeciras and detained, but released by the Prize Court. Her Majesty's Government would be justified in claiming from the Spanish Government compensation for the direct loss suffered by the owner for the seizure and detention of the vessel .. .. .. .. | 62 |
| 84 | Law Officers and Dr. Deane | Apr. 19, | As to the claim of Messrs. McAndrew and Co., of Tarragona, against the Spanish Government for compensation on account of the damage done to their property by the military authorities. Instructions might be sent to Her Majesty's Minister at Madrid not to make any claim unless Spanish subjects are compensated for similar losses .. | 63 |
| 85 | Law Officers and Dr. Deane | May 4, | On claims of certain British subjects against the Spanish Government arising out of the seizure by the Spanish authorities in Cuba of the British vessel "Lark," and detention of the master, crew, and passengers at Manzanillo, and the demand made for compensation of 3,150*l.* at the instance of the late Law Officers. Her Majesty's Government should still persist in the claim, but inquiry should be made into the treatment of the British subjects, as the Lieutenant-Governor of Manzanillo contradicts their statements .. .. .. .. .. | 63 |
| 86 | Law Officers and Dr. Deane | 24, | As to the forcible enlistment at Seville of Richard Tarque, who was born in Spain of British parents. Her Majesty's Government cannot claim under any Treaty with Spain exemption for R. Tarque from serving in the Spanish army, and they cannot assert their right to the most-favoured-nation clause since the proceedings in the House of Commons in 1845. Recommends the opinion of a Spanish jurist to be taken on the case whether the Constitution of 1869 has displaced the Royal Decree of 1852 .. .. | 64 |

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| No. | | Date. | Subject. | Page |
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| 87 | Law Officers and Dr. Deane | June 7, 1875 | On the complaint of Mr. John Henry Keane, a British subject, of his having to forfeit securities to the amount of 4,480*l.* deposited by him in the Spanish Treasury as a pledge for the fulfilment of a contract to supply certain army clothing, but which the Spanish Government accused him of not fulfilling. Mr. Keane must abide by the award of the Council of State, as he bound himself by his contract to accept the decision of the Spanish Tribunals, who could not be charged with injustice .. .. .. | 65 |
| 88 | Law Officers and Dr. Deane | July 2, | Further relative to the case of the British vessel "Louisa," seized by a Spanish guarda costa, and detained at Algeciras, and refusal of the Spanish Minister of Foreign Affairs to grant compensation to the owner, the conduct of the revenue officers being investigated and approved by a competent Court, and the seizure having taken place in Spanish waters. Suggests that the matter should not be pressed further .. .. .. .. .. | 66 |
| 89 | Law Officers and Dr. Deane | 14, | On claims of the owners of the British vessel "Joseph Dodds" and of the cargo, through her detention by the Spanish authorities at Huelva, so as to compel payment of extra duties on the cargo shipped for ports not in Spain, but which had not been cleared by a Spanish Consul, required by law. Her Majesty's Government would be justified in demanding compensation for the owners, as any breach of Spanish law was occasioned by the Spanish Consul-General in London, and which is not disputed by the Spanish Government .. .. .. .. .. | 66 |
| 90 | Law Officers and Dr. Deane | 20, | Further relative to the case of the British steamer "Victoria," detained at Barcelona. Messrs. Grant, Darrock, and Co. have taken a wrong view of the proceedings of the Spanish Tribunals, and of the duties of Her Majesty's Government. There is nothing to show that the Tribunals have been in error .. .. .. .. .. .. | 67 |
| 91 | Law Officers and Dr. Deane | Aug. 20, | Further relative to the compulsory enlistment in the Spanish army of Richard Tarque, who was born in Spain of British parents, and the right of Great Britain to be treated in Spain on the footing of the most-favoured nation. Still of the same opinion, that Great Britain is not in a position to rely upon the Treaties of 1667 and 1713 being still in force .. .. .. .. .. .. | 68 |
| 92 | Law Officers and Dr. Deane | 27, | As to the claim of Spain to exercise sovereignty over the Sulu Archipelago, and the Report of Captain Buckle, of Her Majesty's ship "Frolic," who had been sent there to inquire into the points of dispute, and what representation should be addressed to the Spanish Government with regard to the blockade of the Sulu ports and interference with British trade. No reason to alter opinions expressed in Reports of the 26th January and 26th May, 1874. If peace is settled between Spain and Sulu no further steps should be taken, but makes observations on the state of affairs. Refers to the cases of the "Nil Desperandum," "Marie Louise," and "L'Avenir," and suggests that a strong naval force should be sent for the protection of British trade and to check the Spaniards; and the Spanish Government should be so informed .. .. .. .. | 69 |
| 93 | Solicitor-General and Dr. Deane | Sept. 16, | On subject of the forcible removal of a Spanish subject, named Luis Venegas, from the Royal Mail steamer "Eider" at Porto Rico. The local authorities have the right to arrest and take out of a foreign merchant ship their own subjects within their territorial waters.. .. .. | 70 |

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| 94 | Law Officers and Dr. Deane | Sept. 20, 1875 | As to the course that should be pursued in the case of the capture of the British vessel "Dolores" near Gibraltar by a Spanish Guarda Costa, and her subsequent condemnation at Algeciras, as being in Spanish waters, and not in British waters or on the high seas. Her Majesty's Government cannot complain that the Spanish Tribunals believed the Spanish witnesses rather than those of the "Dolores," but, as the papers were regular and she carried a perfectly legal cargo, a nominal fine would have been sufficient on account of her manifest being kept back from the boarding officer. Instructions should be sent to Her Majesty's Minister at Madrid to demand the remission of the fine and the duties imposed on the cargo, and he should also insist on the release of both the vessel and the cargo, if they are still detained.. .. .. .. .. .. | 71 |
| 95 | Law Officers and Dr. Deane | 25, | Further relative to the forcible removal of a Spanish subject, named Luis Vanegas, from on board the Royal Mail steamer "Eider" at Porto Rico. Have nothing to add to their former Report .. .. .. .. .. | 72 |
| 96 | Law Officers and Dr. Deane | 4, | On the claim of Mr. James Benjamin Field, alleged to be a British subject, to compensation from the Spanish Government on account of his seizure by a Spanish naval officer while on a trading voyage in the German vessel "Maria Louise" in 1873, and detention at Caviti, in the Philippine Islands. As the capture and detention of the vessel has been admitted Mr. Field is entitled to indemnity and compensation, but not for ill-treatment, as there is no proof; but he should prove his nationality, and if a British subject indemnity might be demanded from the Spanish Government .. .. .. .. .. | 73 |
| 97 | Law Officers and Dr. Deane | 4, | Further relative to the case of the "Victoria," and refusal of Messrs. Grant, Darroch and Co. to allow the competency of the Spanish Court to decide the case. No reason to alter their former decision, and Messrs. Grant should be told no diplomatic action can be taken on their behalf .. | 74 |
| 98 | Law Officers and Dr. Deane | 19, | Further respecting the case of the "Joseph Dodds." Approves proposed draft despatch to Her Majesty's Minister at Madrid .. .. .. .. .. .. | 74 |
| 99 | Law Officers and Dr. Deane | 21, | Further relative to the detention of the British vessel "Dolores," the cargo of which has since been sold. No reason to alter former opinion, but instead of asking for the remission of the fine and the duties imposed, the Spanish Government should be pressed to grant compensation to the owners for the losses which they have sustained by the condemnation and sale of their property to meet the fine imposed .. .. .. .. .. | 74 |
| 100 | Law Officers and Dr. Deane | 21, | Further relative to the case of the "Dolores" and the question of the maritime boundaries of British and Spanish jurisdiction in the neighbourhood of Gibraltar alluded to in the letter from the Colonial Office of the 9th September, and points of dispute as to the 3 mile limit claimed by Great Britain round the rock of Gibraltar. May approve course taken by the Governor of Gibraltar with reference to the notice to traders .. .. .. .. .. | 75 |
| 101 | Law Officers and Dr. Deane | 21, | Further relative to the question of Spanish maritime jurisdiction where the 3 mile limit cannot be adhered to by Great Britain and Spain. With regard to the claim of Spain for a 6 mile limit, it ought not to be submitted to or admitted.. | 76 |
| 102 | Law Officers and Dr. Deane | 22, | Further relative to the claim of Spain to exercise sovereignty over the Sulu Archipelago, and seizure by Spanish war vessels of the Victoria Trading Company's vessel "Sultana," and demand for her detention and reparation for insult to British flag. The "Sultana" cannot be considered a British vessel, but a demand may be made for British subjects to be compensated for losses sustained by her illegal capture, and a strong representation against the conduct of the Spanish officers in the Sulu Archipelago. Mr. Howard in error as to the insult to the British flag .. | 76 |

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| 104 | Law Officers and Dr. Deane | 30, | Further relative to the case of the seizure of the "Sultana" in the Sulu Archipelago. Nothing to alter their former report, and compensation should be demanded on account of the conduct of the Spanish officers. Explanation should, however, be obtained as to the parties who were serving under a foreign flag and had deserted prior to her seizure | 77 |
| 105 | Law Officers and Dr. Deane | Dec 22, | As to the claim of certain British subjects to be exempt from war taxes ordered to be levied in Spain while German and South American subjects were declared to be exempt, and whether exemption could be claimed under the ancient Treaties and on the most-favoured-nation treatment. In 1845 it was agreed the ancient Treaties were in force, as well as the most-favoured-nation treatment, and, therefore, the exemption of taxes granted to any other country can be claimed for British subjects. Not expedient to claim exemption on any supposed reciprocity. Further opinion as to the liability of Richard Tarque to serve in the Spanish army | 78 |
| 106 | Law Officers and Dr. Deane | 20, | As to the course to be pursued with reference to the property left by Mr. William Higgs, who died at Madrid intestate. Refers to former report of Law Officers in 1872 on this subject, which was founded on the provisions of the Treaty with Spain of 1667. Her Majesty's Minister in Madrid should be referred to the Decree of the Queen of Spain, Article 28 in State Papers, vol. liii, p. 1057, on the subject of succession to property | 80 |

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| 107 | Law Officers and Dr. Deane | July 2, 1875 | As to the instructions to be given to Consul Segrave with reference to the British Church property at Stockholm, as the British community refuse to make themselves liable for the support of the building. It should be transferred to them absolutely, and Her Majesty's Government should free themselves from all future responsibility | 82 |

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| 108 | Law Officers and Dr. Deane | Feb. 5, 1875 | As to the trial and condemnation of Carmelo Villa for the manslaughter of an Italian sea captain at Sfax. The conduct of Consul-General Wood in the matter should be approved . | 83 |
| 109 | Law Officers and Dr. Deane | May 24, | Approves proposed Treaty between Great Britain and Tunis as amended, and it should be returned to Consul-General Wood for conclusion with the Bey | 83 |

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| 111 | Law Officers and Dr. Deane | 9, | As Mr. St. John, the British Vice-Consul at Jassy, did not possess a marriage warrant, Mr. Vivian, the Agent and Consul-General at Bucharest, having a warrant unlimited in authority, might perform the ceremony as Consul for Moldavia, the marriage would then be valid | 84 |
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| 113 | Law Officers and Dr. Deane | Mar. 1, | On the petitions of Leon Franco, a prisoner at Malta under sentence from the Consular Court at Alexandria, for pardon. No sufficient grounds for complying with the prayer of the petition | 85 |
| 114 | Law Officers and Dr. Deane | 2, | On application of Messrs. Stibbard and Croushey for permission to inspect and obtain copies of the correspondence in the Foreign Office relative to the complaint of M. Guiseppe Mirabita against the interference of Her Majesty's Consul-General and Judge at Constantinople with his contract for the sale of two vessels to the British Government. Their application should not be complied with | 86 |
| 115 | Law Officers and Dr. Deane | 4, | As to the instructions that should be sent to Her Majesty's Minister at Constantinople on subject of the coal duties in Turkey, and the protest of the North of England Shipowners' Association thereon. Agree with Sir H. Elliot, but with some doubt, that coal shipped for consumption on board cannot be exempt from duty under the XIth Article of Treaty with Turkey of 1861; but most-favoured-nation treatment should be claimed | 86 |
| 116 | Law Officers and Dr. Deane | 4, | On application of Isidore Gilberg, a Jewish youth of 16, praying to be admitted to British protection. Consul-General Vivian should be instructed that Isedore Gilberg is not entitled to British protection as a naturalized British subject | 87 |
| 117 | Law Officers and Dr. Deane | 8, | As to the claim of Mr. Hanley against the Turkish Government on account of the suppression of his papers, the "Levant Times" and the "Progrès d'Orient." Her Majesty's Government cannot properly support this claim | 87 |
| 118 | Law Officers and Dr. Deane | 24, | On subject of the outrage committed on two British subjects at Galatz, and claim against the Roumanian Government on behalf of the sufferers. Her Majesty's Government cannot properly claim pecuniary compensation for them | 88 |
| 119 | Law Officers and Dr. Deane | 24, | On the charge against M. Etienne Pisani, 1st Dragoman to Her Majesty's Embassy at Constantinople, of having received bribes from certain mining companies in Turkey for advocating their cause and promoting their interests there, and his refusal to resign his appointmeni without a pension, and his demand for investigation. The accusation cannot at present be considered proved, and want further evidence on the question before deciding | 88 |
| 120 | Law Officers and Dr. Deane | 27, | Further relating to Mr. Reade's claim for the concession of the Sari Yeri Copper Mine, and as to the instructions to be sent to Sir H. Elliot on the subject. Her Majesty's Government cannot officially support this claim, the contract having been entered into with persons who had no power to assign the rights. The Mining Council are under no legal obligation to Mr. Reade | 89 |
| 121 | Law Officers and Dr. Deane | May 18, | On judicial reforms in Egypt. Proposed Tribunals for the trial of natives of foreigners, which were proposed to be continued in force for five yeers. Report of the Commission and Iradé of the Sultan sanctioning the Tribunals and the scheme submitted to the French Government; and Her Majesty's Government having given their consent, now proposed a Convention with the Egyptian Government. Approves draft Convention and the adoption of this course by the Egyptian Government without waiting for the adhesion of the French Government | 90 |
| 122 | Law Officers and Dr. Deane | May 24, | On subject of the disused burial ground at Smyrna, and the rights of the British residents to the property under the Levant Companies' Act or the Consular Act. Her Majesty's Government is under no legal obligation not to sell the ground, as it is under the Levant Act | 92 |

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| 123 | Law Officers and Dr. Deane | June 7, 1875 | As to the request of Messrs. Clarke, Rawlins, and Clarke to inspect the papers at the Foreign Office on a suit pending between the Chartered Mercantile Bank of India, London, and China, and Mr. Joseph Joshua of Damascus. Her Majesty's Government cannot permit them to do so without establishing a bad precedent. The letter, however, to Mr. Tomkins of the 15th May can be inspected by them, as the plaintiff proposes to hand it into Court | 92 |
| 124 | Law Officers and Dr. Deane | 15, | On the case of Mrs. Rassam and the request of Mr. Joseph P. Turner, her Solicitor, to be furnished with certain information in the possession of the Foreign Office, as well as Report of Mr. Peretie on the question, as suggested by Sir Philip Francis. The Report cannot properly be communicated to him | 93 |
| 125 | Law Officers and Dr. Deane | 16, | Further relating to the suit of Mr. Joseph Joshua, and the Chartered Mercantile Bank of India, London, and China, and as to the course that should be taken on Vice-Consul Kirby Green being subpœned to give evidence before the Court of Chancery | 93 |
| 126 | Law Officers and Dr. Deane | 21, | Messrs. Lynch Brothers should be informed that they will not be entitled to compensation in the event of the destruction of their property in Mesopotamia by order of the Turkish Government if infected by plague, unless Turkish subjects are compensated | 94 |
| 127 | Law Officers and Dr. Deane | 21, | As to the claim of the Danube and Black Sea Railway and Kustendje Harbour Company against the Turkish Government, and observations of Mr. Tipping, the Chairman of that Company. No reason to alter former opinion on the subject. The Turkish Government ought not to put off the examination of the work done, but has a right before payment to see that it is effectually done | 94 |
| 128 | Law Officers and Dr. Deane | 30, | Further relating to the question of judicial reform in Egypt, and the Convention proposed to be entered into with Egypt giving similar privileges, as desired by Germany. Approves the Agreement proposed to be entered into with the Khedive | 95 |
| 129 | Law Officers and Dr. Deane | July 13, | Further relating to the charges brought against Mr. E. Pisani, 1st Dragoman to the British Embassy at Constantinople. Not sufficient evidence adduced to enable Her Majesty's Government to decide upon the conduct of Mr. Pisani. Suggests an inquiry before a Commissioner, and Report by him to be made | 96 |
| 130 | Law Officers and Dr. Deane | 14, | Approves draft reply to M. Kayat, who claims to be a British subject, as his father had received a certificate of naturalization in July 1847 | 97 |
| 131 | Law Officers and Dr. Deane | 14, | Further relative to the case of Mr. Joseph Joshua, and the request of Messrs. Clarke, Rawlins, and Clarke for the letters of Mr. Tomkins on the subject to be shown to them. Their request should not be complied with, as it would make an inconvenient precedent | 97 |
| 132 | Law Officers and Dr. Deane | 27, | As to the alleged detention at Constantinople of a girl named Catherine Wright by her uncle, Mr. Walsh, and the instructions that should be sent to Sir Philip Francis on the subject. Full inquiries should be instituted by Sir P. Francis before delivering up the child to her father, as would be done in England | 97 |
| 133 | Law Officers and Dr. Deane | Aug. 6, | Further relative to the proposed scheme for judicial reform in Egypt and the alleged intention of the Egyptian Government to assign to the new Tribunals the imposition of new taxes upon foreigners. The "Règlement d'Organisation Judicaire" will not give them the power of imposing new taxes, but will only enable them to decide on doubtful questions of payment or exemption. The Egyptian Government might be told Her Majesty's Government refuses to give the Tribunals the power to decide on the legality of taxes imposed by that Government | 98 |

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| 34 | Solicitor-General and Dr. Deane | Sept. 15, 1875 | Further relative to the alteration of the fees annexed to the Turkish Order in Council of December 1873. Approves the Order in Council as drawn by Mr. Reilly with the Table of Fees in his letter of 1874 | 99 |
| 135 | Law Officers and Dr. Deane | Oct. 15, | As to the course that should be pursued for putting an end to the British Consular jurisdiction when the new Tribunals should be opened in Egypt. An Order in Council will be required on the subject, which should take effect simultaneously with the opening of the new Tribunals, to prevent a conflict of jurisdiction | 100 |
| 136 | Law Officers and Dr. Deane | 20, | As to the validity of the will of Miss Greenwood. It is valid, and should be admitted to Probate if made according to the forms required by the laws at Dronstadt, in Transylvania; but is not valid if not so made | 100 |
| 137 | Law Officers and Dr. Deane | Dec. 30, | Approves draft Order in Council drawn by Mr. Reilly to enable Her Majesty's Government to make use of the new Tribunals to be established in Egypt | 101 |

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| 138 | Law Officers and Dr. Deane | Mar. 17, 1875 | As to the question raised by Sir E. Thornton relative to the lands occupied by British subjects in the Island of San Juan and other islands in the neighbourhood, which had become United States' territory under the Award of the Emperor of Germany, according to the XXXIVth Article of the Treaty of Washington of 1871. Agree with Sir E. Thornton that British subjects have no title to the lands in question, and Her Majesty's Government should not press the question further | 101 |
| 139 | Law Officers and Dr. Deane | 22, | As to the protest made by the United States' Consul in Hong Kong against a decision of a Court of Law in a suit for wages between an American seaman and a master of an American vessel, and as to the jurisdiction of the Court to exercise jurisdiction in such cases. Have no doubt that the Hong Kong Court had jurisdiction in the case, but when the Consular Officer to which the ship and parties belong protests, the local Court should only act in cases of urgency | 102 |
| 140 | Law Officers and Dr. Deane | 24, | On the claim of the Great Western Steam-ship Company against the State of New York on account of head-money wrongfully levied on passengers from Great Britain, and request of Mr. John Miles for a reconsideration of the case. Cannot alter former opinions given, and Mr. John Miles' request cannot properly be complied with | 103 |
| 141 | Law Officers and Dr. Deane | Apr. 21, | As to the instructions to be given to Her Majesty's Minister in Japan whether British subjects serving on board American vessels of war were amenable to British jurisdiction for offences committed on shore. Law Officers differ on the question, and as the American Minister and Consul also differ, it would be advisable to take no further action until the claim for the repayment of the fine imposed by the British Consul is either renewed by the American Government or abandoned | 103 |
| 142 | Law Officers and Dr. Deane | May 14, | As to the reply to be sent to Sir E. Thornton with respect to the right of British vessels to import into the United States, free of duty, fish taken in the waters of that country. They may do so, but he should be instructed not to raise the question, as some doubt exists as to the interpretation of the XXIst Article of the Treaty of Washington | 104 |

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| 143 | Law Officers and Dr. Deane | July 12, 1875 | On refusal of the United States' Customs authorities to allow the importation, free of duty, of fish and fish oil from British Colombia under the XXIst Article of the Treaty of Washington, which the Canadian Government claim the right. The Dominion of Canada must be considered as it existed in 1871, when the Treaty was concluded, and without the territory since added to it, and Sir E. Thornton should not bring the case before the United States' Government. The Canadian Government may, however, refuse to admit United States' produce of a similar kind free of duty | 104 |
| 144 | Law Officers and Dr. Deane | 12, | On question of jurisdiction over offences committed on shore in Japan by British subjects serving on board United States men-of-war, and the proposal of Mr. Fish to enter into an agreement on the subject. Her Majesty's Government could not enter into such an agreement without legislation in this country, nor under the Treaties with China and Japan; but British authorities in China and Japan might be told not to interfere with British subjects while serving on board foreign men-of-war, as they are under the protection of such foreign State, and not that of Her Majesty's Government | 105 |
| 145 | Solicitor-General and Dr. Deane | Sept. 17, | On subject of the extradition of Charles Lewis Lawrence on a charge of forgery, and the intention of the United States' Government to try him on other charges than those on which his extradition was granted. Instructions might be sent to Sir E. Thornton to protest against Lawrence being tried for any other offence than for which he was surrendered.. | 105 |
| 146 | Attorney-General. | Oct. 25, | Further relative to the case of extradition of Charles Lewis Lawrence, and as to the right claimed by the United States' Government to try him for other offences than for which he was surrendered. Differs from the Solicitor-General and Dr. Deane on the subject. Thinks that as he was given up unconditionally Her Majesty's Government have no right to protest against his trial on another charge, and that the Treaty of 1842, as regards this case, is in no way affected by the Extradition Act of 1870 | 106 |
| 147 | Solicitor-General. | 25, | Further relative to the case of extradition of Charles Lewis Lawrence, and as to the right of the United States' Government to try him for offences other than for which he was surrendered. The question resolves itself into the construction to be put on the Treaty of 1842, and the spirit of that Treaty implied a condition that the prisoner should be tried for the offence for which he was surrendered, and no other. The right of asylum revives if the prisoner is not convicted | 108 |
| 148 | Dr. Deane | 25, | Further relating to the extradition case of Charles Lewis Lawrence, and claim of the United States' Government to try him for offences other than for which he was surrendered. Differs from the Law Officers. The Xth Article of the Treaty of 1842 is the authority on which both Governments are bound, and the crimes named there, are those on which extradition could be demanded. Agree in substance with his former Report, which was given under the supposition that Lawrence would have been put on his trial for the offence for which he was surrendered, but that should not be acted upon now. Her Majesty's Government should not protest against his trial if he is first tried for the offence for which he was surrendered, but should protest if otherwise | 110 |

## VENEZUELA.

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| 149 | Law Officers and Dr. Deane | Jan. 26, 1875 | On subject of the demand of the Venezuelan Consul-General in the Island of Trinidad for the detention of the British vessel "Indiana," which was preparing to sail to Venezuela, with the alleged intention to effect a descent on the coast with conspirators on board, and as to the instructions that should be given to the Acting Governor of Trinidad on the subject of his refusal to detain the vessel. His conduct should be approved, as he acted under the advice of the Attorney-General.. | 112 |
| 150 | Law Officers and Dr. Deane | Ap. 20, | As to the circumstances which led to the detention of the British vessel "Alps" at Puerto Cabello. as the port was closed against all vessels leaving it. The conduct of Mr. Middleton, Her Majesty's Minister at Caraças, approved. Inquiry should be made why this vessel was chartered to convey troops to the coast of Coro before any further representation is made to the Venezuelan Government. Probable claim of Mr. Drakeford | 112 |
| 151 | Law Officers and Dr. Deane | 28, | The instructions proposed to be sent to Mr. Middleton in the case of the British vessel "Rosalina" may properly be sent. To press for a trial before the Tribunals if a settlement cannot be obtained between the owner of the vessel and the Venezuelan Government | 113 |
| 152 | Law Officers and Dr. Deane | May 11, | The article in the Financial Code of Venezuela, which requires the papers of ships arriving at Venezuelan ports to be deposited with the Customs authorities, and not with the Consul of the nation to which the ship belonged, is not contrary to the Treaty stipulations with Great Britain with reference to British ships.. | 113 |
| 153 | Law Officers and Dr. Deane | Dec. 3, | As to the differences which had arisen between the Netherlands' Government and that of Venezuela, and the intention of the latter to issue letters of marque in case of a rupture, and as to the course Her Majesty's Government should take on the question, as Venezuela had not acceded to the Declaration of Paris of 1856. Her Majesty's Government may adopt the same course towards ships of war and privateers of both countries as was adopted in 1866 in the war between Spain, Chile, and Peru | 114 |

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| 154 | Dr. Deane | Feb. 2, 1875 | As to the bankruptcy of Captain Frazer, Acting British Consul-General at Zanzibar. The notice of the bankruptcy inclosed in Captain Prideaux's despatch of the 11th December last may be inserted in the "London Gazette" | 115 |
| 155 | Solicitor-General and Dr. Deane | Sept. 16, | On the question raised by the Acting Consul-General at Zanzibar as to the liability of British Indian subjects to be tried on charges of slave holding in cases where Arab or native wives may possess slaves. Cannot form an opinion on the question as given by the Acting Consul-General. As a general rule a foreign woman marrying a British subject becomes herself a British subject, and her personal property becomes her husband's; but there are exceptions. Major Smith should therefore be directed to send the charges and the sections of the Penal Code of Zanzibar or India under which the offence has been committed, so that an opinion can be formed of the judgment that should be given | 116 |
| 156 | Law Officers and Dr. Deane | Oct. 20, | Approval of draft Order in Council drawn up by the Legal Adviser to the Treasury in Slave Trrde matters for givng effect to the Supplementary Treaty with the Sultan iof Zanzibar | 116 |

(Signed) ARTHUR WALMISLEY.

*Foreign Office,*
*February* 1881.

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*Foreign Office,*
*February* 1881.

ARTHUR WALMISLEY.

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*Printed for the use of the Foreign Office. January* 1881.

CONFIDENTIAL.

# REPORTS BY THE LAW OFFICERS OF THE CROWN: 1875.

## Africa.

### No. 1.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received March 25.)*

My Lord, *Lincoln's Inn, March* 24, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 10th instant, stating that, with reference to our Report of the 18th April last, on the subject of the reception of the fugitive slaves on board British vessels, he was directed by your Lordship to request that we would take into our consideration the accompanying letter, and its inclosures, from the India Office, and favour your Lordship with our opinion thereupon, with especial reference to the points raised by the Government of India in the 6th paragraph of their letter of the 11th December last, which formed Inclosure No. 1 in the India Office letter then submitted to us.

In obedience to your Lordship's commands we have the honour to report—

That the Report of the Law Officers of the 18th April, 1874, was intended for general guidance in the absence of special circumstances, and the suggestions thereby made would not necessarily be applicable to cases in which special circumstances exist.

Accordingly, in the case suggested in the 2nd paragraph of the letter of the 11th December last from the Government of India, of fugitive slaves seeking to come on board British ships within the territorial waters of Oman, the provisions of the Treaty with the Sultan of that country must be taken into consideration; for the observance of Treaty obligations is as of much importance as the avoidance of anything that could be interpreted into an encouragement of breaches of the law. In such cases it must be left to the discretion of the Commander to determine whether it is or not expedient to receive the slave on board his ship and allow him to remain until such time as it can be ascertained whether, according to the provisions of the Treaty, he is entitled to his freedom or not.

As regards the provisions suggested in the 6th paragraph of the letter, it appears to us that all except the two first have reference to cases in which Treaties are in force, and may with propriety be generally adopted; though even as regards these we think that some discretion should be vested in the commanding officer to enable him to deal efficiently with exceptional cases.

We are unable to advise your Lordship to assent to the other two of the suggested provisions, viz., those marked A and B.

We think that, as a general principle, slaves should not be misled into the belief that they will find their liberty by getting under the British flag, or induced by the

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presence of a British ship to leave their own ships, if at sea, or their employment, if on shore.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 2.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received April* 28.)

My Lord, *Lincoln's Inn, April* 27, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a draft of a letter which your Lordship proposed to address to the Lords of the Admiralty on the question of the reception of fugitive slaves on board British ships. That that draft was founded on our Reports of the 18th April, 1874, and 24th ultimo, and, before communicating it to the Lords of the Admiralty, your Lordship would be glad to be informed, at our early convenience, whether it correctly expresses our views on the question as therein laid down.

In obedience to your Lordship's commands we have the honour to report—

That the proposed letter to the Lords of the Admiralty correctly expresses the views which we have had the honour of submitting to your Lordship.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 3.

*The Attorney-General to Mr. Bourke.—(Received October* 7.)

My dear Mr. Bourke, 7, *Clifton Gardens, Folkestone, October* 6, 1875.

IN consequence of the request conveyed by Mr. Lister's letter of the 28th ultimo that I would take the subject of it into consideration with my colleagues, the papers were, in accordance with the usual practice, forwarded in the first instance to Dr. Deane, and only came into my possession yesterday; hence the delay, which I much regret, in my reply, and hence, also, my want of information upon the subject when I met you on Monday evening at the Carlton.

I have now gone very carefully through the papers, and have re-examined the authorities, and I am satisfied in my own mind that the Admiralty instructions are right in principle.

The criticisms passed upon these instructions by the press and by speakers at public meetings are, for the chief part, based upon some supposed departure in them from the principles enunciated by Lord Mansfield in Somersett's case.

Now Somersett, a negro slave, had been purchased in Virginia, was brought to England by his master, and, on his refusing to return, was sent by his master on board an English ship, lying in an English port, to be carried to Jamaica and there sold as a slave. A *habeas corpus* was granted against the captain, and Somersett was discharged.

The principle upon which this case was decided was that, by the law of England, Somersett ceased to be a slave directly he arrived in England, and thenceforth was, in England, absolutely and unconditionally free.

To apply this principle to the case of a fugitive slave making his escape to a British ship in foreign territorial waters or on the high seas, it must first be shown that a British ship, in either of such cases, is to be deemed a portion of Her Majesty's dominions as completely and unconditionally as any portion of England itself.

But is this so?

Leaving out of consideration the case of a private British ship within the territorial waters of a foreign country, as to which it would hardly be contended that it is for all intents and purposes to be deemed a portion of Her Majesty's dominions, let us consider the case of a public British ship within such territorial waters.

Now, as has been well expressed by Story, the principle upon which a ship of war is considered to be part of the State to which she belongs, and, as such, exempt from any jurisdiction, is based upon considerations of public comity and convenience, and arises from a presumed consent of nations that foreign public ships coming into their ports and demeaning themselves according to law and in a friendly manner, shall be exempt from local jurisdiction.

In this view of the case it is clear that the right to have a public British ship treated in foreign territorial waters as part of Her Majesty's dominions is conditional upon the laws of the foreign country being observed, and such laws cannot, in my opinion, be considered as observed if encouragement or assistance is afforded to the subjects of such foreign country, slaves or otherwise, to break the law.

But to pass from the case of the public British ship in foreign territorial waters to the case of a slave escaping to a like ship on the high seas, which ship afterwards, with the escaped slave on board, enters the territorial waters of the country from which the slave has escaped.

The question whether the slave should be surrendered in such a case appears to me to depend upon the same considerations as would arise in the case of a public British ship in foreign territorial waters, *i.e.*, upon whether encouragement or assistance has been afforded by the ship to enable the slave to break the law of the country of which he is a subject.

I cannot understand upon what principle the British ship can enter the harbour of the foreign country and claim the privilege of having its deck treated as British soil, when she has within a few hours previously enabled the laws of that country to be broken by one or more of its subjects, where she parades before the local authorities and defies their interference.

Take, as an illustration, a case not very unlikely to occur, the case of a British man-of-war passing up the Persian Gulf, on her way to the port of a country in which slavery is recognized by law; whilst still outside the territorial waters she falls in with a fleet of native dhows, engaged in pearl diving, the slave sailors of which, in considerable numbers, approach the man-of-war, and, from motives of humanity, and to save them from drowning, are taken on board and carried into port.

It appears to me that, if the standing rule is assumed to be that, with the view of avoiding giving any encouragement or assistance to the breaking of the laws of the slave's country, he is not to be taken on board except to save him from drowning, the application of the same principle would require that, if taken on board, it is for the sole purpose of saving him from drowning, and not for any further or ulterior purpose.

I have thus endeavoured to argue out the principle of the Admiralty Instructions, and I do not see how, if the principle is right and is to be maintained, any different instructions can be given. I am myself unable to suggest any alteration in principle, and I should doubt the expediency of recalling the present instructions, with the view of issuing others based on the same principles, but expressed in different language; this is, however, a question of policy, which it is hardly within my province to discuss, though I shall be only too happy to render any assistance in my power in connection with a subject of so much gravity and difficulty.

I am, &c.
(Signed) RICHARD BAGGALLAY.

P.S.—I have addressed this to you in the form of a private letter, but shall be happy to send in a formal Report by myself and my colleagues, or by myself only, if desired.

R. B.

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### No. 4.

*The Attorney- and Solicitor-General to the Earl of Derby.—(Received October* 14.)

My Lord, *Lincoln's Inn, October* 14, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 28th September ultimo, stating that the instructions as to the reception of

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fugitive slaves on board of Her Majesty's ships, recently issued by the Admiralty, have been the subject of much unfavourable comment in the press, and are not unlikely to give rise to an attack in Parliament next Session, unless they are in some degree modified.

Among the articles which have appeared on the subject, that written with most weight is one in the "Pall Mall Gazette" of the 21st September ultimo, of which Mr. Lister inclosed a copy. That there was also a very severe attack in the "Saturday Review" of that week. That the letter from the Foreign Office to the Admiralty, which was almost verbally embodied in the instructions, was founded upon two Reports from the Law Officers of the 18th April, 1874, and the 24th March last, and the letter itself was submitted to the Law Officers and approved by them on the 27th April.

That the passage in the instructions which has called forth most criticism, and which seems indeed to be most open to attack, was that which states that a slave who may have taken refuge on board of one of Her Majesty's ships on the high seas is liable to be surrendered, in the event of the ship returning within the territorial limits of the country from a vessel of which he had escaped.

Upon this point Mr. Lister stated that your Lordship notices that the instructions are somewhat more distinct and positive than the terms of the Law Officers' Report of the 18th April, 1874, which stated that, "In either case, that of a public or that of a private ship, if the slave returns within the limits of the country from which he has escaped, he will be liable to be surrendered."

Speaking as a layman, Mr. Lister stated that your Lordship thinks it is open to doubt whether the arguments urged and the cases quoted in the Report go further than this, that a fugutive slave should not, under ordinary circumstances, be received on board one of Her Majesty's ships while within the territorial waters of the country from which he had escaped; and secondly, that a slave who may have escaped on board of one of Her Majesty's ships on the high seas does not from that fact put off his condition of slavery so thoroughly as to be able to claim his freedom, if he returns to the country in which he was a slave.

That the question whether a slave who may have so escaped should be surrendered from on board a British man-of-war, upon the man-of-war coming within the territorial limits of the country in which he was a slave, Mr. Lister stated that it seems to your Lordship to be a further point which, in whatever way it may be decided, is not necessarily governed by the considerations of law or policy on which the two other decisions are founded.

Mr. Lister stated that your Lordship would be glad if we would take the matter again into consideration, and would let your Lordship know whether we still continue to consider the terms of the Circular to be a proper statement of the law and practice to be observed, or whether we could suggest any alterations, either in the paragraph Mr. Lister has called attention to, or in the rest of the instructions.

That it is of course always possible to add an explanatory Circular, stating that the slave is in such cases liable, according to strict law, to be surrendered, but that the Commander of the vessel must use his discretion whether the slave shall not be landed elsewhere.

Mr. Lister inclosed the correspondence for reference.

We were also honoured with Mr. Bourke's letter of the 9th instant, stating that, in reply to the letter of the Attorney-General of the 6th instant, respecting the instructions recently issued regarding the reception and surrender by Her Majesty's Naval Officers of fugitive slaves escaping on board Her Majesty's ships, and with special reference to the postscript of that letter, Mr. Bourke was directed by your Lordship to request that we would favour your Lordship with a formal Report on the subject.

That the papers relating to the case were returned for convenience of reference.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we have gone very carefully through the papers submitted to us, and have reconsidered the authorities.

The conclusion at which we have arrived is, that the Admiralty instructions are right in principle.

The criticisms passed upon those instructions by the press and by speakers at public meetings are, for the chief part, based upon some supposed departure in them from the principles enunciated by Lord Mansfied in Somersett's case.

Now Somersett, a negro slave, who had been purchased in Virginia, was brought to England by his master, and on his refusing to return, was sent by his master on board an English ship lying in an English port to be carried to Jamaica, and there sold as a slave. A *habeas corpus* was granted against the captain, and Somersett was discharged.

The principle upon which this case was decided was that, by the law of England, Somersett ceased to be a slave directly he arrived in England, and thenceforth was, in England, absolutely and unconditionally free.

To apply this principle, in the first instance, to the case of a fugitive slave making his escape to a British ship in the territorial waters of a foreign State where slavery is recognized as legal, let us see how the matter will stand. In such a case it must be shown by those who contend that the principle in question is applicable that the British ship is in law a portion of Her Majesty's dominions as completely and unconditionally as any part of England itself.

But is this so?

Leaving out of consideration the case of a private British ship within the territorial waters of a foreign country, as to which it would hardly be contended that it is for all intents and purposes to be deemed a portion of Her Majesty's dominions, let us consider the case of a public British ship within such territorial waters.

Now it seems to us that a public ship, under such circumstances, can only, in a limited sense, be said to be part of the territory of Great Britain, and that she is not so completely part of such territory that a slave stepping on her deck becomes free. The true principle is, we think, laid down by Story, who asserts that a ship of war, in the territorial waters of a foreign Power, is exempt from any other jurisdiction than that of the State to which she belongs, upon consideration of public comity and convenience, and by reason of a presumed consent of nations that foreign public ships coming into their ports and demeaning themselves according to law and in a friendly manner shall be exempt from local jurisdiction.

In Story's view of the case it is clear that the right to have a public British ship treated in foreign territorial waters as exempt from the local jurisdiction, is conditional upon the laws of the foreign countries being observed.

This view is supported by the Judgment of Chief Justice Best in the case of Forbes *v.* Cochrane.

In that case the learned Judge, in the course of a very strong anti-slavery Judgment, says: "The moment they (the slaves) put their feet on board of a British man-of-war, not lying within the waters of East Florida, where undoubtedly the laws of that country would prevail, those persons who before had been slaves were free." So that this learned Judge evidently thought that a slave escaping to a man-of-war lying in territorial waters of a slave State would have retained his status of slavery.

If, indeed, the doctrine that a British ship in such circumstances as those alluded to is part of the territory of this country in the strictest sense were correct, it would follow that the slave who should accompany his master on a visit of ceremony to the Commander of such ship might claim his freedom; that criminals escaping from a gaol in the foreign country could not, except under some Extradition Treaty, be given up; and that a man who committed a murder on the foreign shore, perhaps under the very eyes of the Commander of the British vessel, might have a right to claim asylum on her deck.

We consider, therefore, that by international law a slave getting on board a British public vessel, and *à fortiori* a private vessel, in foreign territorial waters, still retains his status of slavery; and this being so, as it is the duty of the commander of such a vessel to respect the law of the country in which his ship is lying, he may properly be called upon to pursue the course indicated in the Admiralty instructions.

With regard to British ships, whether public or private, on the high seas, their decks are considered part of the British territory; and if a slave gets on board a ship upon the high seas, we think he becomes, *ipso facto*, free.

According to the Judgment, however, of Lord Stowell, in the case of the slave Grace, if the slave who has thus become free finds his way back to the State in which he was in slavery, his status of slavery will revive, and it is upon this decision, which as far as we are aware has never been overruled, that we base our opinion that that portion of the Admiralty instructions which prescribes the course to be pursued with respect to slaves received on board a vessel on the high seas is correct.

As we have indicated above, the instructions can, in our opinion, be justified, as founded upon a correct estimate of the law. Whether or not, considering the feeling with respect to them which prevails in the country, they ought to be maintained

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in their present form, is a question of policy, upon which it is hardly our province to enter.

If it is thought necessary to alter the instructions, we think they should be so framed as simply to contain a direction to Commanders of British ships that fugitive slaves are not to be received on board their vessels except in cases where the lives of such slaves would be endangered if they were not allowed to come on board; and also that such slaves as may be received on board shall not be allowed to remain if the British vessel, at the time she receives the fugitives, is in the territorial waters of the foreign State, or (if such fugitives gain her deck when on the high seas) when she come within such waters.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.

P.S.—Dr. Deane is at present absent from London, and he will not return for a few days. As the matter is extremely urgent, we have thought it better not to delay this Report until he can be communicated with.

R. B.
J. H.

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## No. 5.

*The Solicitor-General and Dr. Deane to the Earl of Derby.*—(*Received November* 11.)

My Lord, *Temple, November* 9, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us, for our consideration, the accompanying correspondence, as marked in the margin,* from which we perceive that a question has arisen as to the right of Her Majesty's Consul for the Bights of Benin and Biafra, under the provisions of the Order in Council of the 21st February, 1872, to deport prisoners from that part of the African coast which is under his Consular jurisdiction. And Mr. Lister was to request that we would favour your Lordship with our opinion whether, under the Order in Council in question (of which a copy was inclosed†), Her Majesty's Consul is empowered to order the deportation of convicted offenders from the territories of independent native Chiefs to a British Colony for punishment.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the Consul is not empowered to order the deportation of convicted offenders from the territories of independent native Chiefs to a British Colony for punishment.

We have, &c.
(Signed) JOHN HOLKER.
J. PARKER DEANE.

As the office of Attorney-General is at present vacant, this Report is signed by the Solicitor-General and Dr. Deane.

J. H.

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## No. 6.

*The Solicitor-General and Dr. Deane to the Earl of Derby.*—(*Received November* 22.)

My Lord, *Temple, November* 22, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 18th instant, stating that he was directed to transmit to us the accompanying draft of revised instructions respecting the reception of slaves on board Her Majesty's ships of war, which had been prepared for the consideration of the Cabinet, and that he was to request that we would take the same into our consideration, and favour your Lordship, at our earliest convenience, with our opinion thereupon; that the previous papers relating to that question were inclosed for convenience of reference if required.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully considered the draft of the proposed Circular, and submit the following observations upon the different clauses:—

The instructions provide only for the treatment of "fugitive slaves," but are stated to be "also intended for the guidance of Her Majesty's ships generally."

We submit for your Lordship's consideration either the omission of this statement —that the instructions are also intended for guidance generally—or the addition of an instruction providing for cases which, as your Lordship is aware, are frequent of slaves who may come on board one of Her Majesty's ships, not as fugitives, but in some other character, or without the knowledge of the Commander, and who, having thus got under the British flag, claims its protection.

As to 93 B: This instruction is, we think, open to objection because it does not give distinct and specific directions as to the course to be pursued by the Commander of a public ship in the particular case which causes the greatest practical difficulty—that in which the slave is at once carried into the waters of the country in which he is, by the law of that country, liable to servitude. If a slave who is received on board a ship in territorial waters is to be sent on shore, why should not a slave who is received on board first before the vessel enters the territorial waters be dealt with in the same way?

In Instruction 93 C we submit for your Lordship's consideration that it might be well to omit the first part down to the words "British feelings." For it seems to us sufficient to direct Her Majesty's officers not to break themselves, nor assist others in breaking, the local laws of the country in whose waters their ships may be. And we further think that the direction "not to appear to encourage or countenance the violation of a law, however repugnant that law may be to British feelings," is not unlikely to call forth considerable public comment.

If this omission should be adopted, the word "therefore," which follows almost immediately after "British feelings," should come out.

And we think the word "will" might be used instead of the word "must," which we have underlined.

The word "immediate," also underlined, may lead to some difficulty, and we suggest its omission.

As to 93 D, we think some practical difficulties may arise upon this instruction, from the general terms which are used.

For instance:

1. What part is the Consular authority to take in the examination?
2. Is the Commander of the ship to conduct the inquiry, or the Consular authority, and which of the two is to be the judge of the truth or falsehood of the statement?
3. Upon whom does the burden of proving freedom or slavery lie?
4. If the slave's statement prove false, is the slave to be surrendered; if so to whom, or is he merely to be sent on shore?
5. If, while communicating with the Consular authority, or while applying for further instructions to the Senior Officer of the station, or to the Admiralty, the fugitive is taken out to the high seas, will that affect his status? Can he afterwards be surrendered or sent on shore?

We have, &c.
(Signed) JOHN HOLKER.
J. PARKER DEANE.

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* Consul Hartley, No. 29, June 30; to ditto, No. 10, August 24; to Colonial Office, August 21; Colonial Office, August 31; to ditto, October 7; Colonial Office, October 20, 1875.

† Order in Council, February 21, 1872.

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## Argentine Confederation.

### No. 7.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 1.)

My Lord, *Lincoln's Inn, February* 26, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us papers, as marked in the margin,* relative to the question of the validity in this country of marriages celebrated in the Argentine Republic without the provisions of either of the Foreign Marriage Acts being conformed to; and that he was to request that we would take the papers into consideration, and favour your Lordship with our opinion as to whether marriages performed under the circumstances set forth in the papers can be considered as valid in this country on account of being according to the *lex loci*, or whether it would be better to give a warning of their doubtful legality, and recommending a compliance with one of the Acts of Parliament in order to place the validity of marriages of British subjects beyond dispute.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, marriages celebrated according to the law of the Argentine Republic, as set forth in the papers transmitted to us, between British subjects, are undoubtedly legal, and a warning of their doubtful legality would not be proper.

But we see no objection to a notice being given recommending that, for the purpose of securing evidence of their marriage, British subjects should have their marriages celebrated in compliance with the provisions of the Foreign Marriages Act.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 8.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 23.)

My Lord, *Lincoln's Inn, March* 22, 1875.

WE were honoured with your Lordship's commands signified in Mr. Bourke's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch, and the inclosures, from Her Majesty's Minister at Buenos Ayres,† relative to the marriages of British subjects residing in the provinces of the Argentine Republic; and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to whether any instructions should be sent to Mr. West for his guidance in the matter further than those which were addressed to him in accordance with our Report of the 26th ultimo.

That the draft of the instructions was therewith inclosed for our information.‡

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, no further instructions need be sent to Mr. West.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. West, No 34, January 13; ditto, No. 66, August 6; ditto, No. 106, November 17; Consul Cowper, No. 25, November 16, 1874.

† Mr. West, No. 5, January 29, 1875.

‡ To Mr. West, No. 1, Consular, March 6, 1875.

## Belgium.

### No. 9.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 25.)

My Lord, *Lincoln's Inn, March* 24, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 17th instant, stating that he was directed by your Lordship to request that we would favour your Lordship with our opinion upon the point raised in the accompanying note from the Belgian Minister.*

That Polydore Bourdiol, who is, as appears from the original application for his extradition, a Frenchman by birth, had been surrendered by the British Government to that of Belgium, where he was expected shortly to be sentenced upon the charges which led to the demand for his extradition. That the French Government, who required him to meet accusations of the commission of offences in France, had made a claim upon the Belgian Government for his surrender to them after the expiration of his sentence, and that the latter inquire whether Her Majesty's Government consider that they would be violating the Extradition Treaty with Great Britain if they acceded to that request.

That a copy of the Treaty, which did not contain any Article directly bearing on the point, was inclosed for our guidance.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there is nothing in the Extradition Treaty between Great Britain and Belgium to prevent the surrender by the latter Government of Polydore Bourdiol to the French Government after the expiration of his sentence in Belgium.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## Brazil.

### No. 10.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 3.)

My Lord, *Lincoln's Inn, March* 2, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 8th February ultimo, stating that on the receipt of our Report of the 31st August last, relative to the Anglo-Brazilian claims, your Lordship addressed to Her Majesty's Minister at Rio de Janeiro the instruction, draft of which was inclosed.†

That he (Mr. Lister) was then to transmit to us two despatches from Mr. Buckley Mathew,‡ inclosing a further correspondence with the Brazilian Government upon the subject, and a memorandum drawn up at the Foreign Office,§ showing the conditions

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* Baron Solvyns, March 15, 1875.

† To Mr. Mathew, No. 54, October 5, 1874.

‡ Mr. Mathew, No. 96, November 12; ditto, No. 100, December 22, 1874.

§ Memorandum, February 3, 1875.

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laid down by Mr. Buckley Mathew, on the part of Her Majesty's Government, with regard to the proposal to refer the claims to a Mixed Commission, and the answers made to those conditions by the Brazilian Minister for Foreign Affairs.

That the previous correspondence was also inclosed for convenience of reference;[*] and that he (Mr. Lister) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the course that should now be taken by Her Majesty's Government with regard to the claims in question.

In obedience to your Lordship's commands we have the honour to report—

That the conditions upon which Her Majesty's Government would consent to refer the Anglo-Brazilian claims to a Mixed Commission are so different from the conditions upon which the Brazilian Government would consent to such reference that, in our opinion, it is useless to protract the discussion any further.

But as the British claims are quite distinct, and rest upon grounds totally different from the grounds upon which the Brazilian claims may be founded, we see no reason why the two sets of claims should not be considered and treated separately. We are therefore of opinion that Her Majesty's Government may now properly take measures for bringing the British claims to the notice of the Brazilian Government, and leave that Government to deal as it may think best with the claims of Brazilian subjects.

We presume the proper way of doing this, if your Lordship approves of the suggestion which we have made, will be to instruct Mr. Buckley Mathew to communicate the determination of Her Majesty's Government to the Brazilian Minister.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 11.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 24.)

My Lord, *Lincoln's Inn, March* 22, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 22nd ultimo, stating that he was directed by your Lordship to transmit to us a despatch, and inclosure, from the Acting British Consul at Rio de Janeiro, containing a correspondence he had had with the Acting British Chaplain there, respecting marriages between British subjects in foreign countries, together with an expression of the opinion of the Bishop of the Falkland Islands on the matter; and that your Lordship wished to be favoured with our opinion as to the legality of the marriage alluded to as having taken place in the English church.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the marriages of British subjects solemnized in the English church in Brazil, according to the rites of the Church of England, are perfectly valid in the British dominions. We think, however, that evidence of marriages solemnized in Brazil is better secured when such marriages are solemnized in compliance with the provisions of the Foreign Marriages Acts.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 12.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 5.)

My Lord, *Lincoln's Inn, May* 4, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 9th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch, with its inclosures, from Her Majesty's Chargé

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[*] Mr. Mathew, No. 26, March 24; Law Officers, August 31; Memorandum, December 26, 1874; three bound volumes; four printed memoranda; Aberdeen Act.

d'Affaires at Rio de Janeiro, detailing the circumstances connected with a claim of the Brazilian Government against the Pacific Steam Packet Company, and which the agents of that Company at Rio had declined to pay, on the ground of their having no funds in their possession belonging to the Company.

That in consequence of that refusal on the part of the agents, Her Majesty's Chargé d'Affaires was given to understand that, in all probability, an embargo would be laid upon the next incoming steamer belonging to the Pacific Company, which, owing to the representations he addressed to the Brazilian Government, did not take place.

That Lord Tenterden was also to transmit to us a translation of the Articles of the Brazilian Commercial Code and Regulations referred to in the inclosed correspondence, together with a volume in Portuguese of the entire Code and Regulations; and that he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion in the matter.

That he (Lord Tenterden) was to add that, should we require translations of any of the Articles contained in the volume then sent to us, they would be furnished to us by the Foreign Office on our specifying those which we might require.

We are also honoured with a further letter from Lord Tenterden, bearing date the 22nd ultimo, stating that, with reference to the letter from the Foreign Office of the 9th ultimo, he was directed by your Lordship to transmit, for any observations the Law Officers of the Crown might have to offer thereupon, a further despatch from Her Majesty's Chargé d'Affaires at Rio de Janeiro as to the possibility of an embargo being laid by the Brazilian authorities on the Pacific Steam Packet Company's vessel "Liguria."

In obedience to your Lordship's commands we have the honour to report—

That a Judgment not appealed from has been obtained in Brazil against the Pacific Steam Packet Company, and that Company is liable, under the Judgment, to the payment of a certain sum of money for damages and costs.

The Company has no property in Brazil, but ships, the property of the Company, resort to Brazilian ports for purposes of trade.

The question practically put to us is whether one of these ships can be arrested in a Brazilian port for this debt.

The answer to this question depends upon the law of Brazil. And so far as the extracts from the Brazilian Code supplied to us enable us to form an opinion, we think the ship would not be liable to arrest.

And the course taken by the Brazilian Government, as detailed by Mr. Drummond, confirms that view of the law.

But we think there may be some provisions in the law of Brazil which may legalize the seizure of the property within or coming within the country of persons against whom a Judgment has there been obtained. And Mr. Drummond should be instructed to inform your Lordship on that point, if the matter proceeds further.

As the case now stands, we are of opinion that it offers no ground for further diplomatic communication with the Government of Brazil.

Since drafting the above we have been favoured with Lord Tenterden's note of the 23rd April,[*] forwarding to us a further despatch from Mr. Drummond, but it only occurs to us to add to our above Report that, in our opinion, Mr. Drummond may be properly instructed to follow, in any future case like that of the "Liguria," the same course which he has adopted in respect to that vessel.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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[*] This is a mistake. There was no letter of the 23rd; only two despatches have been received from Mr. Drummond, No. 30, sent on April 9, and No. 32, sent on April 22. The Law Officers must have counted the last twice over.—H. C. E.

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## No. 13.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 11)

My Lord, *Lincoln's Inn, June* 10, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul at Santos (No. 12, April 21, 1875), requesting information in regard to various points connected with a marriage proposed to be celebrated at that Consulate, under the Act 12 and 13 Vict., cap. 68, between two persons resident in his Consular district, one of whom was divorced from her husband by the English Divorce Court in December last; and that he was to request that we would take that paper into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to the questions therein raised by Mr. Consul Dundas.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Consul Dundas may properly be answered :—

That persons divorced cannot contract a second marriage till a decree absolute has been made.

This decree absolute cannot be made within a time shorter than three months in any case. But three months is an exception to the general and almost uniform rule which prevails, that the decree absolute shall not be made till at the end of six months after the decree nisi.

It is not usual to publish the making of the decrees absolute in the papers, and it is not necessary that any legal notification of the decree absolute should be furnished to either of the parties.

Any marriage of a divorced person celebrated before the decree absolute has been made will be null and void.

The ignorance of the Consul is quite immaterial; the objection being that the former marriage is not dissolved, and the capacity to contract a second marriage is wanting.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 14.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 6.)

My Lord, *Lincoln's Inn, August* 5, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd July ultimo, stating that, in our Report of the 4th May, we intimated that we were not in possession of sufficient information as to the law of Brazil to enable us to form a decided opinion as to whether a British vessel could be arrested in a Brazilian port for a debt due by her owners in Brazil, and for which judgment had been obtained from a Brazilian Court of Law.

That he (Lord Tenterden) was directed to transmit to us the accompanying further despatch from Her Majesty's Chargé d'Affaires at Rio de Janeiro (Mr. Drummond, No. 84, June 6, 1875), inclosing translations of the Articles of the Brazilian Commercial Code bearing upon the question; and that he was to request that we would be good enough to acquaint your Lordship whether those documents contained the information required to enable us to come to a definite opinion on the subject.

That the previous papers were inclosed for convenience of reference.*

In obedience to your Lordship's commands we have the honour to report—

That Article 482 of the Commercial Code of Brazil is the only Article set out in the inclosure in Mr. Drummond's despatch No. 84 of June 1875 which bears upon foreign ships.

It seems from that Article that foreign ships can be detained for debts contracted in the Brazilian territory for the use of the said ships or their cargoes.

They can also be arrested when the debt arises out of bottomry.

And also when bills of exchange have been drawn in a foreign country in the case mentioned in Article 651, and they fall due in Brazil. But as Article 651 is not before us, we consequently cannot say what particular class of bills of exchange is referred to.

We are unable, without further information than we at present have, to give your Lordship a more definite answer to the question "whether a British vessel can be arrested in a Brazilian Court for a debt due by her owners in Brazil, for which judgment has been obtained in a Brazilian Court of Law," than the following :—

Where the debt has been contracted in Brazilian territory for the use of the ship and her cargo, or when the debt arises out of bottomry or on a particular class of bills of exchange, and judgment has been obtained, the ship may be arrested. We think it also probable that, in similar cases, the ship may be arrested, by way of security, before judgment. These, however, are questions of Brazilian law, and, as the question appears to be one of great importance, we would suggest the expediency of taking the opinion of some competent Brazilian jurist.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* List.

## No. 15.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 7.)

My Lord, *Lincoln's Inn, August* 27, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 3rd July ultimo, stating that, with reference to our Report of the 12th May, 1874, Mr. Lister was directed by your Lordship to transmit to us the accompanying correspondence,* which has passed since that date, respecting the claims against the Brazilian Government of the Queen Insurance Company, and of Messrs. Taylor and Lyde, agents of that Company.

That the previous correspondence was also inclosed; and Mr. Lister was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the instructions that should be sent to Her Majesty's Chargé d'Affaires at Rio de Janeiro upon the subject.

We are also honoured with a further letter from Lord Tenterden, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Logan, M.P. (August 13, 1875), inclosing further papers relative to the case of the Queen Insurance Company; and Lord Tenterden was to request that we would take the same into our consideration, together with the papers submitted to us in Mr. Lister's letter of the 3rd July ultimo.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That, in our opinion, the case of the Queen Insurance Company offers no pretext for the interference of Her Majesty's Government.

But, so far as we can gather from the papers transmitted to us, and particularly from Mr. Mathew's despatch No. 95, and except so far as the case of Mr. Taylor is affected by his nationality, we are still of opinion that Messrs. Taylor and Lyde are entitled to some compensation from the Brazilian Government.

We presume, however, that, before sending further instructions to Rio de Janeiro, your Lordship will wait to hear what answer, if any, has been given to the note of Mr. Drummond to the Viscount de Caravillas, a copy of which is inclosed in Mr. Drummond's despatch No. 77. In this note, as it appears to us, the whole question has been most effectively placed before the Brazilian Government.

Should no satisfactory answer be received to that note, Her Majesty's Chargé d'Affaires at Rio de Janeiro may, we think, properly be instructed to take no further steps in the matter; for the Brazilian Government would probably yield only to force, and neither the amount of the claim nor the general merits of the case, including the conduct of Mr. Taylor or of Mr. Lyde, would, in our opinion, justify the resort to such a course. Indeed, if the facts be, as stated by the Brazilian Government, and not, as it appears to us, denied by Mr. Taylor, that he is a Brazilian, and not a British subject,

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* List.

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the claim for compensation could hardly be extended to him, though the Brazilian Government have been very late in claiming exemption on this account.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 16.

*The Attorney-General to the Earl of Derby.—(Received October 5.)*

*Lincoln's Inn, October* 4, 1875.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Alston's letter of the 28th September ultimo, stating that he was directed by your Lordship to transmit to me the accompanying correspondence, as marked in the margin,[*] respecting certain persons implicated in a robbery of diamonds at Rio de Janeiro, and who escaped from that city on board an English vessel, the "Helen," bound for this country.

That from that correspondence I would perceive the steps that had been taken by Her Majesty's Government with a view to the apprehension of the persons in question; and that he was to request that I would take the papers into my consideration, and especially the telegram from Her Majesty's Minister at Lisbon of the 25th September, as to the arrest of those persons on board the "Helen" by the Portuguese authorities, should they not land at any Portuguese port where the vessel might touch, and favour your Lordship, at my earliest convenience, with my opinion as to the answer which should be returned to Lord Lytton.

In obedience to your Lordship's commands I have the honour to report—

That, in my opinion, the steps which have been taken by Her Majesty's Government, with a view to the apprehension of the persons alleged by the Brazilian Government to be implicated in the diamond robbery at Rio, are such as were, under the circumstances of the case, so far as they were known to Her Majesty's Government, prudent and proper.

The information afforded to Her Majesty's Government is, however, very meagre, and that communicated by the Chevalier de Sonya Corriâ, who appears to have been in communication with a Paris firm who are amongst the victims of the robbery, adds but little to the telegraphic despatches of Mr. Drummond. It is possible, though hardly probable, that that which is asserted to be "theft" may turn out to be "breach of contract." It is singular that, though the accused absconded on the 30th August, having previously "received" (not "stolen") the diamonds from various merchants, Mr. Drummond does not telegraph until the 10th September, and the Brazilian Minister makes no communication to Her Majesty's Government before the 16th. It is also singular that persons of a class to ship "as seamen" could have imposed upon the diamond merchants.

I telegraphed on Thursday, the 30th ultimo, to Mr. Lister that I thought authority should be given to the Portuguese Government to search the "Helen," in the event of her entering any Portuguese port, and to apprehend the men should there be reasonable proof of their complicity in the robbery. This opinion, upon reconsideration of the case, I confirm.

I think Lord Lytton was quite right in stipulating (see his telegram of the 16th September), that the action of the Portuguese Government should be on the application of the Brazilian Minister.

I have, &c.
(Signed) RICHARD BAGGALLAY.

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[*] Mr. Drummond (Telegraphic), September 10; to ditto, No. 62, September 11; to Home and Colonial Offices, September 11; Mr. Drummond (Telegraphic), September 13; Colonial Office, September 13; to Lord Lytton (Telegraphic), September 14; Home Office, September 14; Lord Lytton (Telegraphic), September 16; Chevalier de S. Corriâ, September 16; to Home and Colonial Offices, September 20; to Chevalier de S. Corriâ, September 20; Chevalier de S. Corriâ, September 24; to Home Office and Board of Trade, September 25; Board of Trade, September 25; Lord Lytton (Telegraphic), September 25; Home Office, September 25; to the Earl of Derby (Telegraphic), September 27; Chevalier de S. Corriâ, September 27; Home Office, September 23, 1875.

## No. 17.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October 20.)*

*Lincoln's Inn, October* 16, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 29th September ultimo, stating that he was directed by your Lordship to transmit to us therewith the correspondence marked in the margin,[*] respecting a claim made in Brazil by the Viscount de Mana against the English Company called the San Paulo Brazilian Railway Company (Limited); and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the steps which it would be advisable for your Lordship to take in the matter.

In obedience to your Lordship's commands we have the honour to report—

That your Lordship cannot, in our opinion, properly interfere in the matter, which is before the proper Brazilian Tribunals.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 18.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received November 5.)*

*Lincoln's Inn, November* 4, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 26th October ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Chargé d'Affaires at Rio de Janeiro,[†] calling attention to a law lately passed in Brazil, providing for the trial and judgment of crimes committed in foreign countries against Brazil and Brazilians, some of the provisions of which law would apparently have the effect of rendering British subjects liable in Brazil to punishment for acts done out of Brazilian jurisdiction.

That he (Mr. Lister) was also to inclose a letter from the Home Office, expressing the opinion of Her Majesty's Secretary of State for the Home Department upon the law in question; and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the course that should be pursued by Her Majesty's Government in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Drummond may properly be instructed to officially inform the Brazilian Government that Her Majesty's Government cannot allow the trial or punishment of British subjects in Brazil for offences committed beyond Brazilian territory and in places not within Brazilian jurisdiction.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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[*] Mr. Heath, September 5; to ditto, September 10; to Mr. Mathew, September 14; Mr. Mathew, October 21; to Mr. Heath, November 19; Mr. Heath, November 23; to ditto, November 26, 1874; Mr. Heath, September 21, 1875.

[†] Mr. Drummond, No. 122, Confidential, August 7, 1875.

# Central America.

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## No. 19.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received February* 23.)

My Lord, *Lincoln's Inn, February* 22, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us the correspondence, as marked in the margin,* relating to a claim preferred against the Honduras Government by Mrs. Mitchell, on account of property belonging to her husband, who was assassinated in November 1873; and that he was to request that we would favour your Lordship with our opinion whether, in view of the Report by Mr. Vice-Consul Debrot upon the case, Her Majesty's Government can properly interfere regarding it.

In obedience to your Lordship's commands we have the honour to report—

That, assuming the statement of Mr. Vice-Consul Debrot to be correct, we are of opinion that Her Majesty's Government cannot properly interfere on behalf of Mrs. Mitchell.

We have, &c,
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 20.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 12.)

My Lord, *Lincoln's Inn, May* 11, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd March ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Mr. Locock, Her Majesty's Minister in Central America (No. 12), relative to the claim of Mr. Hilario Goussen to be refunded a sum of money levied upon him in 1863 by the Government of Nicaragua as a military contribution, from the payment of which he claimed exemption on the ground of British nationality.

Lord Tenterden stated that we would see from this despatch, which contains a full history of the case, that Mr. Goussen's claim has been hitherto supported by Her Majesty's Government, under the advice of the Law Officers of the Crown, mainly on the ground that a note addressed to Mr. Goussen on the 8th April, 1863, by Señor Castillo, the Minister of the Interior of Nicaragua, contained a direct and official recognition of the British nationality of Mr. Goussen, followed by the promise of an order to restore the money collected under the forced loan.

Lord Tenterden stated that Mr. Locock, however, is of opinion that the translation of Señor Castillo's note furnished to Her Majesty's Government was not quite accurate, and that it is doubtful whether its true meaning is such as to justify Her Majesty's Government in further supporting the claim.

In these circumstances, Lord Tenterden was to request that we would take Mr. Locock's despatch into our consideration, together with the former papers which are sent herewith, and that we would favour your Lordship with our opinion as to the course that should now be taken in the matter.

Lord Tenterden stated that we would observe that at the date of Mr. Locock's despatch he had not received your Lordship's despatch No. 3 of the 9th February ultimo, by which he was instructed to insist upon a settlement of Mr. Goussen's claim.

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* List.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we have carefully considered, in connection with the former papers relating to this matter, the despatch of Mr. Locock of the 21st January, 1875, and the translation inclosed in it of Señor Castillo's letter to Mr. Goussen of the 23rd April, 1863, and are of opinion that the letter of Señor Castillo, though without seal, cannot be regarded otherwise than as an official recognition by the Nicaraguan Government of Mr. Goussen's British nationality, and as an official promise to restore the money exacted from him under the idea that he was a Nicaraguan subject.

Having regard, however, to the fact that Mr. Goussen abstained for many years from asserting his nationality, and eventually merely made use of it to escape a pecuniary liability to the country of which he had become, so far as lay in his power, a citizen, and bearing in mind the change in our own law made in 1870, which would prevent Her Majesty's Government, if the matter were now to be dismissed *ab integro*, from alleging that Mr. Goussen was a British subject in 1863, we would suggest that the present is not a case in which Her Majesty's Government would be willing to have recourse to measures of force; and we would suggest that it is not a case of sufficient importance to be made the subject of arbitration or reference to a third person.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 21.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 17.)

My Lord, *Lincoln's Inn, August* 17, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd July ultimo, stating that he was directed by your Lordship to transmit to us the accompanying corrrespondence, as marked in the margin,* relative to the complaint of Mr. T. J. D. Mackintosh, that the Government of Ecuador had failed to carry out properly certain arrangements come to in 1857 and 1858 for the settlement of a claim which he now represents; and that he (Lord Tenterden) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in pressing Mr. Mackintosh's claim on the Government of Ecuador.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Government will, in our opinion, be justified in continuing to press the claim of Mr. Mackintosh on the Ecuador Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 22.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 10.)

My Lord, *Lincoln's Inn, September* 1, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 5th August, stating that, with reference to our Report of the 4th May, 1874, he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,† relative to certain claims against the Government of Honduras on account of losses sustained by British subjects at Omoa in 1873, owing to the acts of General Streber, an officer in the service of the Honduras Government.

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* Mr. Hamilton, No. 5, May 23, 1875; List.
† Mr. Crawford, No. 10; Mr. Cowper, June 30; List.

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That we would see that, in consequence of the acts in question, Sir Lambton Loraine, Commander of Her Majesty's ship "Niobe," took energetic measures, which resulted in General Streber's giving a bond that compensation should be paid to British subjects for the losses sustained by them,[*] and that Sir L. Loraine's proceedings were fully approved by Her Majesty's Government, who informed the Honduras Government that they would be held responsible for the fulfilment of the conditions contained in the bond given General Streber.

That some time afterwards Her Majesty's Government received communications from various British subjects representing that they had suffered heavy losses owing to the occurrences above referred to, and urging their claims to compensation.

That Her Majesty's Government feeling some doubt as to whether the amount of these claims was not exaggerated, and being unwilling to demand from the Honduras Government any payment for which they are not justly liable, directed Mr. Francis H. Cowper, British Vice-Consul at Trinidad de Cuba, to proceed to Belize and Omoa to investigate and report upon the claims in question.

That Mr. Cowper's Report, which was sent therewith, shows that the claimants have in fact suffered heavy losses; but it also shows that, as regards several of the claims, the goods plundered were not at the time the property of British subjects, having been furnished on credit to Honduras firms, who, having been ruined by the acts of General Streber, are unable to pay for the said goods, thereby entailing heavy loss upon the British firms who supplied them.

That under these circumstances, Lord Tenterden stated, he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government should support the claims of Messrs. Johnston and Co., and the other firms similarly situated.

Lord Tenterden also further stated that your Lordship would also be glad of our opinion on the claim of Mr. Vice-Consul Debrot, and generally, upon the whole case; and as to what steps it would be advisable for Her Majesty's Government to take, should we consider that the claims, or any of them, are entitled to support.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That, in our opinion, the losses incurred by Messrs. Johnston and Co., and the other firms similarly situated, are too indirect to justify the support by Her Majesty's Government of any claim made by them or on their behalf.

But the losses of Mr. Vice-Consul Debrot are of quite a different kind, and Her Majesty's Government may properly, in our opinion, require that he should be completely paid, in money or approved security, the amount of those losses.

Some evidence of the amount lost by Mr. Debrot may reasonably be required by the Honduras Government, and Mr. Debrot must be prepared to give the best evidence on this head which in the circumstances he can furnish.

We beg, however, to call your Lordship's attention to the question raised by Mr. Cowper, whether Mr. Debrot is to be regarded as a British subject. He is said to have been born under the Dutch flag, nothing is said of the nationality of his father or mother, he does not appear to have been naturalized as a British subject, and his official position as a British Vice-Consul will not entitle him to the protection of Her Majesty's Government in respect of his private or mercantile property.

Your Lordship, therefore, will probably think it right to direct that Mr. Debrot's nationality be ascertained, in order that, if not entitled to British protection, he may have the opportunity of resorting to his own Government.

We have, &c.  
(Signed) RICHARD BAGGALLAY.  
JOHN HOLKER.  
J. PARKER DEANE.

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[*] It will be found in the Admiralty letter of January 30, 1874; a translation is in Mr. Schoppitt's No. 69 of 1873.

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## China.

### No. 32*

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 29.)*

My Lord, *Temple, May* 29, 1872.

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 24th instant, stating that he was directed by your Lordship to transmit to us two despatches from Her Majesty's Minister at Peking,[*] relative to the question of the protection of British subjects of Chinese origin in China; and he was to request that we would take the papers into consideration, and report to your Lordship our opinion as to the allegiance due from those persons to the Chinese Government, and as to the instructions which should be sent to Her Majesty's Minister with regard to their protection.

The correspondence, alluded to by Mr. Wade, respecting the adoption by the Anglo-Chinese of a distinguishing costume, was inclosed therewith for reference.

In obedience to your Lordship's commands we have the honour to report—

That in cases of persons of Chinese origin in China where the status of a British subject has been properly established, and is duly certificated, he is bound to obey the Laws and Regulations of the place in which he may be either residing or travelling, but he owes no allegiance to the Chinese Government, and is entitled to the protection of the British Government, limited by, and subject to, the conditions which Her Majesty's Government, in consideration of the Government of China, or national peculiarities of the Chinese, may think it right to impose.[†]

We see no reason why, as a condition of this protection, a particular costume (as provided by Sir R. Alcock's Notification of the 7th October, 1868), should not be imposed.

But Her Majesty's Minister at Peking will be able to form an opinion whether any modification is required, and he might be instructed to confer with the Chinese Government on the matter.

When the conditions for protection have been settled, Her Majesty's Minister should be instructed to make it known to the Anglo-Chinese that they will be in Chinese territory entitled to the protection of Her Majesty's Government only on their compliance with the conditions.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

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[*] Nos. 5 and 6.

[†] See Sir J. Pauncefote's Memorandum of March 15, 1879, No. 3865 Print.

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# Chile.

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## No. 23.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received February* 16.)

My Lord, *Lincoln's Inn, February* 15, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 2nd instant, stating that, with reference to our Report of the 19th December ultimo, and to previous correspondence respecting the claim of Captain Hyde, of the "Tacna," to compensation from the Chilean Government on account of his arrest and imprisonment in Chile, Mr. Bourke was directed by your Lordship to transmit to us, together with the former papers, a further correspondence that has taken place upon the subject, from which Mr. Bourke stated that we should see that the Chilean Government has proposed that Captain Hyde's claim should be referred to arbitration.

Mr. Bourke stated that Her Majesty's Government have determined to accept this proposal; but as the form of words in which their acceptance is conveyed to the Chilean Minister will be the basis of the question to be put to the Arbitrator, Mr. Bourke further stated that your Lordship is of opinion that great care should be taken in regard to the terms used.

Mr. Bourke was accordingly to request that we would be good enough to draw up and submit to your Lordship, at our earliest convenience, the form of words in which we think it advisable that the assent of Her Majesty's Government to the proposed arbitration should be signified.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we have carefully considered the papers transmitted to us by Mr. Bourke, and the opinion of your Lordship, as expressed by Mr. Bourke, that great care should be taken in regard to the terms used in signifying to Señor Blest Gana the assent of Her Majesty's Government to the proposal of the Chilean Government, that Captain Hyde's claim should be referred to arbitration.

In obedience to your Lordship's commands we have drawn up and submit to you the following draft of a form of words in which the assent of Her Majesty's Government may properly be signified:—

"M. le Ministre,

"I have the honour to inform you that Her Majesty's Government has carefully considered the proposal of your Government, communicated by you to me in your letter of the 21st January, that the claim of Captain Hyde, of the 'Tacna,' for compensation on account of his arrest and imprisonment in Chile should be referred to arbitration.

"Her Majesty's Government regrets that there should be any difference of opinion between the two Governments upon this, or upon any other subject, and is most anxious that when, unfortunately, such difference does arise, the amicable relations between the two countries should not be disturbed, and the best means should be resorted to for a solution of the disputed question.

"Her Majesty's Government, therefore, willingly assents to the proposal of the Chilean Government that the claim of Captain Hyde should be submitted to arbitration.

"It is, however, necessary that the terms of the question to be so submitted should be precisely defined, freed from all ambiguity, not obscured by the introduction of any irrelevant matters, and confined to the very points in issue.

"With this view Her Majesty's Government suggest that the question submitted to the Arbitrator be—

"'Whether the Chilean authorities, having illegally, as decided by the Chilean

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Supreme Court, arrested a British subject, the British Government has the right, on behalf of that British subject, to claim compensation for the arrest.'"

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 24.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 8.)

*Lincoln's Inn, May* 7, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th March last, stating that he was directed by your Lordship to transmit to us the papers in the "Tacna" case which had already been laid before us.

That your Lordship was of opinion that the Chilean Government could not be expected to agree to submit the question to the Arbitrators which was contained in the last paragraph of our Report of the 15th February.

That your Lordship would be glad if we would be good enough to reconsider the whole question, bearing in mind that the matter in dispute was now reduced to a single point, viz., the claim of Captain Hyde for compensation.

That your Lordship would also be much obliged if we would inform him whether, in our opinion, the proposal for arbitration might not be met by an offer to accept the good offices of the German Government as a mediator to assist the two Governments in arriving at an amicable settlement.

And that he (Lord Tenterden) was further directed by your Lordship to ask us to be good enough to consider and settle the accompanying draft answer to the Chilean Government, which had been prepared in that sense, and to report whether we agreed in its terms and thought Her Majesty's Government might safely send such an answer to the letter from the Chilean Minister of the 31st January.

In obedience to your Lordship's commands we have the honour to report—

That our Report of the 15th February was made in reply to Mr. Bourke's letter of the 2nd February, by which we were informed that Her Majesty's Government had determined to accept the proposal of the Chilean Government that the claim of Captain Hyde should be referred to arbitration, and that your Lordship desired that we should draw up the form of words in which we thought it advisable that the assent of Her Majesty's Government to the proposed arbitration should be signified.

Under these circumstances, though it occurred to us that the Chilean Government would probably not consent to such a limited form of inquiry, we were of opinion that, unless the question submitted to the Arbitrator was expressed in some such terms as those set out in our Report, the result of the reference would most probably be unfavourable to the claim; it further occurred to us that, upon the refusal of the Chilean Government to accept an arbitration upon the question as proposed, or upon their suggestion of any modification in the terms of the question, a convenient opportunity might be afforded of obtaining the payment of a small sum by way of a final settlement.

The question which is now, by your Lordship's direction, submitted to us, is one rather of policy than of law; but, so far as we are in a position to express an opinion upon it, it appears to us that the course suggested of inviting the good offices of the German Government as mediator affords probably the best chance of solution of a very troublesome question; and in this view we think the form of answer which it is proposed to send to the Chilean Government may well be adopted.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## China.

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### No. 25.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received January* 11.)

*Lincoln's Inn, January* 9, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st December ultimo, stating that he was directed by your Lordship to transmit to us a letter from the North China Insurance Company, relative to the importance of arrangements being made, at an early date, by which public Companies, having their head-quarters at Shanghae, could be registered under the Joint Stock Companies Act.

That the revised Order in Council which it was proposed to substitute for the Order in Council for China and Japan of 1865 contained the following clause:—

"XXI. For the purposes of the Companies Act, 1862, the Chief Judge of the Supreme Court for the time being shall have all the power and authority which the Board of Trade has under the said Act, so far as the same relates to the registration of public Companies within the jurisdiction of the Supreme Court, and the Registrar of the Supreme Court shall have the like power and authority as the Registrars appointed by the Board of Trade under the said Act."

That the draft of the revised Order in Council, with the exception of the clauses relating to deportation, was approved by the late Law Officers, but its issue was delayed until the Acts for legalizing deportation, which were being prepared in accordance with our letter of the 23rd July, had been passed; and that he (Lord Tenterden) was to request us to report to your Lordship our opinion whether the clause quoted above would provide the facilities required by the North China Insurance Company, and whether, in view of the importance of such facilities being granted at an early date, there would be any objection to the immediate issue of the clause, either as a substantive Order in Council or as a supplement to the existing Order of 1865, pending the issue of the revised Order in Council.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, a clause somewhat varied in language from that quoted in Lord Tenterden's letter might provide facilities for the North China Insurance Company, if the "Companies Act, 1862," were applied to China and Japan by Order in Council.

But as we are not aware that this has ever been done, we do not think that the immediate issue of the clause, as proposed in Lord Tenterden's letter, would be of any advantage to the North China Insurance Company.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No 26.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received February* 2.)

*Lincoln's Inn, January* 30, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 31st December ultimo, stating that he was directed by your Lordship to transmit to us a despatch from Sir Edmund Hornby (No. 14, Consular), requesting to be informed of the views of Her Majesty's Government as to Consular jurisdiction over persons on board ships in the waters of China when the nationality of such persons is different from that of the ship to which they belong.

Mr. Bourke stated that this question has arisen with reference to a Circular (of which a copy was annexed) issued by the United States' Consul-General at Shanghae

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in the year 1868, as to the jurisdiction claimed by him over American citizens on board ships of other nationalities or over foreign subjects on board American ships; and Mr. Bourke was to request us to take the papers into our consideration, and to report to your Lordship our opinion as to the instructions which should be sent to Sir E. Hornby on the subject.

A copy of the Order in Council for China and Japan of 1865 was annexed for convenience of reference.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we have carefully considered the Circular of Mr. Seward, the despatch from Sir E. Hornby, the Order in Council of the 9th March, 1865, and the other documents, whether Treaty or Statute, which seemed to us to bear upon the question submitted to us by your Lordship.

No Treaty which we know of gives a jurisdiction to a foreign Court to try and punish as criminals the subjects of another foreign country. The utmost criminal jurisdiction which could properly be given by Treaty to a foreign Court would be over the subjects of that foreign Power.

Accordingly the Order in Council is confined to persons who are subjects of Her Majesty.

And Mr. Seward is, in our opinion, quite right in the argument which he follows out in pp. 2, 3, and 4 of his Circular, showing that where offences not connected with the discipline and internal management of the ship, but of a graver and distinct degree and kind, are committed, a foreign Court in China has no jurisdiction save over the subjects of the foreign Power under whose authority such Court is constituted.

We also agree with Mr. Seward that the fact of forming one of the crew of a foreign ship will not, in cases of grave offences, give the foreign Court a jurisdiction over the offender, unless he be a subject of the country under whose flag the ship sails. In signing articles, we are of opinion that the foreign seaman does no more than submit to the discipline of the ship according to the law of the country, and that he cannot be held to have become for all purposes a subject of the country, or made amenable to the criminal laws of the country to which the ship may belong.

Sir E. Hornby comments with considerable force upon the great inconveniences which may arise in some cases, and the immunity the seamen of some foreign countries, and serving on board British ships, may derive from the operation of this principle.

But this inconvenience and immunity will not justify the exercise of a jurisdiction which does not properly exist, and the remedy, as Mr. Seward points out, will be in such cases to hand over the offenders either to the proper Representative of the country to which he may belong or to the Chinese authorities.

We do not deem it necessary to trouble your Lordship with our opinion whether Sir E. Hornby or Mr. Seward be right as to the principle that territoriality lies at the basis of criminal jurisdiction, for we think for the present purpose it is sufficient to say that for a criminal offence committed on board a British ship in Chinese waters by a foreigner, whether he belong to the ship or not, such foreigner cannot be tried or punished by a British Court sitting in China.

And we are of opinion that Sir E. Hornby may be properly instructed that Her Majesty's Government agrees with the views expressed by Mr. Seward in his Circular on the subject of jurisdiction over foreigners on board ships of a nationality not their own, and that Sir E. Hornby may inform Mr. Seward to that effect.

We submit, however, for your Lordship's consideration, that it may be worth while to ascertain whether the United States' Government has approved of Mr. Seward's Circular, which is dated the 3rd August, 1868, and defer instructing Sir E. Hornby till this information has been received.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## No. 27.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 19.)

*Lincoln's Inn, May* 19, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 24th March last, stating that our Report of the 30th January, as to the right of Consular jurisdiction over persons on board ships in the waters of China, when the nationality of such persons was different from that of the ship to which they belonged, was communicated to the Board of Trade; and that he (Lord Tenterden) was directed by your Lordship to transmit to us, for such observations as we might have to offer upon it, a letter from that Department (March 17) giving their views on the subject.

That the correspondence already submitted to us was annexed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That the Board of Trade, in their letter of the 17th March appear to have misapprehended the purport and effect of the Report which we had the honour to make to your Lordship under date the 30th January last.

The question which was then submitted for our consideration had reference to Consular jurisdiction in respect of offences committed on board ships in the waters of China; and, in reference to that question, our attention was directed to a Circular, issued in 1868 by Mr. Seward, the United States' Consul-General at Shanghae; in our Report to your Lordship, we stated that we concurred in the views expressed by Mr. Seward that in respect of offences not connected with the discipline and internal management of the ship, but of a grave and distinct degree and kind (such as were referred to by Mr. Seward as offences of which, in a port of Christendom, jurisdiction would be taken by the authorities of the country in which the offence was committed, and not by the Consular Representative of the country whose flag the ship carried), a foreign Court in China had no jurisdiction, save over the subjects of the Power by whose authority the Court was constituted; and to this opinion, after full consideration of the subject, we adhere.

The special jurisdiction exercised by a British or United States' Consul, in respect of grave offences committed on board ships in the waters of China, is quite distinct from his ordinary Consular jurisdiction, by virtue of which he takes cognizance of offences connected with ordinary matters of discipline and management; the special jurisdiction is regulated by Treaty, and can only be exercised by him over the subjects of Great Britain or the United States, as the case may be. The passage, however, in our Report to which particular exception appears to have been taken by the Board of Trade is in the following terms: "We also agree with Mr. Seward that the fact of forming one of the crew of a foreign ship will not, in case of grave offence, give the foreign Court a jurisdiction over the offender, unless he be a subject of the country under whose flag the ship sails. In signing articles, we are of opinion that the foreign seaman does no more than submit to the discipline of the ship according to the law of the country, and that he cannot be held to have become, for all purposes, a subject of the country, or made amenable to the criminal laws of the country to which the ship may belong." After quoting this passage, the Board of Trade observe: "The principle now affirmed by the Law Officers is a very wide one. They do not confine themselves to the case of a crime committed by a foreigner belonging to a British ship when on shore, or even to a crime committed by him on board ship when the ship is within the territorial jurisdiction of a third country, but they assert broadly that grave offences committed by a foreign seaman on a British ship, wherever she may be, cannot be punished by British Courts." The letter then proceeds with a lengthened argument to show that it has been the constant practice of this country to punish crimes committed under the British flag on the high seas, without regard to the nationality of the offender; a proposition which we have never denied nor should ever think of denying. But here we feel bound to observe, with every respect for the Board of Trade, that we have never expressed any opinion to the effect that grave offences committed by a foreign seaman on a British ship, wherever she may be, cannot be punished by British Courts.

The opinion which we have expressed, and to which we adhere, was and is, that the fact of the foreign seaman forming one of the crew of a British ship does not, for all purposes, render him a subject of Great Britain or make him amenable to the criminal laws of Great Britain. In the case of an offence committed by a foreign

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seaman on board a British ship on the high seas (and consequently within the territorial jurisdiction of Great Britain), it is clear that the offender could be punished by any British Court which has cognizance of such matters; but a British Consular Court in China has no such general jurisdiction.

A variety of cases are cited in the Board of Trade letter; but, upon examination, it will be found that they have no bearing upon the question upon which our Report of the 30th January was made. In the cases of the Queen *v.* Lopez and the Queen *v.* Sattler, and in Lesley's case, the offences were committed on the high seas; whereas, in the question before us, it was assumed that the offence was committed, not on the high seas, but within the territorial waters of China; and in the case of the Queen *v.* Anderson the jurisdiction was exercised, not by a Consular officer exercising a local jurisdiction conferred and limited by Treaty, but by the Central Criminal Court, which had a general jurisdiction.

As regards the quotations from Ortolan's Diplomatie de la Mer, Kent's Commentaries, Wheaton's Elements of International Law, and Phillimore's International Law, we would only observe that they in no respect bear upon the question of the jurisdiction of foreign Tribunals within the territorial limits of another country, when the right to exercise such jurisdiction has been ceded by Treaty.

We observe in the Board of Trade letter a passage in the following terms: "Where any country has, by such Treaties as China and Siam have made with us, waived its territorial jurisdiction over British subjects, the true effect is to leave each nation to exercise its own jurisdiction as if no territorial jurisdiction existed; in other words, in the same way as if the ship were still on the high seas;" if, by this passage, it is intended to imply that a seaman who, when in Chinese waters, would not, but for the Treaty, be treated as a British subject, must be so treated by reason of the Treaty, we cannot assent to the proposition; if this were so, the status of a subject of another Power would be affected by a Treaty to which such Power was not a party.

At the time when we made our Report in January last we were not aware of the Report made by the Queen's Advocate in January 1872, to which reference is made in the Board of Trade letter, but a perusal of it has not led us to alter the opinion which we then expressed.

We, however, agree with the Board of Trade in thinking that the question is one which should be very carefully considered before any definite arrangement upon the subject is come to between Her Majesty's Government and that of the United States; and we submit this the more readily for your Lordship's consideration, because, as your Lordship is aware, there is a case pending at the present time, in which a British subject borne on the books of an American man-of-war, having whilst on shore in Japan committed an offence, was first brought before the American Consul, who disclaimed jurisdiction, and was afterwards brought before the British Consul, who punished him, but which act of the British Consul has been made the subject of remonstrance by the American Minister in Japan.

We have, &c.  
(Signed) RICHARD BAGGALLAY.  
JOHN HOLKER.  
J. PARKER DEANE.

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### No. 28.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 23.)

*Lincoln's Inn, July* 23, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 5th instant, stating that, with reference to our Report of the 23rd July last, he was directed by your Lordship to transmit to us a draft Bill which had been prepared by Sir H. Thring, in communication with Mr. F. S. Reilly, for legalizing deportation from China and other foreign countries in which the Queen had jurisdiction; and that he was to request us to take that draft into our consideration, and report to your Lordship our opinion thereupon at our earliest convenience.

That the previous correspondence relating to the question, together with the clauses of the revised Order in Council relating to deportation, were annexed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That the draft does not, in our opinion, sufficiently meet the difficulties for which

it is intended to provide; and we have therefore prepared, and submit for your Lordship's consideration, the following draft:—

"Whereas in the several Orders in Council made in pursuance of the Foreign Jurisdiction Acts, and specified in the Schedule to this Act, provisions are made for the deportation of prisoners from the territories and places to which such Orders respectively apply:

"Be it enacted, &c.:

**Foreign Jurisdiction Acts Amendment.**

"That the said provisions of the said several Orders in Council shall be, and the same are, hereby confirmed and made valid for all purposes as from the time of the making thereof; and it shall be lawful for Her Majesty in Council, in any future Order to be made under the said Acts, to make provision for the like purposes; and anything done or to be done under the provisions by this Act confirmed or authorized, whether done or to be done beyond the limits of the territory or place to which the Order in Council containing such provisions applies, shall in all Courts in any of Her Majesty's dominions be deemed to have been legally done.

"(Schedule.)"

We think the Orders should be specified in a Schedule; and that Parliament should not be asked to ratify all Orders in Council issued under the Foreign Jurisdiction Acts without having the opportunity of inspecting them.

We have, &c.  
(Signed) RICHARD BAGGALLAY.  
JOHN HOLKER.  
J. PARKER DEANE.

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## France.

### No. 29.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 3.)

*Lincoln's Inn, March* 1, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 13th ultimo, stating that, with reference to our Report of the 15th May last, he was directed by your Lordship to transmit to us a letter from Mr. Pender, inclosing a further statement from the Scottish Mineral Oils Association, relative to the import duty levied in France on British mineral oils.

That Mr. Bourke also inclosed a memorandum on that statement, and a Report in the matter from Lord Lyons.

That the previous correspondence would be found in the papers in the accompanying volume of printed correspondence; and that Mr. Bourke was to request that we would take that question again into consideration, and favour your Lordship, at our early convenience, with our opinion as to the course which Her Majesty's Government should take with regard to that renewed application on the part of the Scottish Mineral Oils Association.

We are also honoured with a further memorandum from Mr. Bourke, bearing date the 17th ultimo, stating that he was directed by your Lordship to transmit to us, with reference to his letter of the 13th instant, further papers, and to request that they might be taken into consideration with respect to the question of duties on mineral oils imported into France.

In obedience to your Lordship's commands we have the honour to report—

That the Treaty of 1873, construed by the letter, seems to us to justify the course taken by the French Government in fixing the duties on British refined oils, the

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imposition of which forms the ground of complaint on the part of the Scottish Mineral Oil Association, and this appears to be admitted in the statement of the Association that "nominally the refined oils of both countries are charged the same."

Exception is taken to the option given to oil-makers in France of having their oil taxed in the crude state, and it is said that the British oil-maker is practically shut out from such option; and it is further urged that the specific gravity of French burning oils is such that a considerable quantity of that oil is not taxed at all.

We are not sufficiently acquainted with the manufacture and nature of these oils to be able to advise your Lordship with any confidence upon those points, which require a special knowledge; and we are unable to say whether the tests applied to oils by the French authorities really determine the condition in Article IV of the Treaty, that the oils manufactured in France be "like" the oils imported, or intended to be imported, into France.

Still, the statement made by the Association, that the Treaty, however kept to the letter, is yet nullified by the modes of imposing the duties in France, seems so reasonable that we advise your Lordship that before any further answer is sent to the Association, or any communication made to the French Government, the opinion of some independent person acquainted with the manufacture and qualities of mineral oils should be obtained upon the statement and reply of the Association.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 30.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 30.)

*Lincoln's Inn, March* 30, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 23rd February ultimo, stating that, with reference to our Report of the 27th August last, and to the previous Reports of the Law Officers on the British mineral oils claims in France, he was directed to transmit to us two letters from Mr. Pender, M.P. (January 29 and February 18, 1875), inclosing representations in this matter from Young's Paraffin Light and Mineral Oil Company.

That the following appeared to be the principal points in the inclosed papers:—

1. A statement of the subject-matter of Messrs. Young's complaint against the French Government.

2. A complaint that Messrs. Young, in the Award of the Mixed Commission, had not received the full benefit of the stipulations of Article IV of the Treaty of the 23rd July, 1873.

3. A representation that the outstanding claim of Messrs. Namshauer (which more especially formed the subject-matter of our Report of the 27th August last) was then ready for adjudication.

4. A representation that in certain instances the rate of interest to be paid was 6 per cent. instead of 5 per cent., as stated in the Award of the Mixed Commission.

5. A representation as to the position of Messrs. Young in regard to certain of these claims preferred by persons who were also their debtors, and whose estates were then in bankruptcy.

That Mr. Bourke was at the same time to transmit to us two volumes of printed correspondence which contained the previous papers in this matter, copies of the Treaties of 1860 and 1873 referred to, and of the Award of the Mixed Commission, together with a list of the papers which chiefly bore upon each of the points above stated.*

That Mr. Bourke was to request that we would take this matter into consideration, and that, at our early convenience, we would favour your Lordship with our opinion on each of the points above adverted to, as well as on any others which might occur to us in the perusal of the inclosed papers; and that we would also state our opinion what answers in respect of them should be returned to the applicants, and what steps, if any, Her Majesty's Government should take with regard to those several representations.

In obedience to your Lordship's commands we have taken this matter into our consideration, and have the honour to report—

That we believe that the principle governing the several points submitted to your Lordship by Messrs. Young under heads 1 and 2 of their statement have already been reported upon by us and the former Law Officers. But there may be some exceptional cases in which a representation may properly be made to the French Government on behalf of Messrs. Young, and those gentlemen should, in our opinion, be asked to state in detail these exceptional cases and the particular grounds on which they think that they are entitled to relief.

Upon the general principle we see no reason to alter the opinions which have already been reported to your Lordship and to Lord Granville.

We are of opinion that the Commissioners cannot, as Messrs. Young seem to think and wish, reopen any case on which they have made their Award.

If, however, no Award has been made in Namshauer's case (see printed Award, p. 14), we see no reason why the Commissioners should not make their Award on that case.

The rate of interest as settled by the Commissioners cannot, in our opinion, be altered.

We are opinion that Messrs. Young cannot obtain any indemnification for the losses which they may have incurred by the bankruptcy of their debtors.

Messrs. Young cannot, in our opinion, make any claim upon the French Government because they have advanced out of their own moneys certain payments provided by the French Treasury. Nor do we see how the French Treasury can be required to pay out to Messrs. Young the fund upon which alleged creditors of Messrs. Young have put something like a *distringas*. Messrs. Young may therefore, in our opinion, properly be answered that if they will point out the specific cases in which they are losers by the difference between the amounts awarded by the Commissioners and the damages found by the French Courts, the amount of the loss, and the assigned reason for the difference between the two sums awarded and found, Her Majesty's Government will consider whether any and what representation should be made to the French Government. But that the rate of interest given by the Commissioners, the losses consequent upon the bankruptcy of Messrs. Young's debtors, and the loss of interest by payment to the creditors of Messrs. Young out of their own funds instead of out of the fund provided by the French Government, and the *distringas* put upon the funds in the French Treasury, cannot be made the subject of any representation whatever.

And that there is no objection to the Award in Namshauer's case being made as soon as the Commissioners are ready to entertain it.

When your Lordship has received from Messrs. Young the particulars which seem to us necessary, and which we have above named, your Lordship will, in our opinion, be better able to form a judgment whether any of the cases of complaint put forward now generally only afford real grounds for representation to the French Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 31.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 20.)

*Lincoln's Inn, April* 19, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 5th instant, stating that he was directed by your Lordship to acknowledge the receipt of our Report of the 30th ultimo on the subject of the mineral oils claims in France, and to state to us that your Lordship wishes to place before us the following observations in regard to two of the matters to which it relates:—

In the first place, with reference to the paragraph in which we express our opinion that Messrs. Young may be informed that, "if they will point out the specific

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* Parts VI and VII; Treaties of 1860 and 1873; Award of Mixed Commission; List.

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cases in which they are losers by the difference between the amounts awarded by the Commission and the damages found by the French Courts, the amount of the loss, and the assigned reason for the difference between the two sums awarded and found, Her Majesty's Government will consider whether any or what representation should be made to the French Government." Mr. Lister was to observe that this information appears to be contained in the present papers on this question. The Parliamentary Paper which contains the Award of the Mixed Commission gives the complete list of the suits in which Messrs. Young have been engaged. The letter from that firm which forms Inclosure 2 in No. 149 of Part VII of the printed correspondence contains a list of the suits which have been settled in conformity with the terms of the Award. Accordingly, on removing these latter suits from the general Tables in the Parliamentary Paper, which has been done in the inclosed copy of it, that we perceive the suits still unsettled in regard to which Messrs. Young contend, in Mr. Pender's letters of the 29th January and the 18th February last, that they are losers in respect of the difference between the two sums above mentioned. The amount of this difference, as appears from the general Table, is the amount of the duties to payment of which the right of the French Government has been admitted, under the advice of the Law Officers, in the correspondence on this subject specified in the accompanying list of papers.

Unless, therefore, we have any further object in view in suggesting this inquiry, it does not appear necessary to ask for these particulars in communicating with Messrs. Young.

Secondly, with respect to the point of the rate of interest payable on the indemnities awarded to Messrs. Young, Mr. Lister was to ask our further opinion whether, in view of M. Treitt's Report, which forms Inclosure 2 in No. 153, Part VII, of the printed correspondence, it would not be right that Messrs. Young should have an opportunity of making any representation which they may wish to make on this head before the Mixed Commission, without, however, after our expression of opinion on the point, any claim which that firm may advance being pressed upon the French Government.

Mr. Lister was further directed to transmit to us, in order to avoid delay, the draft of letter which your Lordship would propose to address to Mr. Pender in reply to the last communications on this matter, and Mr. Lister was to request that we would take the same into consideration.

Mr. Lister was likewise to observe that the French Government will probably contend that, in regard to the indemnities in the suits still unsettled, interest is only payable to Messrs. Young up to the date when these moneys were announced to be at their disposal; whereas Messrs. Young will probably have to pay interest in these suits up to the date of final payment, and may apply for full reimbursement of their payments under this head in point of time as well as in respect of the rate of interest; and Mr. Lister was to ask our opinion as to the proper course to take in this contingency.

The papers previously referred to us were inclosed with this letter, and Mr. Lister was to request that we would favour your Lordship with an answer at our earliest convenience.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That our object in suggesting that Messrs. Young should be requested to point out any specific cases in which they thought they were losers under the Awards was to afford those gentlemen an opportunity of showing an exception, if there were any, to the general principles under which the Awards must be considered final.

We do not, however, think that it is at all necessary to carry this inquiry further.

With reference to the second point in Mr. Lister's letter, we are of opinion that the interest of 5 per cent. allowed by the Commissioner cannot be successfully objected to: (1) because the Award should, under the Treaty, be taken to be final; (2) because, as M. Treitt observes, the rate of 5 per cent. is the legal interest in civil matters, the question before the Commission being a civil matter.

But we see no objection to the passages in the draft relating to the matter of interest, and the letter may, in our opinion, properly be sent to Mr. Pender.

Should Messrs. Young apply for full reimbursement of their payments in suits still unsettled, their application must, in our opinion, be refused. The right course for Messrs. Young to have adopted, in the first instance, was to have performed their part of the contract by sending over the oils, notwithstanding the increase of the duties, and then have claimed the indemnity, and not run the risk of an action.

We have, &c.  
(Signed) RICHARD BAGGALLAY.  
JOHN HOLKER.  
J. PARKER DEANE.

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## No. 32.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 20.)

My Lord, *Lincoln's Inn, April* 19, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th ultimo, stating that, with reference to our Report of the 9th November last, he was directed by your Lordship to transmit to us a despatch from Lord Lyons (No. 73, Commercial, of the 14th March), forwarding a copy of a note from the Duc Decazes in answer to the claim on the part of Her Majesty's Government for the exemption of British subjects from compulsory ship-brokerage in France. That we would perceive that the French Government did not admit the validity of that claim, and that he (Lord Tenterden) was to request that we would favour your Lordship with any further observations which we may have to offer on that subject.

In obedience to your Lordship's commands we have the honour to report—

That we presume your Lordship will accept the statement of the Duc Decazes that foreigners and French are, in respect of ship-brokerage, on an equality in France. And if so, the question of the meaning of the most-favoured-nation clause put forward by the Duc Decazes becomes immaterial, and no further representation on the subject of ship-brokerage need, in our opinion, be made.[*]

We have, &c.  
(Signed) RICHARD BAGGALLAY.  
JOHN HOLKER.  
J. PARKER DEANE.

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## No. 33.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 8.)

My Lord, *Lincoln's Inn, May* 7, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 14th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying memorandum received from the French Chargé d'Affaires, inquiring whether the forgery of the stamp on the French "Régie" tobacco was punishable in this country under any law which would punish the forgery of the seals, stamps, or other official marks of the French Government, or whether it would only be punishable in the same manner as the forgery of an ordinary trade mark.

That Lord Tenterden was to request that we would take the question thus put by the French Chargé d'Affaires into our consideration, and favour your Lordship with our opinion, first, whether there was any law which punished the forgery of the official seals and stamps of foreign Governments; and, secondly, whether, if so, the forgery of the stamp on the French "Régie" tobacco would come under that law.

In obedience to your Lordship's commands we have the honour to report—

That counterfeiting the mark or stamp put by the Excise on the State-manufactured tobacco does not in this country constitute a special offence distinct from the offence of counterfeiting the trade marks of commerce.

The Statute 14 and 15 Vict., cap. 99, punishes as felony the forgery of the seals, stamps, or signatures of foreign Proclamations, Treaties, and other acts of State, as well as judgments, decrees, and other judicial proceedings of foreign Courts of Justice,

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[*] The reference to the Law Officers was on the question generally; the Board of Trade are considering what is to be proposed to be dealt with as matter of detail.

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but the forgery of the Excise stamp on the State-manufactured tobacco would not come under that Statute.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 34.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 16.)

*Lincoln's Inn, June* 15, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us the draft of an Order in Council which had been prepared at the Foreign Office, applying the International Copyright Act of 1875 to France, together with the draft of a proposed Declaration cancelling paragraph 3 of Article IV of the Copyright Treaty with France of 1851, which had been received from the French Minister at that Court; and that he was to request that we would take those documents into our consideration, and favour your Lordship, at our earliest convenience, with our opinion whether the draft Order in Council is drawn up correctly, and whether the terms of the Declaration cancelling the paragraph of the French Treaty were such as might be properly agreed to by your Lordship.

That he (Lord Tenterden) was also to transmit to us a translation of the French draft of Declaration.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft Order in Council (with the exception of a clerical error, p. 5, line 4 from the bottom, where the figure 7 should be 5) is drawn up correctly, and the terms of the Declaration cancelling the paragraph of the French Treaty may properly be agreed to by your Lordship.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 35.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 30.)

*Lincoln's Inn, June* 28, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul at Réunion,* requesting instructions as to the course which he should pursue in the case of a creole of Mauritius, named Motel, who was desirous of being married under the Consular Marriage Act to a native at Réunion, but who had been divorced from his second wife under a Decree of the Supreme Court of Mauritius; and that he was to request that we would take that paper into our consideration, and favour your Lordship with our opinion as to what answer should be returned to Mr. Consul Perry in regard to the questions raised therein.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Motel has probably, as stated by Mr. Consul Perry, been already married according to the law of the country to a native or subject of the country.

If this marriage has in fact taken place, Mr. Perry may, in our opinion, properly be instructed not to perform the marriage under the Consular Marriage Act. Should the parties not have been married, Mr. Perry, before performing the marriage, should warn them that the Consular marriage is not necessarily valid except in Her Majesty's dominions.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Consul Perry, No. 22, April 26, 1875.

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### No. 36.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 23.)

My Lord, *Lincoln's Inn, July* 22, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 14th instant, stating that he was directed by your Lordship to state to us that the Government of France have proposed to Her Majesty's Government the exchange of certain territories belonging to England and France respectively on the West Coast of Africa.

That Her Majesty's Government being of opinion that the proposed exchange would be beneficial to British interests, the accompanying memorandum has been prepared embodying the terms on which the contemplated exchange of territories with France might be carried out; but before submitting these proposals for the consideration of the French Government, Mr. Bourke stated that your Lordship would be glad if we would take the inclosed memorandum into our consideration, and favour your Lordship with our opinion whether the terms of the proposed exchange are properly expressed and may be submitted in their present form for the approval of the French Government.

That the correspondence which has passed between the Foreign Office and the Colonial Office on the subject of the proposed exchange of territories was submitted for our perusal.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That, in our opinion, the terms of the proposed exchange are properly expressed and may be submitted in their present form to the French Government.

We would, however, suggest the insertion, after the words "may have suffered," in the third clause, of the words "or may hereafter suffer."

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 37.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 21.)

*Lincoln's Inn, October* 19, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Consul at Havre,* respecting a Mr. Jung's inquiry as to the status of himself and children under a certificate of naturalization as a British subject, obtained by him from the Government of India; and that your Lordship would be glad to learn our opinion as to what answer should be returned to Mr. Jung's application, as conveyed in his letter which formed the inclosure in Mr. Bernal's despatch No. 40 of the 17th September.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Jung may properly be answered that the certificate of naturalization obtained by him in India does not confer on him the rights and privileges of a British subject in Europe, and that his children cannot be considered to have been born British subjects.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Consul Bernal, No. 40, September 17; ditto, No. 41, September 30, 1875.

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## General.

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### No. 38.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received April* 10.)

My Lord, *Lincoln's Inn, April* 10, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 8th instant, stating that he was directed by your Lordship to transmit to us a letter from Mr. Edmund Byrne (April 7), stating that Elizabeth Carill Worsley, a ward in Chancery and an infant, whose marriage with one Nicolas Tindal had been prohibited by an order of the Master of the Rolls, had escaped to the Continent with Nicolas Tindal, with a view to being married at one of Her Majesty's Legations abroad, and requesting that Her Majesty's Representatives may be instructed not to allow the marriage to take place at their Legations.

Lord Tenterden was also to transmit to us a copy of the Act for facilitating marriages of British subjects abroad at places where British Diplomatic Agents are resident.

Lord Tenterden was to request that we would take this application into our consideration at our earliest convenience, and favour your Lordship with our opinion as to the steps which can properly be taken in the matter.

Lord Tenterden was to add that, as the matter is urgent, instructions have been telegraphed to Her Majesty's Representatives not to allow the marriage to take place, pending further instructions.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That as the marriage has been forbidden by a Judge of competent authority, who has ordered the solicitor having the conduct of the proceedings to take all possible means to stop the marriage, we are of opinion that your Lordship was fully justified in telegraphing instructions to Her Majesty's Representatives not to allow the marriage to take place; and it does not appear to us that your Lordship can do more than continue such instructions.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 39.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October* 20.)

My Lord, *Lincoln's Inn, October* 19, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 28th September ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office, inclosing a transcript of a Bill passed by the Legislative Council and Assembly of New South Wales, and reserved by the Governor of that Colony for the signification of Her Majesty's pleasure, entitled "An Act to amend the Law relating to Aliens," together with a copy of the Report of the local Attorney-General thereupon; and that he (Mr. Lister) was to request that we would take that Bill into our consideration, and favour your Lordship with our opinion whether it may properly be submitted for Her Majesty's assent.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Bill may properly be submitted for Her Majesty's assent.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Germany.

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### No. 40.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received February* 2.)

My Lord, *Lincoln's Inn, January* 30, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 15th instant, stating that he was directed by your Lordship to request that we would be good enough to favour your Lordship with our opinion as to whether the circumstances detailed in the inclosed letter from Mr. Whinney were such as to call for diplomatic intervention on the part of Her Majesty's Government with that of Germany.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the facts stated by Mr. Whinney in his letter to your Lordship are not such as properly to call for diplomatic interference on the part of Her Majesty's Government. On the facts so stated, it would appear that his remedy is by an appeal to the German Law Courts.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 41.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received February* 15.)

My Lord, *Lincoln's Inn, February* 15, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 6th instant, stating that he was directed by your Lordship to request our immediate attention to the inclosed papers respecting proceedings which had been taken at Berlin against Mr. Kingston, the correspondent of the "Daily Telegraph" newspaper, to compel him to furnish certain information respecting the origin of a telegram which was published in that newspaper on the 10th October last as having been sent by their Berlin correspondent.*

That Mr. Kingston, in consequence of his persistent refusal to supply the desired information, is now threatened with imprisonment; and that he had requested Her Majesty's Ambassador to call upon the German Government to afford accurate and categorical information respecting the nature of the offence with which he was charged. That the Ambassador, having received, in reply to a representation already made by him to the Foreign Office, a reply to the effect that the Government could not interfere with the ordinary legal course of justice, hesitated to comply with that request without instructions, and that your Lordship would be glad to learn our opinion as to the nature of the instructions which could properly be given.

That at the same time, as Mr. Kingston's imprisonment appeared to be imminent, it was necessary that your Lordship should be enabled to decide what course should be taken with the least possible delay.

That the telegram which led to the proceedings and a letter to which allusion is made in the correspondence would be found in the inclosed extracts from the "Daily Telegraph."

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Lord Odo Russell cannot properly be instructed to interfere officially any further with Mr. Kingston's case.

The question is one simply of Prussian law and the administration of the law in Prussia where Mr. Kingston is residing. And Her Majesty's Government would, we

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* Lord Odo Russell, Nos. 293, 302, 321, and 329 of 1874; ditto, Nos. 3, 36, and 51 of 1875; to ditto, No. 242 of 1874.

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submit to your Lordship, be open to an answer which could not be replied to if any diplomatic attempt were made to interfere with a matter which is before the regular Tribunals of Prussia.

Besides, Mr. Kingston has appealed, and this act on his part raises an additional objection to any interference.

Lord Odo Russell may, however, in our opinion, be instructed to obtain a mitigation of punishment should any be ordered against Mr. Kingston.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 42.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received April 15.)*

*Lincoln's Inn, April* 14, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 3rd instant, stating that he was directed by your Lordship to request that we would favour you with our opinion as to the answer which should be returned to the application from a Mr. Noepel, of which a translation was inclosed, for information as to the disposal of the estate of General Köhler.

That the question of the estate of that officer, who died at Jaffa in 1800 while in the employment of the British Government, leaving property in this country the net residue of which was over 22,000*l.*, had on various occasions been before the Foreign Office, but as the point then at issue was merely whether Mr. Noepel was entitled to know, for the benefit of the persons whom he represents, to whom the estate was made over, and, if so, whether he should be told by the Foreign Office in what way he should proceed, it did not appear to be necessary to trouble us with the previous papers.

In obedience to your Lordship's commands we have the honour to report—

That since the administration of the estate of General Köhler is before the Court of Chancery, Mr. Noepel may be referred to that Court for the information which he seeks, and which it would seem can only be procured through the process of that Court.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 43.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October 20.)*

*Lincoln's Inn, October* 19, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 26th August last, stating that he was directed by your Lordship to transmit to us a despatch, and its inclosures, from Her Majesty's Chargé d'Affaires at Berlin,[*] relative to a question which had arisen between an English Company styled the "Berlin Phosphate Sewage and Manure Company Limited," and the German authorities, respecting matters affecting that Company in connection with the provisions of the Declaration exchanged between the British and German Governments, relative to Joint Stock Companies, which was signed on the 27th March, 1874, and of which a copy was therewith inclosed.

That Mr. Lister was to request that we would take that matter into our consideration, and report to your Lordship our opinion thereupon.

We are also honoured with a further memorandum from Mr. Lister, dated the 14th instant, stating that he was directad by your Lordship to request us to be so good as to favour your Lordship, at our earliest convenience, with our opinion on the papers in the above case which were transmitted to us from the Foreign Office on the 26th August last.

In obedience to your Lordship's commands we have the honour to report—

That as the provisions of the Treaty of the 27th March, 1874, are by the second paragraph thereof made applicable to Companies previously constituted and authorized, it would appear that the "Berlin Phospate Sewage and Manure Company," being a commercial Company constituted and authorized in conformity with the laws in force in England, is entitled, under the first paragraph of the Treaty, to exercise "all its rights" in Prussia, in conformity with the laws and customs in force in that country; but, by virtue of the third paragraph of the Treaty, the Company can only exercise its business or trade in Prussia, if found to be in compliance with the conditions prescribed by the laws of that country.

Now, before and at the date of the Treaty the Company was exercising its trade or business in Berlin by virtue of a conditional licence granted to it on the 17th March, 1873, one condition of which was that any decrease in the capital of the Company should be sanctioned by the Prussian Minister of Trade.

On the 5th March, 1875, the Company, in accordance with the provisions of English law, reduced its capital; but, on the 31st day of September, 1874, after the date of the Treaty, and in compliance with the conditions of its licence, it applied to the Prussian Minister for his consent to such reduction; such consent was, however, refused, for what appears to us to have been a sufficient reason, viz., that if the reduction of capital were effected the remaining assets of the Company would not be sufficient to meet its liabilities.

It would appear, therefore, that the conditions prescribed by the laws of Prussia have not been complied with.

The Company, however, insist that the conditions imposed by the licence of June 1873 were put an end to by the Treaty of March 1874; we are, however, unable to see any ground for such a contention, and the Company appear to have acted upon the view that the conditions continued subsisting after the date of the Treaty, by their application in the first instance to the Minister of Trade to sanction the reduction of their capital, and by their appeal to the Chancellor (Prince Bismarck) from that Minister's decision.

Under these circumstances, we are of opinion that the Company has no ground of complaint which can be supported by your Lordship.

We may add that there is no suggestion on the part of the Company that the conditions imposed by its licence were, at the time when they were imposed, unauthorized by the laws of Prussia, or that the laws of Prussia in respect of such matters have been since varied.

As we understand it, the complaint of the Company is based upon the effect attributed to the Treaty.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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[*] Mr. Macdonell, No. 28, Commercial.

## Greece.

### No. 44.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May 12.)*

*Lincoln's Inn, May* 11, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 24th ultimo, stating that he was directed by your Lordship to transmit to us the inclosed despatches from Her Majesty's Minister at Athens and Her Majesty's

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Consul at Corfu, respecting the claims of the Ionian bondholders upon the Greek Government.

That he also inclosed a memorandum on the case; and that he was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the course which we considered Her Majesty's Government should take with reference to that claim.

In obedience to your Lordship's commands we have the honour to report—

That the only outstanding question between the Hellenic Government and the Ionian bondholders seems to be the value of the pound sterling, and whether in paying off the bonds that value shall be taken at par, which Sir C. Sebright calculates to be 28 dr. 80 l. (his despatch March 15, 1875), or at 27 dr. 70 l., as settled by a Decree of the Greek Government dated the 25th January, 1865.

The Treaty of the 25th April, 1864, Article VII, provides merely that the King of the Hellenes shall take upon himself the engagements of the Ionian Government, and in no way specifically provides for a rate or scale of repayment or discharge.

The bonds appear to be of two kinds (Mr. Merlin's letter, February 20, 1875), naming either "pounds sterling in legal Ionian currency," or "pounds sterling."

(*a.*) In our opinion, the Hellenic Government could not, by an *ex post facto* Decree, affect a liability previously incurred; and any argument drawn from the fact that the Decree of 1865 fixed the value of the pound sterling at 27 dr. 70 l. should be set aside.

Still there is a difficulty in getting over the fact that the bondholders did for many years receive their interest at the rate of 27 dr. 70 l. to the pound sterling; but the payment of interest is distinct from the repayment of capital advanced, and we have borne in mind this consideration in the opinion which we have to submit to your Lordship.

(*b.*) On the other hand, we believe that where no rate of exchange is named in the original contract, the usage is not to take the value at par, but at the rate current on the day of payment; the principle being that, since no rate was named, the parties to the contract were willing to take the chance of gain or loss.

Therefore, unless 28 dr. 80 l. was the value of the "pound sterling" on the day when payment was offered in Corfu, the bondholders cannot insist upon that rate of exchange.

We are, therefore, of opinion that Mr. Stuart or Sir C. Sebright may be instructed to inform the bondholders that they are entitled to claim repayment of the amounts due to them at the rate of exchange on the day when payment was offered to, and might have been taken by, them.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 45.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received June 14.)*

My Lord,
*Lincoln's Inn, June* 10, 1875.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 24th ultimo, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Markby, Tarry, and Stewart (May 12, 1875), requesting an authoritative statement as to the nationality of Mr. A. J. Ralli, formerly a resident in the Ionian Islands; and that he (Lord Tenterden) was to request that we would inform your Lordship what answer should be returned to that application.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Messrs. Markby may properly be answered that Mr. Ralli is not a British subject.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 46.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received August 5.)*

My Lord,
*Lincoln's Inn, August* 4, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 24th June last, stating that, with reference to our Report of the 11th May on the claims of the Ionian bondholders upon the Greek Government, he was directed by your Lordship to transmit to us therewith a further despatch from Her Majesty's Minister at Athens upon that subject.

That we should perceive that M. Tricoupi then offered to pay off the bonds in silver Ionian dollars, and in view of his proposal, begged Her Majesty's Government to reconsider their decision. That Lord Tenterden was therefore to request that we would take that despatch into our consideration, together with the former correspondence which was annexed, and favour your Lordship with our advice as to the answer which should be returned to that proposal.

We are also honoured with a further letter from Lord Tenterden, dated the 30th June last, stating that, with reference to his letter of the 24th June on the subject of the claims of the Ionian bondholders on the Greek Government, he was directed by your Lordship to transmit to us therewith a further despatch from Her Majesty's Minister at Athens, requesting instructions on certain points raised by the bondholders; and that he (Lord Tenterden) was to request that we would take that despatch into our consideration, together with the papers then before us, and favour your Lordship with our opinion as to the answer which should be returned to Mr. Stuart.

We have also the honour to acknowledge a further memorandum from Lord Tenterden, bearing date the 15th ultimo, inclosing a further despatch from Her Majesty's Consul at Corfu relating to the claims of the Ionian bondholders, and requesting that it might be considered in conjunction with the papers on that subject then before us.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Stuart may properly be instructed to inform the bondholders that they cannot claim payment according to the rate of exchange in London at sight either at the time when the option was first given to them, or at the time when the first offer of payment was made to and refused by them.

But they are entitled to be paid in Corfu the value of pounds sterling in Ionian currency at the rate of exchange on the day when payment was first offered and refused.

It seems to us, on the question of the rate of interest, that the bondholders are not entitled to claim any other interest than that which is due upon the bonds.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 47.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received September 9.)*

My Lord,
*Lincoln's Inn, August* 28, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 16th instant, stating that he was directed by your Lordship to transmit to us papers, as marked in the margin,* relative to objections raised by Her Majesty's Consul at Corfu to obeying a summons to give evidence before a Greek Court of Law.

That it at first appeared that Sir C. Sebright's objections were only founded upon a supposed immunity of Consuls from such summonses, but it having been found on inquiry that he was mistaken on this point, he was instructed on the 30th ultimo that it was his duty to obey the summons.

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* Sir C. Sebright, No. 40, July 8; Mr. Stuart, July 20; ditto, July 24; Memorandum, July 27; to Sir C. Sebright, No. 11, July 30; Sir C. Sebright, No. 43, July 27; Mr. Malet, No. 15, July 17; ditto, No. 18, July 28; Sir C. Sebright, No. 45, July 29, 1875.

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That it, however, subsequently transpired that he also objected to obeying the summons on the ground that the trial was one affecting the right of property in a house occupied by him a resident at Santa Maura when the Ionian Islands were under the British Protectorate, and that the Court had no right to compel him to give evidence respecting any facts which came to his knowledge in his capacity of a servant of the British Crown.

That it is on the latter point that your Lordship is anxious to be acquainted with our opinion; and Lord Tenterden was to request that we would, after considering the inclosed papers, report to your Lordship our views as to how far a Consul can be compelled to disclose before a foreign Court of Law facts of which he has knowledge only in an official capacity.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, a Consul is not bound to disclose before a foreign Court of Law facts of which he has knowledge only in an official capacity.

But this official privilege requires to be kept within strict and well-defined limits, and cannot be extended to matters not, or but indirectly, connected with the Government, whose agent the Consul is, though such matters may have been made known to him because he was Consul.

That in the particular case of the occupation of the house at Santa Maura, which is the matter respecting which Sir C. Sebright is concerned, we are of opinion that he could not properly be upheld in refusing to give evidence respecting the rights of property over that house, though he became acquainted with the facts by reason that the house was occupied by him officially.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J PARKER DEANE.

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## No. 48.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received September 7.)*

My Lord, *Lincoln's Inn, September* 1, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th ultimo, stating that, with reference to our Report of the 4th August, he was directed by your Lordship to forward to us a telegram from Her Majesty's Consul at Corfu, requesting to be informed whether the Ionian bondholders are justified in refusing jurisdiction in the local Courts for not accepting the terms offered to them by the Greek Government; and to request that we would have the goodness to inform your Lordship of our opinion on the point at our earliest convenience. We are also honoured with a note from Lord Tenterden of the 23rd ultimo, stating that he was directed by your Lordship to send us the accompanying despatches from Her Majesty's Chargé d'Affaires at Athens and Her Majesty's Consul at Corfu respecting the action brought by the Greek Minister of Finance against the Ionian bondholders; and Lord Tenterden requested that we would have the goodness to take these despatches into consideration, with Lord Tenterden's communication of the 13th ultimo.

In obedience to your Lordship's commands we have the honour to report—

That Her Majesty's Chargé d'Affaires may be properly instructed to remind M. Tricoupi, if it should be necessary, of his twice-repeated undertaking that "he would prevent the action from going further pending the result of the negotiations" (Mr. Malet's despatch No. 132, Confidential, 14th August, 1875). The bondholders who have been summoned should, however, appear, but protest against the proceedings pending the negotiations between the two Governments.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 49.

*The Solicitor-General and Dr. Deane to the Earl of Derby.—(Received September 21.)*

My Lord, *Temple, September* 21, 1875.

WE, the Solicitor-General and Dr. Deane, in the absence of the Attorney-General, who is at present on the Continent, are honoured with your Lordship's commands signified in Mr. Lister's letter of the 7th instant, stating that, with reference to our Report of the 1st instant on the subject of the claim of the Ionian bondholders upon the Greek Government, Mr. Lister was directed by your Lordship to send us a further despatch from Her Majesty's Chargé d'Affaires at Athens, inclosing a copy of a note from the Greek Minister asserting the right of the Greek Tribunals to deal with the question; and Mr. Lister was to request that we would be so good as to inform your Lordship whether, in our opinion, this despatch contains any information which would induce us to alter or add to our Report above referred to.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That having read the papers inclosed in Mr. Lister's letter of the 7th September, we have nothing to add to the last Report which we had the honour of making to your Lordship.

We have, &c.
(Signed) JOHN HOLKER.
J. PARKER DEANE.

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## No. 50.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October 26.)*

My Lord, *Lincoln's Inn, October* 25, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 16th instant, stating that, with reference to our Report of the 21st ultimo on the subject of the claim of the Ionian bondholders upon the Greek Government, he was directed by your Lordship to transmit to us the accompanying further despatches from Her Majesty's Chargé d'Affaires at Athens, from which it appeared that the opinion of Her Majesty's Government, as conveyed to Mr. Malet on the 18th August last, had been differently interpreted by the Hellenic Government and by the bondholders.

That Mr. Lister was to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to the instructions which should now be sent to Her Majesty's Representative at Athens in that matter.

That the previous correspondence was therewith inclosed, for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That, in using the words "Ionian currency" in our former Report, we intended the money or coin legally then current in Corfu.

And, in our opinion, the bondholders are entitled to be paid, for each sovereign of their debt, the amount of such current money or coin as represented, at the rate of exchange in Corfu on the day when payment was first offered to them, a sovereign.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 51.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received December 18.)*

My Lord, *Temple, December* 17, 1875.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 7th December instant, stating that, with reference to the Report of the

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Law Officers of the 25th October last on the subject of the claims of the Ionian bondholders on the Greek Government, he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Minister at Athens (Mr. Stuart, No. 193 of 1875), inclosing the draft of a note which you proposed to address to the Hellenic Minister for Foreign Affairs upon the subject (November 27, 1875).

Lord Tenterden also stated that he was to inclose a copy of a telegram from Mr. Stuart, suggesting that it might be better to omit in the proposed note the last paragraph but one, respecting the rate of interest; and to request that we would take the inclosed papers into our consideration, and favour your Lordship, at our earliest convenience, with our opinion as to the answer which should be returned to Mr. Stuart's despatch.

That the instructions to which Mr. Stuart referred were therewith inclosed, together with the previous correspondence on the question.*

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Mr. Stuart may properly be instructed, in answer to his despatch, that he may communicate the note, a draft of which he inclosed to your Lordship, to the Hellenic Minister for Foreign Affairs.

And we see no objection to the omission in that note of the paragraph relating to the rate of interest.

We have, &c.
(Signed) JOHN HOLKER.
HARDINGE S. GIFFARD.
J. PARKER DEANE.

# Hayti.

## No. 52.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

My Lord, *Lincoln's Inn, July* 14, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 27th May last, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Minister and Consul-General in Hayti reporting the proceedings of the Haytian Government in the case of the claim of Mrs. Maunder, the widow of a British merchant, against Messrs. Defly, a French firm established in Port-au-Prince, and the alleged improper interference of the French Chargé d'Affaires in the matter, and inclosing a copy of a statement of her case by Mrs. Maunder, together with copies of a correspondence which had passed between Mr. St. John and the Haytian Government and the French Representative on the subject.

That Lord Tenterden was further to transmit to us a despatch which your Lordship had addressed to Her Majesty's Ambassador in Paris instructing his Excellency to bring the circumstances of the case to the knowledge of the French Government, and to call their attention to the proceedings of the French Chargé d'Affaires in the matter, together with a despatch from Mr. Adams inclosing the reply of the French Government to the representation addressed to them by Lord Lyons.

That Lord Tenterden was to request that we would take that case into our consideration, and favour your Lordship with our opinion as to its merits and the proceedings of the French authorities, and as to what further steps, if any, it might be incumbent upon Her Majesty's Government to take in support of Mrs. Maunder's claim.

We are also honoured with a further letter from Mr. Lister, dated the 5th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Port-au-Prince relative to certain questions that had arisen in connection with the rights claimed by Mrs. Maunder in the Island of Tortuga, belonging to the Republic of Hayti.

That the previous papers on the subject were also inclosed, and that he (Mr. Lister) was to request that we would take them into our consideration, and favour your Lordship with our opinion as to the steps, if any, that should be taken in the matter.

In obedience to your Lordship's commands we have the honour to report—

That, before receiving Mr. Lister's letter of the 5th June and its inclosures, we had prepared the draft of a Report to your Lordship on the assumption that Mrs. Maunder was a British subject, and, as such, entitled to the protection and assistance of the British Government; it, however, appears, from the concluding paragraph of Major Stuart's Report, inclosed in his letter to your Lordship of the 30th April last, that both Mrs. Maunder and her deceased husband were Haytian subjects.

Under these circumstances we are of opinion that Her Majesty's Government cannot properly support any claim of Mrs. Maunder against the Haytian Government arising out of her litigation against Mr. Defly, or in connection with the lease of the Island of Tortuga.

Nor can Her Majesty's Government, in our opinion, support any claim against the Government of Hayti of the Commercial Banking Company of Liverpool. That Company has unfortunately advanced money upon what turns out to be a bad security, and must take the consequences, the Company being the creditors, not of the Haytian Government, but of Mrs. Maunder.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## No. 53.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 7.)

My Lord, *Lincoln's Inn, August* 27, 1875.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 9th August instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,* relative to a claim brought against the Haytian Government by Messrs. Gerdes, a British firm carrying on business in Hayti, to compensation for certain coffee, which was pillaged during some disturbances in 1868–69, and which coffee Messrs. Gerdes assert was their *bonâ fide* property, although at the time of the pillage it was in the hands of Haytians, owing to the law of Hayti not allowing foreigners to engage personally in the coffee trade.

Lord Tenterden also stated that we would see that the claim of Messrs. Gerdes, together with other similar claims, was submitted in 1873 to the Law Officers of the Crown, who were of opinion that no compensaton for the loss of property, while held by Haytians, could be claimed by Her Majesty's Government on behalf of British subjects; and that he (Lord Tenterden) was to request that we would take the inclosed papers into our consideration, and that we would be good enough to inform your Lordship whether we concur in that opinion, and consider the claim cannot be maintained.

In obedience to your Lordship's commands we have taken the papers into our consideration, and have the honour to report—

That we concur in the opinion of the former Law Officers, and are of opinion that the claim of Messrs. Gerdes and Co. cannot be maintained.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* To Mr. Stuart, No. 20; to Mr. Malet, No. 39; to Mr. Stuart, No. 51, 1875; list of papers.

* Mr. Jenkins, July 31, 1875; List.

### No. 54.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received November* 1.)

My Lord, *Lincoln's Inn, October* 30, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 30th ultimo, stating that, with reference to our Report of the 14th July respecting Mrs. Maunder's claim against the Haytian Government, he was directed by your Lordship to transmit a further despatch, with its inclosures, from Major Stuart, in regard to that lady's nationality; and that he (Mr. Lister) was to request that we would take that despatch into our consideration, together with the previous papers therewith returned to us, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That the documentary evidence now produced by Mrs. Maunder is entirely based upon the certificate of the Grand Judge of Hayti, dated the 6th August, 1842, which appears to us to furnish no more than slight *primâ facie* evidence of the marriage of Frederic Maunder and Josephine Busse. We cannot regard that evidence as overbearing the oral testimony to the opposite effect which Major Stuart obtained by careful inquiry on the spot, without at least having that evidence before us, and we recommend that before Mrs. Maunder is recognized as entitled to British protection, Major Staurt should be requested to furnish the particulars of the oral testimony which he regarded, on the 30th April, as conclusive.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Italy.

### No. 55.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received January* 16.)

My Lord, *Lincoln's Inn, January* 15, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 29th December ultimo, stating that he was directed by your Lordship to transmit to us the correspondence, as marked in the margin,* respecting the right of succession of an Italian named Vincenzo Cecchi to the property of his wife, and to request that we would favour your Lordship with our opinion in the case.

In obedience to your Lordship's commands we have the honour to report—

That, in this case, the first question is whether the marriage between Vincenzo Cecchi and Catherine Mercieca was a valid marriage.

If it was a valid marriage, Catherine, who was previously a British subject, became, upon such marriage, an Italian subject, and as she did not, in any way of which we are informed, recover her nationality, the Court of the Italian Consulate is the proper one to administer her estate, whether her will was valid or not.

If, on the other hand, the marriage was invalid, Catherine remained a British subject until her death, and, whether her will was valid or invalid, the Court of the British Consul was the proper one for the administration of her estate.

In either case, however, the validity of the will becomes of importance.

Upon the assumption of the marriage being valid, the questions would arise whether Catherine was personally competent to make a will, and, if so, whether her will was properly executed; if the will failed of effect from either cause, the husband's rights would, or at any rate might, arise, and upon this question the deed of separation might have an important bearing.

On the contrary assumption, that the marriage was invalid, there was no want of competency to make a will, but the question would still remain whether she had made one that was valid.

We are quite unable, upon the materials before us, to advise your Lordship either as to the validity of the marriage or of the will; nor do we see how they are to be decided, except by allowing the proceedings in Egypt to take their course.

We bear in mind that there may possibly be a conflict between the decisions of the two Courts; but as the proceedings which have been instituted in them are of such a nature that the question of the validity of the marriage must be decided by each, we think that it may fairly be assumed that the same decision will be arrived at by both Courts upon this question, and that the competency of the one Court and the incompetency of the other to deal further with the matter will thereby be determined.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 56.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 24.)

My Lord, *Lincoln's Inn, March* 23, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch, and its inclosure, from Her Majesty's Minister at Rome, relative to a point which had been raised by Her Majesty's Consul at Cagliari in regard to the competency of British Consular officers, under certain circumstances, to take or to refuse to take the affidavit of persons other than British subjects; and that he (Mr. Bourke) was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to what instructions should be addressed to Sir Augustus Paget in reference to the matter in question.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, it is competent to, but not obligatory on, British Consular officers to administer oaths to, or to take the affidavits of, persons other than British subjects, or to do notarial acts at the instance of such persons.

But we think that, as a general rule, and with the view of avoiding possible inconvenient complications, it is desirable that British Consular officers should, as far as possible, abstain from discharging the several duties to which we have referred otherwise than in relation to British subjects or in matters in which British interests are involved.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 57.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 3.)

My Lord, *Lincoln's Inn, April* 3, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th ultimo, stating that he was directed by your Lordship to transmit to us a correspondence between Her Majesty's Legation at Rome, Mr. G. H. Shorting, and the Foreign Office on the subject of Mr. Shorting's complaint of alleged acts of injustice towards him on the part of the Italian authorities connected with the taxation of certain house property owned by him in the neighbourhood of Lake Como, first in

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* M. de Martino, September 8; Dr. Arpa, No. 34, November 21, 1874.

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regard to the amount of the assessment made by those authorities on the property in question, and, secondly, in regard to the imposition of a fine to which he had been subjected in consequence of the discrepancy between his valuation of the rental of the property in question and the definitive assessment by the Italian authorities.

That Her Majesty's Chargé d'Affaires at Rome, to whom, in the absence of Her Majesty's Minister, Mr. Shorting addressed himself with a view to the recovery of the amount of fine thus levied, did not, as we should perceive, feel himself justified in applying to the Italian Government on Mr. Shorting's behalf; and as that gentleman had now addressed your Lordship with a similar object, Lord Tenterden was to request that we would take that case into our consideration, and favour your Lordship with our opinion as to whether there was any ground for official remonstrance or representation to the Italian Government in Mr. Shorting's behalf.

That a letter from Sir Augustus Paget, Her Majesty's Minister at Rome, who was at the time on leave of absence in this country, was also annexed, stating his opinion upon Mr. Shorting's claim.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, no representation could properly be made to the Italian Government with respect to the increased assessment on Mr. Shorting's house property.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 58.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 29.)

*Lincoln's Inn, April* 28, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 30th ultimo, stating that, with reference to our Report of the 15th May last on the subject of the proposed amendments in the Malta Ordinance regulating the surrender of prisoners on board merchant-vessels, a subject which had been brought to the notice of Her Majesty's Government by the Italian Minister at that Court, he (Lord Tenterden) was directed by your Lordship to transmit to us a further correspondence which had passed between the Chevalier Cadorna, the Colonial Office, and the Foreign Office on the question of the treatment of Italian prisoners on board such vessels which might have occasion to put into a port of Malta.

That the Colonial Office letter of the 20th ultimo contained a very full Report from the Crown Advocate of Malta upon that question; and that Lord Tenterden was to request that we would again take that case into our consideration, and favour your Lordship with our opinion whether the view taken thereof by the Crown Advocate was correct, and what answer might properly be returned to the Colonial Office and to the Chevalier Cadorna upon that subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Crown Advocate of Malta correctly states the principle of law in paragraphs 8 and 9 of his Report, but there seems to us to be some obscurity in his conclusion or inference No. 1 which appears inconsistent with his reasoning.

In our opinion, a seaman forming part of the crew of an Italian ship, who has deserted and been retaken outside Maltese waters, may be kept in confinement, that is, not allowed by the master to leave the ship, and any application to the local authorities by such seaman for liberation should be refused.

But if the seaman belongs to another ship, or has ceased to form part of the crew of the ship on board of which he is confined, then, we think, he should be liberated on his application.

In all other respects we agree with the Crown Advocate.

Possibly we have not rightly understood the Crown Advocate's conclusion, and we suggest that the case should be referred to him again before any answer be sent to Chevalier Cadorna.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 59.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 3.)

*Lincoln's Inn, July* 2, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 12th June ultimo, stating that he was directed by your Lordship to transmit to us a despatch from the Acting British Consul at Florence (Acting Consul French, No. 29, May 25, 1875), requesting instructions regarding the marriage at the Consulate of a woman, Italian by birth, but the widow of a British subject, and also inquiring respecting the position, as regards British protection, of a British subject's widow, the husband having accepted military service under the late Papal Government. Mr. Lister was to request that we would favour your Lordship with our opinion as to the answer which should be returned to the queries put in Mr. French's despatch.

In obedience to your Lordship's commands we have taken this paper into our consideration and have the honour to report—

That the question whether an Italian woman married to a British subject residing in Italy retains her status as a British subject or recovers her Italian nationality on becoming a widow, is a question of Italian law upon which we can offer no satisfactory opinion.

(By the Code Civil, Article 19, she, if a French woman, would effectually recover her French nationality. By the 33 Vict., cap. 14, section 10, sub-section 2, an Englishwoman married to a foreigner and becoming a widow is a statutory alien, but may recover her British nationality.)

If, by the law of Italy, the widow is an Italian subject, we are of opinion that the validity of the marriage is extremely doubtful, and the Consul might properly be instructed not to perform the marriage without warning both the man and the woman to ascertain and conform to the requirements of the law of Italy.

We beg, on this subject, to refer your Lordship to a Report of the Law Officers on the 31st January, 1873.

We are of opinion that a British subject, by accepting military employment under a foreign Government, forfeits his rights to British protection in the country into whose service he has entered.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 60.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 20.)

*Lincoln's Inn, July* 17, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th instant, stating that, with reference to our Report of the 2nd instant relative to the proposed marriage at the British Consulate of a woman, Italian by birth, but the widow of a British subject, he was directed by your Lordship to request that we would explain whether, in our opinion, the marriage in question would be of doubtful validity in this country, or only within the dominions of the King of Italy.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the marriage will be of doubtful validity in the Kingdom of Italy and elsewhere except in Her Majesty's dominions.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 61.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 28.)

My Lord, *Lincoln's Inn, July* 27, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 9th instant, stating that he was directed by your Lordship to transmit to us papers, as marked in the margin,* relative to a claim advanced by Mr. A. D. Wolff on behalf of the heirs of Madame Drölling against the estate of the late Mr. John Manby, who died at Turin in 1869.

Mr. Lister stated that we would observe that Mr. Wolff finds fault with the proceedings of Mr. Colnaghi, Her Majesty's Consul, for having handed over the balance of Mr. Manby's estate to the brother and administrator while the debt to Madame Drölling remained unpaid, and Mr. Wolff requests to be furnished with copies of the correspondence which passed through Mr. Colnaghi's hands on the subject.

Mr. Lister was to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to whether, in view of the Chancery suit which appears to have been instituted by Mr. Wolff, it would be proper to send him copies of the correspondence which he asks for, and which is inclosed in Mr. Colnaghi's despatch of the 14th ultimo, and also whether Mr. Colnaghi did not act rightly in the matter of handing over the property to Mr. Charles Manby.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, it will not be proper to send Mr. Wolff copies of the correspondence which he asks for.

Mr. Colnaghi, in our opinion, acted rightly in handing over the property to Mr. Charles Manby, the administrator of his brother.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 62.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 18.)

My Lord, *Lincoln's Inn, August* 17, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us some despatches,† as marked in the margin, together with their inclosures, received from Her Majesty's Minister at Rome, referring to the case of Mr. Adolphus Manduit, a British merchant residing at Naples, whose house, according to his own statement, supported by the evidence of his clerk, was entered and searched, without any legal warrant, by certain officers of the Neapolitan Excise and Custom-house in the month of April last, on the plea of searching for tobacco, Mr. Manduit being absent from home at the time.

Lord Tenterden stated that it would be seen that Mr. Manduit protested against the proceedings of the officials in question as being a violation of the XVIIth Article of the Treaty of Commerce between this country and Italy, but it appears from the correspondence that both the Finance Minister and the Italian Minister for Foreign Affairs justify the fact of such a search as that complained of (though the fact of its having been carried out, as alleged by Mr. Manduit's clerk, is denied by the officers charged with its execution) on the ground that by the *Italian* version of the Treaty in question, a *written* warrant is not required to legalize such a search, but merely such a *legal authorization* as that under which the proceedings complained of were conducted.

A copy of the Treaty was annexed to the papers now submitted to us, from which we would see that whereas the English version of the Article bearing on the present case states that such a measure "shall be executed only in conformity with the *legal warrant or order in writing* of a Tribunal or of the competent authority"; the Italian version runs thus: "non vi si potrà procedere che dietro autorizzazione legale od ordine scritto di un Tribunale, o altra autorità competente."

Two principal points, therefore, present themselves for consideration: first, whether or not there is satisfactory evidence to show that the act complained of really did take place, as alleged by Mr. Manduit's clerk, and denied by the officials stated to have been implicated in it; and, second, whether, bearing in mind the terms of the Italian version of the XVIIth Article of the Treaty, the Italian authorities can be held to have been justified in the proceedings complained of.

Lord Tenterden was to request that we would take this case into our consideration, and that we would favour your Lordship with our opinion thereupon, and also as to what representation, if any, it may appear proper to make to the Italian Government in regard to this occurrence.

That it will be seen that Mr. Manduit, whilst asserting that his commercial interests have sustained a certain loss in consequence of the interruption to his business caused by the proceedings complained of, does not claim any indemnity, but merely asks for the punishment of the persons who, as he maintains, searched his premises without a legal warrant.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, the Italian Government is right in insisting upon the Italian version of the Treaty, and the substitution in that version of the word "autorizzazione" for "mandato" is a strong ground for believing that the Italian Government is also right in the construction which it places upon the Italian version.

But without relying upon this change of a word, we are of opinion that the words "non vi si potrà procedere che dietro autorizzazione legale od ordine scritto di un Tribunale o altra autorità competente," clearly point to cases where search may be made by lawful authority or written order, that is, to authority not in writing or order in writing.

If, indeed, the Italian version is not capable of even a third meaning under the words "altra autorità competente," which are not necessarily governed by "ordine scritto."

We think it needless to trouble your Lordship with any observations upon the conflict of evidence as to the facts, for the proceedings seem to us to have been justified under the terms of the Italian version of the Treaty, and we are of opinion that it will not be proper to make any further representation to the Italian Government in the case of Mr. Manduit.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 63.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 5.)

My Lord, *Lincoln's Inn, October* 4, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 13th August last, stating that, in our Report of the 28th April last, in regard to the points raised by the Italian Government respecting the question of the surrender, under the Malta Ordinance No. 2 of 1874, of Italian prisoners who might be found on board Italian vessels putting into a port of Malta, while agreeing generally with the principle of the law, as stated by the Crown Advocate of Malta in his Report, we pointed out what appeared to be an inconsistency in his conclusion or inference, and that we suggested that, before any answer was sent to the Italian Representative in London, the case should again be referred to the Crown Advocate.

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* Mr. Wolff, October 1; Consul Colnaghi, No. 15, October 14; to Mr. Wolff, October 23; Mr. Wolff, October 26; ditto, October 30; to Mr. Wolff, November 6; Consul Colnaghi, No. 17, November 15; to Mr. Wolff, November 26; Mr. Wolff, December 28, 1872; to ditto, January 14; Mr. Wolff, January 25; to ditto, February 14; Mr. Wolff, April 10; to ditto, April 15, 1873; Mr. Wolff, June 2; ditto, June 12; Consul Colnaghi, No. 33, June 14; ditto, No. 39, July 1, 1875; with memorandum.

† Sir A. Paget, No. 186, June 18; ditto, No. 203, July 5; ditto, No. 209, July 8; ditto, No. 218, July 19; to Sir A. Paget, No. 144, July 13; Treaty, August 6, 1863.

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Lord Tenterden stated that that course was accordingly adopted, and that he was now desired by your Lordship to transmit to us a letter from the Colonial Office inclosing a further Report from that officer, in which he explained the apparent inconsistency.

That he (Lord Tenterden) was also to transmit to us the previous correspondence in the matter, which accompanied his letter of the 30th March, and to request that we would take the case into our consideration, and favour your Lordship with our opinion as to the answer which might now properly be returned to the Italian Chargé d'Affaires upon the subject.

In obedience to your Lordship's commands we have the honour to report—

That the Italian Chargé d'Affaires may properly be answered that there is no practical difference between the provisions of the Malta Ordinance No. 3 of 1873 and the Ordinance No. 2 of 1874, relative to prisoners under the charge of desertion who may be found on board merchant-ships.

The Ordinance of 1874 provides that the Head of the Government of Malta may direct that a person in custody on board a foreign vessel be left in that condition, or conveyed to a public prison, when the offence for which such person is in confinement is one of those specified in some law in force in Malta relating to extradition.

The Ordinance of 1873 provides that the custody of prisoners on board foreign merchant-ships shall not be interfered with if, upon the investigation prescribed, it appears that the crime charged is one for which the accused, if at large in Malta, may, according to law, be surrendered to the Government of the country to which the ship belongs.

Neither of these provisions touches the case of foreign deserters, whose offence would not come within the category of extradition crimes, which class of crimes is dealt with under both Ordinances, and consequently the Ordinance of 1874 is not in any sense a restriction of the provisions of the Ordinance of 1873.

The case of desertion referred to by the Italian Chargé d'Affaires is unaffected by either Ordinance, and may be divided into two classes—desertion at Malta, which will be dealt with effectually under the Foreign Deserters Act and the Order in Council, and desertion committed out of Malta by a seaman belonging to, and on board, a ship coming into Malta; in this latter case, the seaman will not be liberated nor allowed, without leave, to absent himself from the ship in Malta, and, should he do so, he will come within the Foreign Deserters Act; but on the other hand, such seaman will not be subject to punishment, or the continuance of punishment, whilst in Malta.

No facilities, therefore, will be afforded by the authorities in Malta to the desertion of Italian seamen.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 64.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October* 13.)

My Lord, *Lincoln's Inn, October* 11, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 13th September ultimo, stating that, with reference to our Report of the 25th September, 1874, respecting the question of the surrender to foreign Governments, under Extradition Treaties or Conventions, of persons who have already been convicted *in contumaciâ*, he was directed by his Lordship to transmit to us the accompanying correspondence which had passed with the Colonial and Home Offices since the date of our Report, in regard to the manner in which it is proposed to deal with that question as regarded the extradition of Italian subjects from Malta.*

That the Colonial Office letter of the 5th June last inclosed a form of Ordinance No. 3 of 1874 of the Malta Government, amended so as to provide for the surrender of persons sentenced in Italy *in contumaciâ*; and the further letter from the Colonial Office of the 16th July inclosed a draft of a proposed Order in Council for giving effect to that amended Ordinance.

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* To Home Office, January 1; Home Office, January 18; to Colonial Office, February 6; Colonial Office, February 24; ditto, June 5; to Colonial Office, June 18; Colonial Office, July 16; to Home Office, August 4; Home Office, August 20, 1875.

That before expressing your concurrence in the terms of the proposed Order in Council, your Lordship desired to ascertain the opinion of Her Majesty's Secretary of State for the Home Department, and that the Home Office letter of the 20th ultimo inclosed a copy of a Report from Sir Thomas Henry, stating his opinion, in which Mr. Cross concurred, that the stipulation contained in the XVIIIth Article of the Extradition Treaty with Italy that, as regarded the Island of Malta, the Ordinance of the 3rd May, 1863, was to remain in full force, could not be departed from or varied without the consent of the Italian Government, and that the proposed Order in Council would be at variance with the terms of the XVIIIth Article of the Treaty.

That he (Mr. Lister) was to request that we would take the matter into our consideration, and favour your Lordship with our opinion thereon.

That a copy of the Extradition Treaty between Great Britain and Italy of the 5th February, 1873, was sent therewith, as well as the correspondence which accompanied his letter of the 22nd August, 1874, in case we should desire to refer to it.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the proposed Order in Council is at variance with the XVIIIth Article of the Extradition Treaty with Italy.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Japan.

### No. 65.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received January* 16.)

My Lord, *Lincoln's Inn, January* 15, 1875.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 15th ultimo, stating that he was directed by your Lordship to transmit to us, together with the previous papers, the accompanying note from the Japanese Chargé d'Affaires at that Court, together with its inclosure, relative to a complaint preferred by the Japanese Government against Mr. Blakiston, a British merchant resident at Hakodate, for an assault committed by him upon two Japanese in his employment, which indirectly caused the death of one of them; and that Lord Tenterden was to request that we would take those papers into our consideration, and favour your Lordship with our opinion thereupon.

In obedience to your Lordship's commands we have the honour to report—

That, in this case, which we think was properly treated as one of assault only, Mr. Blakiston admitted the assault, but urged that he was justified in committing it by the negligence and indifference of the Japanese officials in respect of offences committed by Japanese subjects against foreigners.

We entirely agree with Mr. Consul Troup in considering that such a state of circumstances afforded no excuse for a violation of the law by Mr. Blakiston; it appears, however, that, though rejected as a justification, it was accepted by the Consul as a sufficient reason for his mitigating the penalty which he would otherwise have imposed, and it is of this circumstance that the Japanese Minister chiefly complains, if we rightly follow the purport of his note.

The offence with which an offender is charged having been admitted or proved, the quantum of punishment, within the limits fixed by law, rests with the Judge, who is not only at liberty, but bound, to take all the circumstances of the case into consideration.

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We need hardly add that the suggestion of the Japanese Minister that Mr. Blakiston should be again put upon his trial, or that the sentence upon him should be revised, with the view of increasing its severity, cannot be entertained, as either of such proceedings would be entirely contrary to the spirit of the Criminal Law, as administered in Her Majesty's Courts.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 66.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received March* 22.)

My Lord, *Lincoln's Inn, March* 22, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 4th instant, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Yedo,* together with its inclosures, relative to certain Regulations which the Japanese Government desire to impose with regard to the practice of shooting in that country; and Mr. Bourke was to request that we would take this paper into our consideration, and favour your Lordship with our opinion thereupon, especially with reference to the question of the payment of fines by British subjects to the Japanese Government.

In obedience to your Lordship's commands we have taken this paper into consideration and have the honour to report—

That the draft Regulations inclosed in Sir H. Parkes' despatch of the 11th January, 1875, are, in our opinion, sufficient to meet the views of the Japanese Government.

With respect to the payment of fines by British subjects to the Japanese Government, though the question appears to us to be one of policy rather than of law, we think that to yield the point might be a dangerous precedent, and lead to future demands of a similar kind from the Japanese Government. We are therefore of opinion that Sir H. Parkes should be instructed to withhold the payment of these fines to the Japanese Government unless all the other foreign Powers having Treaties like that of this country agree to the payment.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Mexico.

### No. 67.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received July* 13.)

My Lord, *Lincoln's Inn, July* 13, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 5th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relative to the claim of Messrs. Kelly and Co., of Mazatlan, to be reimbursed the amount of certain duties levied by the Mexican Government authorities on goods imported by them, payment of which had been previously exacted by the insurgents.

That we should see that that claim was referred to the Law Officers of the Crown in 1872, and, in accordance with their advice, Her Majesty's Government requested and obtained the friendly assistance of the Government of the United States to represent the matter to the Government of Mexico, diplomatic relations between Great Britain and Mexico being then, as they still are, suspended.

That the representations of the United States' Government having, however, failed to induce the Mexican Government to entertain Messrs. Kelly's claim, those gentlemen had now applied to Her Majesty's Government to take steps to obtain from Mexico "retribution and repayment for the very great injuries so unjustly inflicted on them."

That Lord Tenterden was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government could properly claim, as a matter of right, the repayment of customs dues levied by a foreign Government under the circumstances shown in that correspondence, and, if so, what steps we should recommend should be taken in support of the claim.

That if not, your Lordship would be glad of our opinion as to whether it was advisable to take any further steps in the matter.

In obedience to your Lordship's commands we have the honour to report—

That the payment of the customs dues to an insurgent force, such as that which appears to have enforced payment in the present case, cannot, we think, be brought within the principle of payment to a *de facto* Government, which the regular or succeeding Government would be bound to admit as a good payment.

And we are of opinion that Her Majesty's Government cannot properly claim, as a matter of right, the repayment of customs dues levied by a foreign Government in cases where those dues, having been taken by an insurgent force in the first instance, have been subsequently levied a second time by the regular Government.

We think that your Lordship can take no further steps in the matter.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Morocco.

### No. 68.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received January* 16.)

My Lord, *Lincoln's Inn, January* 15, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 29th December ultimo, stating that, with reference to our Report of the 14th December relative to the question as to whether the Moorish Government have a preferential claim over the creditors to be repaid their claims on the estate of Mr. Grace, a deceased British subject, Mr. Bourke was directed by your Lordship to draw our attention to the XVIIIth Article of the Treaty with Morocco, a copy of which was inclosed.

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* Sir H. Parkes, No. 4, January 11, 1875.

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It appears that the assets of the estate consist in great part of debts due from Moorish subjects, and Mr. Bourke was to request that we would favour your Lordship with our opinion whether, in view of the Treaty obligation of the Moorish Government to compel its subjects to pay such debts, instructions may not properly be sent to Sir John Drummond Hay to resist the claims of the Government on the estate, unless the Treaty obligation in question has been first satisfied.

Our Report, together with the two despatches from Sir J. D. Hay more immediately referred to therein, were inclosed for facility of reference.*

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That the two questions—whether the Moorish Government is bound under the XVIIIth Article of the Treaty to enforce payment of debts due to the estate of the deceased, and whether that Government has a right to priority of payment out of such estate before other creditors—are quite distinct, the former relating to the getting in a collection of the assets, and the latter to their distribution; and we are of opinion that the non-performance by the Moorish Government of their obligation under the Treaty cannot properly be urged by Her Majesty's Representative as a reason for for refusing to recognize the claim of the Moorish Government to priority, if such claim is otherwise well founded. The Moorish Government should be prepared to render proper assistance towards enforcing payment of the debts due to the estate of Mr. Grace, on the ground of their Treaty obligations to do so, and, inasmuch as the estate cannot properly be administered till the assets are ascertained and collected, we are of opinion that Sir J. D. Hay may properly be instructed to point out to the Moorish Government that, apart from any question of marshalling the assets, and before any payments out of the estate in discharge of Mr. Grace's debts can be made, the debts due to Mr. Grace's estate from individuals must be paid, and that under the XVIIIth Article of the Treaty the Moorish Government are bound to give proper directions for this being done.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 69.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received March* 20.)

My Lord, *Lincoln's Inn, March* 18, 1875.

WE were honoured with your Lordship's commands signified in Mr. Bourke's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us the correspondence, noted in the margin,† relative to the circumstances under which certain claims on the part of foreign merchants resident in Morocco, for sums advanced to Moorish Governors and Sheikhs, had been met by the Moorish Government by an offer to compromise the matter on payment to the creditors of 50 per cent. on all *bonâ fide* claims of the above nature, with the alternative, in cases where that offer might be rejected, of adjudication by a Tribunal expressly created for the purpose at Tangier.

That we would observe from Sir J. D. Hay's despatch No. 4, Commercial, of the 11th February, that the opinion of the foreign Representatives in Morocco were divided as to the expediency of accepting, or not, the proposed compromise of the Moorish Government,‡ and as the question might arise as to how far the claims of British subjects who might not accept the compromise should be supported by Her Majesty's Government, he (Mr. Bourke) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the instructions which should be addressed on the subject to Her Majesty's Minister.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Government could not properly support the claims of those British subjects who do not accept the compromise, and that Sir J. D. Hay may be instructed to inform British subjects to that effect.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Law Officers, December 14; Sir J. D. Hay, No. 84, December 24, 1873; ditto, No. 57, October 28, 1874.

† Sir J. D. Hay, No. 29, Commercial, October 3; Mr. Pakenham, No. 32, Commercial, November 2; to Queen's Advocate, November 2; Queen's Advocate, November 6; to Sir J. D. Hay, No. 20, Commercial, November 13; Sir J. D. Hay, No. 36, Commercial, November 28, 1871; ditto, No. 9, Commercial, February 14; to Law Officers, March 31; Law Officers, April 3, 1873; Mr. White, No. 16, Commercial, September 3; Sir J. D. Hay, September 22; to ditto, No. 9, Commercial, November 16; Sir J. D. Hay, No. 21, Commercial, October 23, 1874; ditto, No. 4, Commercial, February 11, 1875.

‡ Memorandum, Foreign Office, February 26, 1875.

# Netherlands.

## No. 70.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received January* 28.)

My Lord, *Lincoln's Inn, January* 27, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us a letter from a Mr. Silley (January 14), who complained of the detention by the Netherlands authorities at Curação of some gunpowder which he had shipped on board a German vessel for the declared destination of Savanilla and Santa Marta; and that your Lordship would be glad to be favoured with our opinion whether, taking into consideration the fact that a formidable insurrection was in progress in Venezuela, that the Island of Curação is close to the coast of that State, owing to which circumstance the authorities had to deal with reclamations from both combatants, and that the ports to which the powder was avowedly shipped, though belonging to Colombia, were close to the Venezuelan frontier, the circumstance of the detention itself, or of the manner in which it was effected, were such as to justify representations from Her Majesty's Government to that of the Netherlands.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the circumstances stated in Mr. Silley's letter, namely, that gunpowder dispatched by him on board a German vessel, and consigned to the United States of Colombia, was landed, warehoused, and detained by the Netherlands authorities at Curação, are not such as to justify representations from Her Majesty's Government to that of the Netherlands.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Pacific Islands.

### No. 71.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 20.)

My Lord, *Lincoln's Inn, April* 19, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 8th ultimo, stating that he was directed by your Lordship to request that we would favour your Lordship with our opinion on the point raised in paragraph 4 of the inclosed despatch from the Commodore commanding on the Australian Station, namely, whether, under the 9th section of the Kidnapping Act, 1872, British naval officers would have the right to arrest on shore British subjects who had rendered themselves liable under that Act, but who were at the time commanding or otherwise serving on board a vessel under the French flag.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, British officers have not the right to arrest on shore British subjects who may be liable under the Kidnapping Act, 1872, whether such British subjects were commanding or otherwise serving on board French vessels at the time of committing the act or acts which may have brought them within that Act.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Peru.

### No. 72.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 25.)

My Lord, *Lincoln's Inn, March* 24, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 20th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relative to the case of two British subjects, named Bell and Sterling, who had been condemned by the Supreme Court of Peru to nine years' imprisonment on a charge of being concerned in a murder.

That Mr. Bourke was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in demanding the release of Bell and Sterling, or in taking any other steps on their behalf.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully considered these papers and the proceedings and results of the three trials before the Peruvian Tribunals.

To a certain extent the information before us is imperfect, since we have no copy of the evidence, and can gather its bearing only from the despatches of Mr. Nugent and Mr. March.

Assuming, however, the evidence to be correctly summed up by them, it appears that a Peruvian subject was drowned by the violence of a mob, of which Bell and Sterling formed a part, preventing his landing. There is no evidence, or but slight

evidence, that either Bell or Sterling struck a blow or threw a stone at the drowning man, or did more than any one else present.

The only witnesses against Bell and Sterling must in all probability have been as guilty as they were.

The first sentence passed upon them was one of six years' imprisonment. It is, in our opinion, to be regretted that if the conduct of the presiding Judge was such as is described in these papers, and he was suspended or intended to be suspended by the Peruvian authorities for such conduct, that immediate steps, other than by appeal, were not taken to set aside his sentence. Possibly the laws of Peru prevented that course being taken.

With reference to the sentences of fifteen years' imprisonment on the second trial and of nine years on the third trial, both punishments appear to us excessive, but we are not prepared to advise your Lordship that because the laws of a foreign country are more severe than those of this country, diplomatic interference would, in any particular case, be justified. And with respect to the evidence upon which these two men were convicted, unsatisfactory as it is from an English point of view, the Peruvian Courts, in trying a British subject for an offence, properly tried him according to their own rules and mode of procedure. In fact, it is admitted that the last two trials were fairly conducted according to Peruvian law.

That one of the two men was in the first instance let out on bail and the other discharged altogether, that neither left the country, but, on the contrary, were seeking to obtain some compensation for what they deemed an illegal arrest, are strong facts showing a consciousness of innocence on their part, but are not sufficient to show that the convictions were wrong.

We have thought it our duty to trouble your Lordship at this length because the case is one of great hardship, in which we are of opinion that Her Majesty's Government will be justified in taking steps to obtain the release of Bell and Sterling; but these steps should be taken upon surer ground than directly impugning the administration of law and justice in a foreign country.

If, therefore, the application of Mr. March should unfortunately fail, and the Peruvian authorities refuse to release the prisoners, Mr. March might be instructed to obtain a mitigation of the sentence by reason of the great hardships to which the men were subjected during their early confinement and the long time which has elapsed since the alleged commission of the offence and the commencement of their term of imprisonment.

In submitting this opinion to your Lordship, we have had before us this consideration—that if further pressure for the release of the two men were put upon the Peruvian authorities, and that pressure were resisted, Her Majesty's Government must either submit to the denial of what was claimed as a right or resort to force to obtain that right.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 73.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received April* 22.)

My Lord, *Lincoln's Inn, April* 21, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 12th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,* respecting a murderous outrage which was committed on Mr. J. Pascoe, a British subject, at Arequipa, by four police officers at that place. That we would perceive by Mr. March's despatch No. 15 of the 27th February that one of the men concerned in that outrage had been sentenced to nine years' imprisonment and another to a fine of 100 soles (about 20*l.*).

That we would find in Mr. March's despatch No. 11 of the 12th February a copy of a letter addressed to Her Majesty's Consul at Islay by the Treasurer and Secretary

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* Consul Graham, No. 2; Mr. March, Nos. 8, 9, and 11; to Mr. St. John, No. 19; Mr. March, Nos. 13, 15, and 25.

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of the Subilaca Mining Company, claiming compensation from the Peruvian Government on account of the losses sustained by that Company through the outrage committed on Mr. Pascoe, who was their Mining Engineer. That he (Lord Tenterden) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to what instructions should be addressed to Her Majesty's Representative in Peru in regard to the claim of the Subilaca Mining Company.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Her Majesty's Representative in Peru cannot properly be instructed to support the claim of the Subilaca Mining Company, the attempted murder of Mr. Pascoe having been committed by persons acting beyond the scope of their authority, and for whose acts, in that respect, the Government of Peru cannot be made responsible.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 74.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 24.)

*Lincoln's Inn, May* 20, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 13th March last, stating that, with reference to our Report of the 29th September last, he was directed by your Lordship to transmit to us a further despatch from Her Majesty's Chargé d'Affaires at Lima* relative to the case of Lawrence Higginson, a British subject, taken out of the steamer "Santiago," in the Bay of Callao, on the 10th July last, and detained in prison there until the 24th of the same month.

That, on a careful consideration of those papers, it appeared to your Lordship to be open to some doubt whether the case of Higginson was one upon which an international claim could properly be founded.

That it now appeared that Higginson was arrested on the information of Santana, the man whom he had accidentally shot when at Panamá. That Santana swore—as stated in Inclosure No. 6—when examined by the Judge, that Higginson had shot him on purpose on the voyage between Panamá and Payta, denied that he had been treated in the Panamá Hospital for the wound, and represented it to have been of recent infliction. That, in support of the latter assertion, two doctors certified that Santana was suffering from a wound in which the bullet still was, and that it would take him thirty days to recover.

That, no doubt, the sequel showed that the doctors were incompetent and the proceedings unduly dilatory. That it would seem, also, that the prison in which Higginson was confined was filthy; but that those were circumstances unfortunately not exceptional in Peru.

That there was nothing to show that the local authorities were actuated by any desire to detain the ship or to insult the English flag, or by any other improper motive. That they caused the man to be arrested on false testimony, and released him when it was shown to be false.

That they might, no doubt, have ascertained this more promptly, but they would seem to have had a strong *primâ facie* case to go upon in the fact of the wounded man being in the hospital, with the bullet in his body.

That your Lordship thought it right to make those remarks in submitting the case again to us, as, when it was before us in September last, the affidavit of Santana and the certificate of the doctors had not been received; and that your Lordship thought that, had those papers been then before us, they might have induced us to modify the opinion expressed in our above-mentioned Report.

That, as at present advised, your Lordship was inclined to doubt whether the course indicated by the Peruvian Minister would not have been the proper one, *i.e.*, to have taken proceedings against Santana for perjury, but that it was probably too late to take that course now; and that the only other step that could be taken—in the event of its being considered that the demand for apology and compensation should not be pressed—would be to remonstrate against the delay that took place in inquiring into the case, and the consequent detention of Higginson in prison.

That upon those points, however, Her Majesty's Government must be guided by our advice; and that he (Mr. Lister) was accordingly to request that we would take the inclosed papers into our consideration, and that we would be good enough to inform your Lordship whether we were still of opinion that Her Majesty's Government should demand an apology and compensation on account of Higginson's arrest and imprisonment, or, in case the papers then sent to us should cause us to modify our former opinion, that we would inform your Lordship what steps we would now advise Her Majesty's Government to take in the matter.

We are also honoured with a letter from Lord Tenterden of the 17th March last, stating that he was directed by your Lordship to forward to us the accompanying further despatch on the subject of the Higginson outrage, with the request that it might be taken into consideration in conjunction with the papers inclosed in Mr. Lister's letter.

In obedience to your Lordship's commands we have the honour to report—

That the explanation given by the Peruvian Minister of the causes of the arrest and imprisonment of Lawrence Higginson are, in our opinion, such as to preclude Her Majesty's Government from insisting further upon an apology and indemnity from the Peruvian Government, for the arrest and imprisonment appear to have been in due course of law, as ordinarily administered in Peru, though based upon what eventually appeared to be a grossly false statement of facts.

We would, however, respectfully submit that your Lordship might express your surprise and regret that the Peruvian authorities should have been misled by so palpable a falsehood as that told by Santana, and should have detained L. Higginson so long in prison without making any inquiry into the real facts of the case.

At the time when we made our Report to your Lordship, under date the 29th September, 1874, the Peruvian Government had in no way repudiated the charges made by Mr. Nugent, though they had, in conversation, denied in general terms their responsibility for what had occurred; and it was not until the 16th January last that any explanation of the circumstances was given by the Peruvian Minister. Even in making such explanation, the Minister appears to have been, in some respects, misinformed, and particularly so as regards the alleged blood-stained appearance of Santana, which is positively denied by the deposition of Captain Bird, inclosed in Mr. March's despatch of the 29th January, and which was forwarded to us by Lord Tenterden on the 17th March last.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. March, No. 5, January 27, 1875.

## Portugal.

### No. 75.

*Dr. Deane to the Earl of Derby.*—(*Received January* 30.)

*Temple, January* 30, 1875.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Bourke's letter of the 27th instant, stating that he was directed by your Lordship to transmit to me the accompanying despatch, and its inclosure, from Her Majesty's Ambassador at Paris, relative to the wish of the French Commission on the Delagoa Bay Arbitration

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Case to be furnished with a more precise definition of the territories of Tembé and Mapoota; and that Mr. Bourke was to request that I would be good enough to favour your Lordship with my opinion as to the instructions that should be given to Lord Lyons upon the subject.

In obedience to your Lordship's commands I have the honour to report—

That Lord Lyons may properly be instructed to inform the Duc Decazes that the precise definition of the territories of Tembé and Mapoota given by Her Majesty's Government is the following:—

The territory of Tembé is bounded on the north by the English and Lorenço Marques or Dundas Rivers; on the west by the Delombo Mountains; on the south and east by the Mapoota River to its mouth; and on the east from the mouth of the Mapoota River to the mouth of the English River by the shores of the large bay.

The territory of Mapooto is bounded on the west by the Mapoota River from its mouth as far as latitude 26° 30′ south; on the south by latitude 26° 30′ south; on the east by the sea, and includes the Peninsula and Island of Inyack and Elephant Island; and on the north by the shores of the large bay.

The question at issue relates to the whole of these territories.

I have, &c.
(Signed) J. PARKER DEANE.

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### No. 76.

*Dr. Deane to the Earl of Derby.—(Received February 16.)*

*Temple, February 15, 1875.*

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Lister's letter of the 12th instant, stating that, with reference to my letter of the 30th ultimo, he was directed by your Lordship to transmit to me, for my perusal, the accompanying despatch from Her Majesty's Ambassador at Paris, inclosing copies of two notes addressed by his Excellency and by the Portuguese Minister at Paris to the French Minister for Foreign Affairs, in reply to his Excellency's request for a definition of the territories of Tembé and Mapoota, in connection with the Delagoa Bay Arbitration.

In obedience in your Lordship's commands I have the honour to report—

That practically there is no difference between the description of the limits of the territories in dispute given in the note of Lord Lyons and in the note of the Portuguese Envoy.

But in Lord Lyons' note the Mountains of Libombo are called the Mountains of Dalombo.

And in the Portuguese note there is a mistake between east and west, and 26° 30′ south is said to be the southern limit of Tembé as well as of Mapoota, and this appears by the charts to be an error.

I have, &c.
(Signed) J. PARKER DEANE.

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## Russia.

### No. 77.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received March 5.)*

*Lincoln's Inn, March 4, 1875.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 5th February ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,* relative to two sums of money belonging to Charles Pizzotti, which were alleged to have been deposited with Mr. Grenville Murray, formerly Her Majesty's Consul-General at Odessa; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to whether the evidence of the money in question having been paid into Mr. Murray's hands was such as to justify Her Majesty's Government in accepting the responsibility for the amount.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there is sufficient evidence of the money having been paid into Mr. Murray's hands to justify Her Majesty's Government, under the circumstances of this case, in accepting the responsibility of the amount. We are of opinion, however, that Consuls cannot, as a general rule, be recognized as receivers on behalf of the Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## Spain.

### No. 78.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received January 6.)*

*Lincoln's Inn, January 6, 1875.*

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 22nd ultimo, stating that, with reference to our Report of the 3rd November last, on the subject of the validity of the will of Mr. Albert Honiss, who died at Manila on the 3rd August last, he (Lord Tenterden) was directed by your Lordship to transmit to us the accompanying further despatch from Her Majesty's Consul at Manila reporting the steps taken by him in the case in consequence of the resignation of the executor named in the will; and that he was to request that we would take that despatch into our consideration, and favour your Lordship with our opinion as to whether any instructions upon the subject should be sent to Mr. Consul Ricketts further than those which had been issued to him in conformity with the terms of our above-mentioned Report, and of which the draft was inclosed.

That Mr. Ricketts' previous despatch was therewith returned to us for convenience of reference.

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* Chevalier de Cadorna, October 31, 1874; Consul-General Stanley, No. 4, January 13, 1875, and translation of Inclosure 3.

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We are also honoured with a letter from Mr. Bourke, dated the 1st instant, stating that he was directed to transmit to us the accompanying further despatch from Her Majesty's Consul at Manila for our consideration in connection with the case of Mr. Honiss' will, which was referred to us for report upon the 22nd ultimo.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, no further instructions need be sent to Mr. Consul Ricketts.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 79.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received January* 11.)

My Lord, *Lincoln's Inn, January* 9, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 30th December ultimo, stating that, with reference to our Report of the 7th November relative to the claim of British subjects in Cuba to be exempted from the payment of the extraordinary contributions decreed in that island on capital and property in trade, Mr. Bourke was directed by your Lordship to transmit to us a further despatch from Her Majesty's Consul-General at the Havana,* in which he calls attention to a memorial from certain British merchants who found their claim to exemption on the effects of former Treaties, Conventions, and Royal Orders.

Mr. Bourke was also to inclose a memorandum, drawn up in the Foreign Office in 1868,† and another in 1874,‡ showing the discussions that have taken place at different times between the Governments of Great Britain and Spain with regard to the applicability to the Spanish Colonies of the Treaties of 1667 and 1713. Mr. Bourke was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the reply that should be returned to Mr. Dunlop's despatch.

The papers previously sent to us were again inclosed for convenience of reference.

In obedience to your Lordship's commands we have taken these papers into our consideration and have the honour to report—

That the Foreign Office memorandum of the 11th January, 1868, "relative to the application of the old Treaties with Spain to the Spanish Colonies," and the correspondence referred to in that memorandum, make it, in our opinion, impossible for Her Majesty's Government now to insist upon the application of those Treaties to Spanish Colonies, and we are therefore of opinion that Mr. Dunlop may properly be answered that he should inform the British merchants who have memoralized him that Her Majesty's Government cannot support their claim to exemption under any of the Treaties or Conventions with Spain, since Her Majesty's Government has previously acted on the understanding that the Spanish Colonies were not within the Treaties.

We are aware that in thus reporting to your Lordship we are taking a view of the memorandum of 1868 somewhat different from that which Mr. Hertslet has taken in his memorandum of the 15th December, 1874. But the distinction between "persons" and "produce" is, in our opinion, too fine to be insisted upon by Her Majesty's Government against the Spanish Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Dunlop, No. 38, November 9, 1874.

† Memorandum by Mr. Green, January 11, 1868.

‡ Memorandum by Mr. Hertslet, December 15, 1874.

### No. 80.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received February* 2.)

My Lord, *Lincoln's Inn, January* 30, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 25th instant, stating that he was directed by your Lordship to transmit to us papers relative to the detention of the "Victoria" at Barcelona by order of a local Court at the suit of the charterer, notwithstanding a clause in the charter-party which stipulated for disputes between the owners and charterers being settled by arbitration in London.

That Mr. Bourke was to request that we would take those papers into our consideration, and favour Lordship, at our early convenience, with our opinion as to whether any claim for the release of the ship, or for demurrage, could properly be made on the Spanish Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, a claim cannot properly be made through your Lordship on the Spanish Government, either for the release of the ship or for demurrage, the whole matter being at present under the consideration of a Spanish Court of Law competent to deal with it.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No 81.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received February* 2.)

My Lord, *Lincoln's Inn, January* 30, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 2nd instant, stating that, with reference to our Report of the 26th June last, on the case of the "Maria Tadeo," which vessel was seized and condemned by the Spanish authorities of Algeciras on account of being suspected of being engaged in smuggling, he (Mr. Bourke) was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid,* forwarding copies of the correspondence which had taken place on the subject,† and calling attention to the arbitrary decision come to in the matter by the Spanish Government; and to request that we would take the despatch into our consideration, together with the previous papers annexed, and favour your Lordship with our opinion as to the course pursued by the Spanish Government in the case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Spanish Courts were competent, in a case of conflicting evidence, to say which set of witnesses they believed upon the whole state of the evidence before them. The Spanish Courts were also competent to say what evidence they would receive or reject, and the form in which, and the persons by whom, such evidence should be tendered.

The Spanish Government was justified in refusing to disturb the decision of the Spanish Court, and we are unable, however arbitrary the proceedings of the Courts may have been, to advise your Lordship that the course pursued by the Spanish Government affords any proper ground for further remonstrance on the part of Her Majesty's Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Layard, No. 551, November 30, 1874.

† Mr. Layard, No. 375, June 6; to Mr. Layard, No. 172, June 15; to Law Officers, June 18; Law Officers, June 26, 1874.

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### No. 82.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received February 3.)*

*Lincoln's Inn, February* 2, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 16th ultimo, stating that he was directed by your Lordship to transmit to us two despatches which had been received from Her Majesty's Minister at Madrid, reporting the circumstances under which he had been called upon by the Spanish Government to give evidence in a criminal trial.

That Mr. Bourke was also to transmit to us the draft of the reply which your Lordship proposed to return to Mr. Layard; and that he (Mr. Bourke) was to request that we would favour your Lordship with our opinion as to the terms of the draft.

That Mr. Bourke was likewise to transmit to us, for reference, the papers alluded to in Mr. Layard's despatch No. 594, together with a memorandum on the present case which had been drawn up at that Office.

In obedience to your Lordship's commands we have the honour to report—

That the terms of the draft reply to Mr. Layard are, in our opinion, right and proper, as they state the general rule, and the reason of the rule.

We would observe that there may be acts, such as murder, theft, and so forth, committed in the presence only of the Diplomatic Agent, and in which, therefore, his evidence alone would lead to a conviction.

When such cases arise they should be reported to your Lordship before any evidence is given by the Diplomatic Agent, for, although some exception might in a case of great urgency be allowed, the question would still remain whether some particular inconvenience should not be submitted to rather than allow a great principle to be infringed.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 83.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received March 4.)*

*Lincoln's Inn, March* 2, 1875.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Bourke's letter of the 20th February ultimo, in which he stated that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid (No. 193), relative to the seizure of the British vessel "Louisa" off Cabrita Point by a Spanish guardacosta on the 8th December last.

That it would appear from the papers inclosed in Mr. Layard's despatch that the "Louisa," a small trading-vessel belonging to Gibraltar, and bound from that port to Tangier and Laraiche, had previously been overhauled and allowed to go by one guardacosta, but that she was afterwards boarded by another, the Commander of which refused to look at her papers or cargo, and sent her to Algeciras. That there she was forced to unload her cargo, and was detained till the 14th December, when a Prize Court declared her "bad prize," and released her. That in spite of this acquittal, however, the Customs authorities refused to reload her, and her cargo had to be reshipped at the expense of the owner, some of the cargo, it is stated, having been damaged. That the "Louisa" appears to have met with various subsequent disasters, but it was unnecessary to refer further to them, as it is clear that the Spanish Government cannot be held responsible for such indirect consequences of the conduct of its officers.

Mr. Bourke added he was, however, to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in claiming from the Spanish Government compensation for the direct loss suffered by the owner of the "Louisa" through the seizure and detention of his vessel.

In obedience to your Lordship's commands we have taken the papers into our consideration and have the honour to report—

That, in our opinion, Her Majesty's Government will be justified in claiming from the Spanish Government compensation for the *direct* loss suffered by the owner of the "Louisa" through the seizure and detention of his vessel.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 84.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received April 20.)*

*Lincoln's Inn, April* 19, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid [*] respecting the claim of Messrs. McAndrew and Co., of Tarragona, against the Spanish Government for compensation on account of the damage done to their property by the military authorities, and to request that we would take these papers into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

That, for convenience of reference, he was to forward to us the papers, as marked in the margin,[†] which relate to cases of a similar nature.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Layard may, in our opinion, properly be instructed that Her Majesty's Government cannot make any claim upon the Spanish Government for compensation for the losses incurred by Messrs. McAndrew, except in the event of the Spanish Government compensating Spanish subjects for similar losses sustained by them.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 85.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May 5.)*

*Lincoln's Inn, May* 4, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th March ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,[†] relative to the claims of certain British subjects against the Spanish Government, arising out of the seizure by the Spanish authorities in Cuba of the British schooner "Lark," and the subsequent detention at Manzanillo of the master, crew, and passengers of that vessel.

Lord Tenterden stated that we should see that on the 30th May, 1873, the late Law Officers of the Crown reported that, in their opinion, the conduct of the Spanish authorities could not be justified, and that Her Majesty's Government might properly press for compensation to the amount of 3,150*l*.

An instruction in accordance with that Report was addressed to Her Majesty's Minister at Madrid on the 4th June, 1873, and a despatch has now been received from Mr. Layard, inclosing a précis of the Report of the Lieutenant-Governor of Manzanillo upon the subject, which has been communicated to him by the Spanish Government.

As that Report contradicts in many important points the statements of the British claimants, Lord Tenterden was to request that we would take the accompanying correspondence into our consideration, and favour your Lordship with our opinion as to the course which should now be followed in regard to this claim.

[*] Mr. Layard, No. 267, March 8, 1875.

[†] List.

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In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, the claim for compensation in this case may properly be persisted in.

The reasons for this opinion are that, although the detention of the ship "Lark" may have been justifiable, yet that the circumstances which justified her detention were easily explained.

(*a.*) She carried all the papers which, by the law of her own country, she was bound to carry.

(*b.*) Of the seven persons on board, four were passengers engaged on a lawful voyage.

(*c.*) Though she was out of her course and had received no damage, her position was, or might have been, explained by a reference to the weather which had prevailed.

(*d.*) She had a Spanish pilot on board.

(*e.*) She carried no arms, ammunition, nor any suspicious cargo, nothing except a sextant and three compasses.

(*f.*) The absence of a flag on so small and unarmed a vessel could not give reasonable ground of suspicion that she was a "pirate."

This being the state of things, the persons on board should either have been left on board, with a guard, if necessary, placed over them, or released on the bail which was offered, and they ought not to have been imprisoned.

With reference to the document which they signed, even on the statement in the précis of the letter of the Governor of Manzanillo, it appears to us to have been extorted by threat, since they were only to be set free on signing this document, or, as stated by the Consular Agent to Mr. Dunlop (see Mr. Dunlop's despatch No. 8 of the 22nd February, 1872), they were to be sent back to prison if they would not sign the document. The same account of this part of the case is also given by Admiral Chicarro in his letter to Mr. Dunlop (Mr. Dunlop's despatch No. 14 of the 30th March, 1872).

We agree with the Report of the Law Officers (30th May, 1873) that the procuring the signature of this document is a strong proof againt the conduct of the Spanish authorities, and should be no bar to the claim for compensation for the illegal imprisonment and treatment of the seven British subjects.

We have expressed the above opinion upon the assumption that the statements made by the crew of the ship as to their treatment by the Spanish authorities is correct, but a very different account of their treatment is given by the Lieutenant-Governor of Manzanillo in his letter of the 26th November, 1874, and we would suggest the expediency of inquiry as to the treatment to which they were subjected before further pressing the claim for compensation.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 86.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May 26.)*

*Lincoln's Inn, May 24, 1875.*

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 22nd ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Madrid respecting the case of Richard Tarque, who was born in Spain of British parents, and who was forcibly enlisted by the authorities at Seville as a conscript in the Spanish army.

That, for our convenience, he was also to transmit to us certain papers bearing on that question, and that he was to request that we would take them into our consideration, and favour your Lordship with our opinion as to what instructions should be addressed to Mr. Layard.

We are also honoured with a further letter from Lord Tenterden, bearing date the 28th ultimo, stating that he was directed by your Lordship to transmit to us two

further despatches from Mr. Layard respecting the case of R. Targue; and that he (Lord Tenterden) was to request that we would have the goodness to take those despatches into our consideration in conjunction with the papers inclosed in the letter of the 22nd ultimo.

In obedience to your Lordship's commands we have the honour to report—

That we are not aware of any Treaties at present in force between this country and Spain under the provisions of which your Lordship can claim for Richard Tarque freedom from liability to serve in the Spanish army.

No doubt other States have Treaties with Spain under which they are entitled to claim exemption for their subjects from the conscription, but the benefit of these Treaties cannot now be claimed by England, for though formerly she was entitled to be placed in every respect upon the footing of the most favoured nation, she has not been in a position to assert such right since the proceedings of the House of Commons in 1845.

It appears to us that the question of Targue's liability to military service entirely depends upon Spanish law, and as at present advised, we think that though a British subject, as Tarque was born and brought up in Spain, he is liable to compulsory service. As, however, the matter to a great extent depends upon the validity of the Constitution of 1869, and upon the question whether such Constitution has displaced the Royal Decree of 1852, we should recommend your Lordship to obtain the opinion of some Spanish jurist upon the case.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 87.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received June 9.)*

*Lincoln's Inn, June 7, 1875.*

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 28th May ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch,* and its inclosure, from Her Majesty's Minister at Madrid, relative to the complaint of Mr. John Henry Keane, a British subject, that he had been treated with injustice and extreme harshness by the Spanish Government, who had forfeited securities to the amount of 4,480*l.*, deposited by him in the Spanish Treasury as a pledge for the fulfilment of a contract to supply certain army clothing, which contract the Spanish Government accused Mr. Keane of not having properly fulfilled.

That he (Lord Tenterden) was to request that we would take the papers into our consideration, and that we would favour your Lordship with our opinion as to whether Mr. Keane, having bound himself by his contract to accept the decision of the Spanish Tribunals, must therefore abide by the Award of the Council of State, a Tribunal constituted after his contract was entered into, and to which he alleges he would not have consented to refer any dispute between himself and the Spanish Government.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Keane, having bound himself by his contract to accept the decision of the Spanish Tribunals, must, in our opinion, abide by the Award of the Council of State, although that Tribunal was constituted subsequent to the time when the contract was made.

Her Majesty's Government cannot, on the representation of any individual, assume that the Tribunal of a civilized State will deal unjustly with any case referred to it; and the changes in the constitution of a Tribunal, such changes not having been provided against in the contract, afford no ground for refusing to refer the case to the substituted Tribunal.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Layard, No. 439. May 13, 1875.

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## No. 88.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 3.)

*Lincoln's Inn, July* 2, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th June ultimo, stating that, on the receipt of our Report of the 2nd March last, your Lordship addressed to Her Majesty's Minister at Madrid a despatch, draft of which was inclosed,* instructing him to make a representation to the Spanish Government upon the claim of the owner of the British vessel "Louisa" to compensation for the direct loss caused to him by the seizure of that vessel by a Spanish guardacosta, and her subsequent detention at Algeciras.

That he (Lord Tenterden) was then directed by your Lordship to transmit to us the accompanying despatch from Mr. Layard,† inclosing a note from the Spanish Minister for Foreign Affairs, in which the latter justified the action of the Spanish authorities in the matter, and denied that the owner of the "Louisa" was entitled to compensation.

That he (Lord Tenterden) was to request that we would take that despatch into our consideration, together with the former papers which were sent therewith, and favour your Lordship with our opinion as to whether it is advisable for Her Majesty's Government to press the claim any further.

In obedience to your Lordship's commands we have the honour to report—

That the statements of the Spanish Government are, in one important respect, directly contradictory of those made by the owners of the "Louisa."

The Spanish Government assert that the captain of the "Louisa" refused to show his papers or allow his hold to be examined whilst at sea, and that it was in consequence of such refusal that the Commander of the guardacosta took her to Algeciras. it would appear, however, from the papers before us when we made our Report of the 2nd March last, that the Commander of the guardacosta refused to look at the papers or to examine the cargo at sea, and insisted upon taking the vessel to Algeciras, where she was forced to unload, and that she had been reloaded at the expense of the owners.

The Spanish Government further assert that a portion of the expenses of reloading were paid by the Government, and that the owners had expressed their sense of the justice with which they had been treated, statements which appear to us not to be consistent with the representations made by the owners.

If the matter rested here we should have suggested that the matter should be further investigated, for the purpose of ascertaining what were the true facts in respect of the seizure of the "Louisa," and the subsequent dealings with her, but the Spanish Government insist that the conduct of the Revenue officers in respect of such seizure has been investigated and approved by a Court of competent authority, and inasmuch as the seizure admittedly took place in Spanish waters, your Lordship will probably be of opinion that it is not advisable to press the matter further, especially having regard to the probably small amount of the damage sustained by the owners.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## No. 89.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

*Lincoln's Inn, July* 14, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 16th June ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,‡ relative to the case of the "Joseph Dodds," a British vessel detained in March last by the Spanish Customs authorities at Huelva, in order to compel payment of extra duties on certain cargo shipped for ports not in Spain, which cargo had not been cleared through a Spanish Consul, as it is alleged the law of Spain requires that it should have been.

Lord Tenterden stated that we would see that by your Lordship's instructions Her Majesty's Minister at Madrid made urgent representations to the Spanish Government upon the subject, and eventually succeeded in obtaining the release of the "Joseph Dodds," but not until she had been detained for forty-two days, *i.e.*, from the 21st March until the 2nd May, and that claims have been put forward by the owners of the vessel, and also by some of the owners of the cargo, to be compensated for the loss which they allege they have sustained through her detention.

Lord Tenterden stated that we would also see that, according to the statement of the owners of the "Joseph Dodds," they made inquiry of the Spanish Consul-General in London before dispatching her, and were assured by that officer that it was not necessary to clear with him that part of the cargo not destined for Huelva.

Lord Tenterden stated that it appears to your Lordship that, assuming this statement to be true, very great hardship has been inflicted on the owners of the vessel and of the cargo, in having been put to heavy expenses for omitting to do in Spain what the only Spanish official authority whom they could consult had told them they need not do.

Lord Tenterden stated that it also appears to your Lordship that the prolonged detention of the vessel was altogether unnecessary for the purpose of ascertaining what was ultimately admitted by the Spanish Government, *i.e.*, that she was innocent of any intention of effecting contraband operations in Spain.

In those circumstances Lord Tenterden was to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government would be justified in demanding compensation from the Spanish Government for the owners of the "Joseph Dodds" and of her cargo.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That the allegation of the owners of the "Joseph Dodds" that any breach of Spanish law committed by them was occasioned by the Spanish Consul-General in London does not appear to us to be disputed by the Spanish Government, and, under these circumstances, we are of opinion that Her Majesty's Government will be justified in pressing for compensation from the Spanish Government for the owners of the ship and of her cargo.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## No. 90.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 20.)

*Lincoln's Inn, July* 20, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 14th ultimo, stating that, with reference to our Report of the 30th January last regarding the detention of the steamer "Victoria" at Barcelona, he was directed by your Lordship to transmit to us all the correspondence which had been received up to that date relative to that case, and that he was to request that we would favour your Lordship with our opinion as to the proceedings of the Spanish Government in regard to it.

We are also honoured with a second letter from Mr. Lister of the 26th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Grant, Darroch, and Co., relative to the case of the "Victoria;" and that he was to request that we would take it into consideration, together with the other papers on the same subject which were referred to us for a Report on the 14th ultimo.

We are also honoured with a further letter from Mr. Lister, dated the 9th instant, stating that, with reference to his letter of the 26th ultimo, he was directed by your Lordship to transmit to us a further letter from Messrs. Grant. Darroch, and Co., respecting the case of the "Victoria," which he was to request we would take into our consideration, with the other papers sent to us on the case.

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* To Mr. Layard, No. 97, March 9, 1875.

† Mr. Layard, No. 465, May 25, 1875.

‡ List.

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In obedience to your Lordship's commands we have the honour to report—

That Messrs. Grant, in our opinion, have taken a wrong view of the proceedings of the Spanish Tribunals, and of the duties of Her Majesty's Government.

The Spanish Tribunals have, we conceive, like all other Tribunals, a right to decide upon their own competence; and we see nothing in the circumstances of the "Victoria" which goes to show that in deciding upon their competence to entertain the suit those Tribunals have been in error.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 91.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 1.)

*Lincoln's Inn, August* 20, 1875.

My Lord,

WE were honoured with your Lordship's commands signified in Mr. Lister's letter of the 28th June last, stating that in our Report of the 24th May last, relative to the question whether Richard Tarque, who was born in Spain of British parents, is entitled to exemption from compulsory enlistment in the Spanish army, we stated that, although formerly Great Britain was entitled to be placed in Spain in every respect upon the footing of the most favoured nation, she has not been in a position to assert that right since the proceedings of the House of Commons in 1845.

That as the point thus raised is of considerable importance in itself, irrespective of the particular case under consideration, your Lordship had caused a memorandum to be drawn up by the Librarian of the Foreign Office, showing what passed in 1845 between the Spanish Minister in this country and the Earl of Aberdeen, then Her Majesty's Secretary of State for Foreign Affairs, and also what took place afterwards in the House of Commons.

That that memorandum appeared to your Lordship to show that what took place in 1845 only established the principle that the Treaties between Great Britain and Spain did not apply to the colonial possessions of either country, and that it did not apply to a question of personal immunity in Spain.

Mr. Lister also stated that the memorandum* was inclosed therewith, and that he was to request that we would be good enough to inform your Lordship whether the statement of facts contained therein causes us to modify the opinion, expressed in our above-mentioned Report, as to the right of Great Britain to be treated in Spain on the footing of the most favoured nation.

That, with reference to the concluding paragraph of our Report, Mr. Lister stated that your Lordship would instruct Her Majesty's Chargé d'Affaires at Madrid to obtain the opinion of a competent Spanish jurist upon the point of Spanish law to which we referred as bearing upon the case of Richard Tarque.

In obedience to your Lordship's commands we have the honour to report—

That, if the solution of the question as to the suggested abrogation of the Treaties between Great Britain and Spain of 1667 and 1713 depended upon the proceedings in Parliament of 1845, we should be disposed to concur in the opinion that what then took place did no more than establish the principle that the Treaties did not apply to the colonial possessions of either country, and that nothing which passed in the debates affected the question of personal immunity in Spain.

In consequence, however, of the concluding passage of Mr. Hertslet's memorandum, we put ourselves in communication with that gentleman, for the purpose of ascertaining more particularly the circumstances under which Lord Russell, in May 1862, stated that "the House of Commons abrogated the Treaties of 1667 and 1713;" and, in answer to our inquiry, Mr. Hertslet has favoured us with a copy of a memorandum dated the 1st May, 1862, made by Mr. Bergne upon a despatch from Mr. Consul Brackenbury, and upon which Lord Russell's note was endorsed on the 16th of the same month.

We are not aware of the precise subject upon which the Consul sought advice, nor whether the subject of Lord Russell's note was in any way communicated to the Spanish Government; but from the terms of Mr. Bergne's note we should infer that the question then under consideration was not limited as it was in 1845. Under these circumstances, we remain of opinion that the Government of Great Britain is not in a position to rely upon the Treaties as being still in force.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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[*] June 18, 1875.

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## No. 92.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received September* 7.)

*Lincoln's Inn, August* 27, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 5th July ultimo, stating that, on the receipt of our Report of the 26th May, 1874, relative to the claim of Spain to exercise sovereignty over the Sulu Archipelago, that your Lordship consulted Her Majesty's Secretary of State for the Colonies as to the steps which it was advisable for Her Majesty's Government to take in the matter; and on Lord Carnarvon's suggestion, that your Lordship requested the Lords of the Admiralty to despatch to Sulu one of Her Majesty's ships, commanded by an officer on whose discretion and judgment reliance could be placed, with instructions to furnish a Report upon the points at issue between the contending parties in Sulu waters.

Lord Tenterden stated that the Lords of the Admiralty sent instructions accordingly to the Commander-in-chief of Her Majesty's naval forces on the China Station, who selected Captain Buckle, of Her Majesty's ship "Frolic," for the required service.

That Captain Buckle's Report has now been received, and a printed copy of it was sent therewith.

That the papers previously submitted to us were also inclosed, together with the correspondence that had passed upon the subject since the date of our last Report,* including two despatches from the Acting British Consul-General at Brunei of a later date than Captain Buckle's Report;† and Lord Tenterden was to request that we would take the same into our consideration, and favour your Lordship with our advice as to any representations which could properly be addressed to the Spanish Government with regard to the blockade of the Sulu ports and the interference with British trade, as described in Captain Buckle's Report.

Lord Tenterden was to add to the above correspondence two further letters on the subject of Sulu which have been received from the Colonial Office, dated 23rd June.

We are also honoured with a further letter from Lord Tenterden of the 14th July ultimo, stating that he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office (10th July), expressing the views of Her Majesty's Secretary of State for the Colonies as to the policy that should be pursued by Her Majesty's Government with regard to the Spanish proceedings in the Sulu Archipelago; and Lord Tenterden was to request that we would take the inclosed letter into our consideration, together with the papers forwarded to us with his letter of the 5th instant.

We are also honoured with a further letter from Mr. Lister of the 24th July ultimo, stating that he was directed by your Lordship to transmit to us the accompanying further despatch from Her Majesty's Consul at Manila (Mr. Ricketts, No. 6) relative to Spanish proceedings in the Sulu Archipelago; and Mr. Lister was to request that we would take the same into our consideration, together with the papers inclosed in the letters from the Foreign Office of the 5th and 14th July ultimo.

In obedience to your Lordship's commands we have taken these papers into consideration, and have the honour to report—

That we have carefully considered the several papers transmitted to us.

We see no reason for modifying the opinions expressed in the Law Officers' Reports of the 26th January and the 26th May, 1874.

If the intelligence communicated in Mr. Layard's despatch No. 269 of the 12th April, 1875, and in Mr. Low's despatches from Labuan, dated the 22nd March and the 4th May, 1875, could be relied upon, and there was a reasonable hope that

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[*] List.

[†] Mr. Low, No. 8; ditto, No. 4.

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the terms of a satisfactory peace would be settled between Spain and the Sultan of Sulu, we should suggest to your Lordship that no steps should be further taken, but, as there seems to be reason to suppose that no terms will be arranged for some time, if at all, we will submit to your Lordship such observations as the existing state of circumstances appear to us to call for.

Some uncertainty undoubtedly prevails as to whether the Spanish authorities have by their conduct created a state of war in the Sulu Archipelago, in which a blockade would be not merely a proof of that state of war, but give to neutrals, as well as to belligerents, certain definite rights, or whether the Spanish authorities are endeavouring, by the exercise of paramount rights over territories and subjects under their own dominion, to put down a state of rebellion.

The endorsement on the port clearance of the "Nil Desperandum" (inclosure in the letter from the Colonial Office of the 23rd June) seems to imply that an asserted state of war and a consequent right of blockade co-exist with a Custom-house prohibition as in a time of peace.

In our opinion, this condition of things should not be allowed to continue.

The attention of the Spanish Government should be, without delay, called to the anomaly, and that Government made to determine whether it will choose a state of warfare, with its rights and obligations, or one of peace modified in its consequences upon foreign trade by the existence of an armed rebellion.

If the Spanish Government choose the former, it should be distinctly told that the blockade must be effective, and not carried out in the loose way described by Captain Buckle.

If, on the other hand, the Spanish Government relies upon the right to prohibit trade with a subject territory in a state of insurrection, it should be told that such prohibition must be complete and not partial, and must be applied equally to the legitimate trade of all friendly Powers.

The case of the "Nil Desperandum" appears to us to give no ground of complaint.

The case of the "Marie Louise" is, we presume, still undetermined and under consideration.

Whether your Lordship should act independently of, or in concert with, the German Government in the case of the "Marie Louise," and the French Government in the case of "L'Avenir," are questions of policy for your Lordship's decision.

But, in any event, we would suggest for consideration that the presence of a strong naval force in the Sulu Archipelago would be a proper protection to British trade and a useful check upon the Spaniards, and that, should such a force be sent, the Spanish Government should be informed that it had been so sent for the purpose of protecting British trade to the fullest extent consistent with a due observance of international law.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 93.

*The Solicitor-General and Dr. Deane to the Earl of Derby.*—(*Received September* 17.)

*Temple, September* 16, 1875.

My Lord,

WE, the Solicitor-General and Dr. Deane, in the absence of the Attorney-General, who is at present on the Continent, are honoured with your Lordship's commands signified in Mr. Lister's letter of the 1st instant, stating that, with reference to Lord Tenterden's letter of the 18th ultimo, Mr. Lister was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Consul at Porto Rico,* who is now returned to his post, relative to the forcible removal by the Spanish authorities, from on board the Royal Mail steamer "Eider," of a Spanish subject named Luis Vanegas.

Mr. Lister was to request that we would take these despatches into our consideration, together with the papers on the subject already before us.

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* Captain Pauli, No. 6, Commercial, August 12; ditto, No. 4, Political, August 12, 1875.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That we think these fresh papers do not alter the case.

Whatever the offence imputed may be, the local authorities have the right to arrest and take out of a foreign merchant-ship within their territorial waters a subject of the State to which they belong.

We have, &c.
(Signed) JOHN HOLKER.
J. PARKER DEANE.

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## No. 94.

*The Solicitor-General and Dr. Deane to the Earl of Derby.*—(*Received September* 20.)

My Lord, *Temple, September* 20, 1875.

WE, the Solicitor-General and Dr. Deane, in the absence of the Attorney-General, who is at present on the Continent, are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,* relative to the capture near Gibraltar, on the 16th ultimo, by a Spanish guardacosta, of the British vessel "Dolores," and the subsequent condemnation of the owners of that vessel at Algeciras to payment of a fine equal to the full value of the vessel, besides duties.

That we would see that the master of the "Dolores" alleges that she was seized in British waters, quite close to the Rock of Gibraltar, and that there is a strong probability that his statement is true. The captors, however, assert that the capture took place in Spanish waters, and no independent testimony can be obtained.

Lord Tenterden states that, independently, however, of this point, it appears to your Lordship that the decision of the Court at Algeciras is unduly harsh and unjust, seeing that all that is alleged against the "Dolores" is that her master refused to show his manifest. It is not denied that the manifest was correct, and that there was nothing contraband on board.

In these circumstances Lord Tenterden was to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to the course that should be pursued in the matter by Her Majesty's Government.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in the absence of further evidence as to the place of capture, we are of opinion that no strong ground of complaint can be made against the Spanish Tribunals for believing the Spanish rather than "Dolores" witnesses, and therefore deciding, as we suppose was the case, that the capture took place in Spanish waters, and not in British waters, or on the high seas.

It is true that the state of wind and tide makes it doubtful whether the "Dolores" could have reached Spanish waters at the time of capture; but, on the other hand, no Spanish Revenue boat was seen anywhere in or near British waters on the evening when the capture took place.

We observe that further evidence on this point has been directed to be sought for. If any such decisive on the matter can be had, the whole character of this part of the case will be altered.

Assuming, then, the "Dolores" to have been navigating within Spanish waters, the officer in charge of the Spanish Revenue boat was, we suppose, but upon this point we have no information, authorized by Spanish law in boarding the "Dolores" and asking for her papers, of which the manifest would be the most important.

It is to be regretted that the sight of this manifest was refused, and, in our opinion, that act of refusing to produce the manifest justified the Spanish officer in taking the "Dolores" into Algeciras.

The conduct of the Administrator of the Customs at Algeciras in refusing to notify in due form the decision of the Administrative Committee respecting the detention of the "Dolores," and to supply or permit the taking of a copy of the decision, hinders all knowledge of the grounds for that decision; we can therefore deal

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* Admiralty, August 4; Sir J. Walsham, No. 517, August 4; to Admiralty, August 18; to Sir J. Walsham, No. 257, August 18; Colonial Office, August 19; to ditto, August 15, 1875.

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with the decision only, and the sentence or effect of the decision as compared with the offence.

The "Dolores" was on a lawful voyage, she carried a perfectly legal cargo, and her papers were regular and in perfect order. The only charge against her is that the manifest was kept back from the boarding officer. The justice of the case would, in our opinion, have been met by a nominal fine, but the actual sentence is a fine and the imposition of duties, the two together being more in amount than the value of the whole cargo.

On these facts we are of opinion that Her Majesty's Government may properly instruct Her Majesty's Representative at Madrid to press upon the Spanish Government, in the strongest manner consistent with diplomatic usage, the expediency, if not the necessity, of remitting the fine and duties imposed upon the cargo of the "Dolores," and releasing at once both the vessel and her cargo, if still detained.

The conduct of the Administrator of the Customs at Algeciras in taking advantage of a mere technicality, as stated by Colonel Gordon, should also, we think, be strongly brought to the notice of the Spanish Government.

We are also of opinion that Her Majesty's Government should take the measure which we have advised immediately, and without waiting for the result of the appeal.

The act of the master of the "Dolores" in refusing to produce his manifest prevents any claim for costs and damages, down to the time when the cargo had been examined, and the nature of the voyage ascertained.

We have, &c.
(Signed) JOHN HOLKER.
J. PARKER DEANE.

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## No. 95.

*The Solicitor-General and Dr. Deane to the Earl of Derby.—(Received September* 25.)

*Temple, September* 25, 1875.

My Lord,

WE, the Solicitor-General and Dr. Deane, in the absence of the Attorney-General, who is at present on the Continent, are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th August ultimo, stating that he was directed by your Lordship to transmit to us the accompanying papers, as marked in the margin,[*] relative to the forcible removal from the Royal Mail steam-ship "Eider," by the Spanish authorities at San Juan, Porto Rico, of a Spaniard named Luis Vanegas, accused of being a deserter, who was at the time of his arrest a passenger on board the "Eider" from Santo Domingo to St. Thomas.

Lord Tenterden was also to inclose the Law Officers' Reports, as marked in the margin,[†] relative to the right of a State to arrest persons on board foreign vessels, other than vessels of war, while in a port belonging to such State.

Lord Tenterden was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to whether Her Majesty's Government should take any, and, if so, what, steps in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That we have not anything to add to the Report already sent in.

We have, &c.
(Signed) JOHN HOLKER.
J. PARKER DEANE.

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[*] Consul Robertson (Telegraphic), received July 25; to ditto (Telegraphic), July 27; Acting Consul Robertson, No. 5, Commercial, July 27; Royal Mail Steam Packet Company, August 11; ditto, August 14, 1875.

[†] December 1, 1861, in printed volume; April 16 and June 23, 1866, ditto; February 3, May 16, and June 1874.

## No. 96.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October* 4.)

*Lincoln's Inn, October* 4, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 17th August last, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relative to the claim of Mr. James Benjamin Field, who stated himself to be a British subject, to compensation from the Spanish Government on account of his seizure by a Spanish naval officer while on a trading voyage in the German brig "Marie Louise" in August 1873, and his subsequent detention and ill-treatment at Caviti in the Philippines.

That we should see that the case of the "Marie Louise" had given rise to a lengthened correspondence, and that it involved three different claims.

1. The claim on account of the seizure of the vessel.

That that was a matter between the Spanish and German Governments, the "Marie Louise" being under the German flag.

2. Mr. Field's claim on account of the seizure of the cargo.

That the Captain-General of the Philippines and Her Majesty's Consul at Manila had received orders from their respective Governments to endeavour to come to an arrangement.

3. Mr. Field's personal claim to compensation on account of his arrest and imprisonment.

That that claim was not referred to Manila for arrangement, and no decision had yet been come to thereon.

That Lord Tenterden was therefore to request that we would take the inclosed papers into our consideration, and favour your Lordship with our opinion as to the steps that Her Majesty's Government should take in the matter.

That Lord Tenterden was, at the same time, to point out to us that the question of Mr. Field's claim was in some measure connected with the question of the Spanish claim to sovereignty over the Sulu Archipelago, the papers relating to which were sent to us on the 5th July last.

In obedience to your Lordship's commands we have taken the above papers into our consideration and have the honour to report—

That, since the capture and detention of the "Marie Louise" is admitted to have been illegal, and the rights of the owners of that ship and her cargo, and of the German subjects on board her, to indemnity has been conceded (see Mr. Layard's despatches No. 272 of the 23rd April, 1870, and No. 80 of the 30th August, 1874), Mr. Field, who was detained from the 16th August, 1873, to the 7th January, 1874, is, in our opinion, entitled to be indemnified and compensated for such detention.

The alleged former smuggling transaction of which he is accused was, so far as we can gather from the papers, a matter quite foreign to his arrest and detention, as being on board the "Marie Louise;" and no charge on the ground of former smuggling appears to have been made against Mr. Field before his escape.

We see no reason for supposing that Mr. Field was subjected to personal ill-treatment, and no indemnity to him, on that ground, can, in our opinion, be claimed.

But we think the nationality of Mr. Field, notwithstanding his deposition that he was born in Ireland, requires some further proof. He should be required to state when he was born, who his parents were, when he left Ireland, how long and where he resided in the United States, and what his occupation was whilst in the States.

Should Mr. Field prove to be still a British subject, Her Majesty's Government may, in our opinion, properly insist upon his being indemnified for his illegal detention in consequence of his connection with the "Marie Louise."

Whether your Lordship should inform the Spanish Government that some doubts exist as to the nationality of Mr. Field, stating that the compensation will be insisted upon only in the event of his British nationality being established, or should wait till the fact is established one way or the other, is, we humbly submit, a question for your Lordship's judgment and decision.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 97.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 5.)

*Lincoln's Inn, October* 4, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st August last, stating that, with reference to our Report of the 20th July last respecting the case of the steamer "Victoria," he was directed by your Lordship to transmit to us, together with the previous papers,* a further letter from Messrs. Grant, Darroch, and Co. (August 17, 1875), again demurring to the competency of the Spanish Court to deal with the case, in view of the clause in the charter-party stipulating that disputes were to be arbitrated upon in London. And Lord Tenterden was pleased to say that he was to request that we would again take the case into our consideration, and favour your Lordship with our view as to the answer which should be returned to Messrs. Grant, Darroch, and Co.; and

That "there is a mark in the accompanying volume at the place where a copy of the charter-party is to be found."

In obedience to your Lordship's commands we have again taken the case into our consideration and have the honour to report—

That the charter-party has already been before and considered by us.

We see no reason for modifying the opinion which we had the honour of submitting to your Lordship in our Report of the 20th July last, and we are of opinion that Messrs. Grant and Co. may properly be answered that the action of the Spanish Tribunals gives no ground for diplomatic intervention.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## No. 98.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 20.)

*Lincoln's Inn, October* 19, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 1st instant, stating that, with reference to our Report of the 14th July respecting the case of the "Joseph Dodds," he was directed by your Lordship to transmit to us a draft of a despatch which your Lordship proposed to address to Her Majesty's Minister at Madrid in the matter; and that he (Mr. Lister) was to request that we would take that draft into our consideration, and favour your Lordship with our opinion as to whether it might properly be sent.

In obedience to your Lordship's commands we have the honour to report—

That the despatch, of which the draft has been transmitted to us, may, in our opinion, properly be sent.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## No. 99.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 22.)

*Lincoln's Inn, October* 21, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 27th September ultimo, stating that, with reference to the Report of the Solicitor-General and Dr. Deane of the 20th September respecting the case of the ship "Dolores," he was directed by your Lordship to state to us that, before sending any instructions to Her Majesty's Minister at Madrid in the matter, he considered it advisable to transmit to us the accompanying papers, as marked in the margin,* which had been recently received, bearing upon the case; and that he (Mr. Lister) was to request that we would take the further papers, together with the previous correspondence therewith returned to us, and favour your Lordship with any observations we might have to offer thereupon.

We are also favoured with a note from Mr. Lister of the 12th instant, stating that he had the honour to inclose the accompanying further documents relative to the case of the "Dolores;" and to request that we would have the goodness to take those papers into our consideration, in connection with those inclosed in his letter of the 27th ultimo.

In obedience to your Lordship's commands we have the honour to report—

That it appears from the further papers that the "Dolores" and her cargo have now been sold.

We see no reason for altering the opinion which the Solicitor-General and Dr. Deane submitted to your Lordship on the 20th ultimo.

But as the state of things respecting the "Dolores" and her cargo has changed, we are of opinion that Her Majesty's Government, instead of asking for a remission of the fine imposed and the duties, as suggested in the former Report of the Solicitor-General and Dr. Deane, may properly instruct Her Majesty's Representative at Madrid to press upon the Spanish Government, in the strongest manner consistent with diplomatic usage, the expediency, if not the necessity, of compensating the owners of the "Dolores" and her cargo for the loss which they have sustained by the condemnation and sale of their property to meet an excessive and unwarrantable fine.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## No. 100.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 22.)

*Lincoln's Inn, October* 21, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 18th September ultimo, stating that, with reference to the papers now before us respecting the case of the "Dolores," he was directed by your Lordship to transmit to us the accompanying letter from the Colonial Office (9th September, 1875) as regarded the question of the maritime boundaries of British and Spanish jurisdiction in the neighbourhood of Gibraltar; and that he (Mr. Lister) was also to transmit to us certain other documents, as marked in the margin,† bearing upon that question, and to request that we would take those papers into our consideration, and favour your Lordship with any observations we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report as follows:—

1. That with respect to the points referred to in the letter from the Colonial Office of the 9th September, 1875, we see no reason to doubt that dominion may be acquired, by Treaty or conquest, over the whole of a bay by a nation possessing only a portion of its shores, provided the State by whom the territory is ceded possessed such dominion prior to the cession.

2. We think that, in the absence of any special rights obtained, the *medium filum aquæ* of straits or bays, of which the opposite shores belong to different States, and where the waters are too narrow to admit the application of the 3-mile rule, would be the proper dividing line.

3. We see, on principle, no objection to the boundary lines as drawn by the Attorney-General for Gibraltar, because the local circumstances make it impossible for Great Britain and Spain each to maintain the 3-mile jurisdiction, and the principle drawn from, or founded upon, the range of guns is, for the same local reasons, inapplicable. And, as the Attorney-General was assisted by the naval

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* Volume: to Grant, Darroch, and Co., July 28; Grant, Darroch, and Co., August 3; to ditto, August 14, 1875.

* Messrs. Pirrie, Foote, and Co., September 15; Colonial Office, September 16; Messrs. Pirrie, Foote, and Co., September 23; Sir J. Walsham, No. 548.

† Memorandum, January 29, 1859; Admiralty, August 5 and 12; Colonial Office, August 19; to ditto, August 27, 1875.

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authorities and others in preparing the chart annexed to his observations, we apprehend that there is no practical objection to the boundaries which he suggests.

But, as it is not improbable that the Spanish Government might not accede to the proposed arrangements, we submit, for your Lordship's consideration, that, before any definite offer, binding or committing Her Majesty's Government upon the subject of the suggested compromise, is made to the Spanish Government, the views of that Government should be ascertained. In the meantime, we concur with your Lordship in thinking that there is no reason why Her Majesty's Government should recede from the position that the territorial waters extend to a distance of 3 miles round the rock of Gibraltar.

4. With reference to the points arising upon the other papers submitted for our consideration, we may remark that we are unable to agree with the Attorney-General for Gibraltar that, in the case of territory acquired by conquest or cession, the boundary of maritime jurisdiction is more extended than in other cases; and, as far as we are aware, there is no authority for such a proposition. In other material points, we concur in the observations of the Attorney-General. A Commission to settle the maritime boundaries would certainly give rise to a great and irreconcilable divergence of opinion, and lead, at the best, to a proposal for arbitration.

We think that your Lordship may properly give your approval to the course taken by the Governor of Gibraltar in reference to a public advertisement to traders in and from Gibraltar.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 101.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October 22.)*

My Lord, *Lincoln's Inn, October 21, 1875.*

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 27th September ultimo, stating that, with reference to the question now under our consideration respecting the question of Spanish maritime jurisdiction, he was directed by your Lordship to transmit to us the accompanying letter from the Board of Admiralty of the 23rd September, 1875, upon the same subject.

In obedience to your Lordship's commands we have the honour to report—

That in a Report of even date herewith we have reported to your Lordship our opinion upon the question of maritime jurisdiction in places where the 3 miles rule cannot be adhered to by Great Britain and Spain.

With reference to the claim of Spain to a jurisdiction running over 6 miles from her shores, we are of opinion that, in the absence of any authority for such an unusual extent of jurisdiction, the claim ought not to be submitted to or admitted.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 102.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received October 23.)*

My Lord, *Lincoln's Inn, October 22, 1875.*

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 16th ultimo, stating that, with reference to our Report of the 27th August last respecting the claim of Spain to exercise sovereignty over the Sulu Archipelago, he was directed by your Lordship to transmit to us two despatches from Her Majesty's Consul-General in Borneo, the former of which gave particulars as to the seizure by Spanish war vessels in the port of Beucawan on the 22nd June last of the steamer yacht "Sultana," which had been chartered for twelve months from August 1874 by His Highness the Sultan of Brunei to a Company called the "Victoria Trading Company of Labuan," the partners in which were British subjects carrying on business and residing in Singapore, Brunei, and Labuan; and that he (Mr. Lister) was to request that we would take those despatches into our consideration, and favour your Lordship with our opinion as to whether, under the circumstances therein set forth, the vessel in question was to be considered a British vessel, and, if so, whether Her Majesty's Government would be justified in demanding her restitution from the Spanish Government as well as compensation for her detention and reparation for the insult offered to the British flag.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the "Sultana" cannot be considered a British vessel, and Her Majesty's Government would not be justified in demanding her restitution.

But the interests of British subjects are concerned, and the circumstances as detailed by Mr. Howard show that no real blockade is established by the Spaniards in the Archipelago, and we therefore think that Her Majesty's Government may properly demand that Mr. Howard and the other British subjects should be compensated for the losses sustained by the illegal capture of the "Sultana;" and we would submit that the opportunity should be taken of stating strongly to the Spanish Government that the conduct of the Spanish officers in the Sulu Archipelago, if not corrected, will lead to serious difficulties between Great Britain and Spain. As regards the suggested insult to the British flag, it would appear that Mr. Howard was in error as to the facts of the case.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 103.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received November 1.)*

My Lord, *Lincoln's Inn, October 29, 1875.*

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 21st instant, stating that, with reference to the letter from the Foreign Office of the 27th ultimo, he was directed by your Lordship to transmit therewith, for our opinion, a further letter from Messrs. Pirrie, Foote, and Co., relative to the late seizure of the vessel "Dolores" by Spanish guardacostas off Gibraltar.

In obedience to your Lordship's commands we have the honour to report—

That the further papers sent with Mr. Lister's letter of the 21st instant do not affect the opinion we have had the honour of submitting to your Lordship.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 104.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received November 1.)*

My Lord, *Lincoln's Inn, October 30, 1875.*

WE are honoured with your Lordship's commands signified in Mr. Lister's letter to Dr. Deane of the 18th instant, stating that, with reference to his (Mr. Lister's) letter of the 16th ultimo, relative to the "Sultana," he was to transmit therewith a private letter from Her Majesty's Consul at Manila on the same subject.

We are also honoured with a further letter from Mr. Lister, bearing date the 8th instant, stating that he was directed by your Lordship to transmit to us further despatches relative to the seizure by the Spanish naval authorities in the Sulu Archipelago of the steam-yacht "Sultana;" and that he was to request that we would take the same into our consideration, together with the papers inclosed in his letter of the 16th ultimo.

We are also honoured with a further letter from Mr. Lister, dated the

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22nd instant, stating that, with reference to his letter of the 18th instant, he was to transmit further despatches on the case of the "Sultana," with the request that we would oblige your Lordship by taking them into our consideration, together with the papers inclosed in his above-mentioned letter.

In obedience to your Lordship's commands we have the honour to report—

That the further papers now before us add but little to the information upon the subject of the seizure of the "Sultana," which we possessed when we made our report to your Lordship under date the 22nd instant.

We still think that the demand for compensation should be made as then suggested by us, as the conduct of the Spanish officers who made the seizure appears to us to have been unjustifiable, in any view of the case which has as yet been suggested.

It must, however, be borne in mind that Her Majesty's Government have not at present any authoritative explanation of the views of the Spanish Government, and the facts of the case are much complicated by the circumstances that the parties on whose behalf the demand is proposed to be made were serving on board a vessel under a foreign flag, and had deserted the vessel prior to her seizure.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 105.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 23.)

My Lord, *Temple, December* 22, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 26th October last, stating that he was directed by your Lordship to transmit to us the accompanying correspondence, relative to the claim of British subjects to be exempted from certain war taxes lately ordered to be levied in Spain.

That we should see from that correspondence that the taxes in question were of two kinds—one on real property, the other on commercial interests—and that in ordering their levy the Spanish Government had laid down different principles as to the liability thereto of the subjects of different foreign countries, German subjects and the subjects of certain South American States being declared exempt from both classes; Austrians, French, and others from the last-named class only; while subjects of Great Britain and of the United States were not specially mentioned.

That the question, therefore, arose whether exemption could be claimed for British subjects from payment of either or both classes of taxes, and, if so, on what grounds. It was suggested by Her Majesty's Chargé d'Affaires at Madrid that exemption from the taxes on commercial interests might be claimed on the ground of reprocity, the liability to taxes on real property being admitted, but it did not appear to your Lordship that the ground of reciprocity would be an advisable one to adopt. The laws, modes of taxation, and other circumstances differed so widely in Great Britain and Spain that it might be both difficult and inconvenient to carry out a system of reciprocity.

That, in your Lordship's opinion, the position that should be taken up by Her Majesty's Government was that British subjects were entitled, under the ancient Treaties between Great Britain and Spain, to be treated in Spain on the footing of subjects of the most favoured nation. That that was the position that had been consistently maintained by the Government of Great Britain up to the present time, and it appeared to your Lordship that it would be most unadvisable to surrender it now, unless it could be shown to be untenable.

That, as supporting that position, Mr. Lister was to call our especial attention to the following documents:—

1. Despatch from the Earl of Clarendon to Lord Howden No. 39 of the 22nd February, 1856, in which he was informed that, as soon as a French Treaty then under negotiation came into force, the British Government would claim on behalf of British subjects every privilege conceded thereby to French subjects, under Article VII of the Treaty of 1750, which stipulated that British subjects should be treated in Spain in the same manner as subjects of the most favoured nation, and which Treaty was renewed in 1814.

2. Report from the Law Officers of the Crown, dated the 2nd December, 1873, advising Her Majesty's Government that they had the right to claim for British subjects, under the Treaty of September 1783, Article II, and the Treaties renewed by the said Article, and the Additional Articles of the 28th August, 1814, an exemption similar to that conceded to French, Italian, and Portuguese subjects; the Law Officers adding the opinion that the most-favoured-nation clause contained in the Treaty of the 5th October, 1750, having been confirmed by other Treaties, was still binding.

3. Report from the Law Officers of the Crown, dated the 24th December, 1873, in which they stated that they were clearly of opinion that, in any event, British subjects were entitled to all the exemptions granted to other foreigners.

4. Memorandum by the Librarian of the Foreign Office, dated the 15th October, 1868, relative to the rights and privileges of British subjects in Spain under the ancient Treaties, which contained a summary of what had passed upon the subject up to that date.

That it would be seen from those papers, and the other correspondence sent therewith, that the right of British subjects in Spain to be treated on the footing of the most favoured nation had always hitherto been claimed by the British Government, and, although sometimes demurred to, had been practically conceded by the Government of Spain.

That it was, therefore, most important that that right should, if possible, still be upheld.

That a difficulty had, however, been raised in the matter by the Law Officers' Report of the 20th August, relative to the liability of Richard Tarque to military service in Spain.

In that Report the Law Officers expressed an opinion that the Government of Great Britain was not in a position to rely upon the Treaties as being still in force, and they based that opinion upon an endorsement by Earl Russell upon a memorandum drawn up by the late Mr. Bergne in 1862, in which his Lordship stated that "the House of Commons abrogated the Treaties of 1667 and 1713."

That as that opinion, if adhered to and acted upon, would have a most injurious effect upon British interests in Spain, your Lordship had caused a memorandum to be drawn up in the Foreign Office, copy of which was inclosed, showing the circumstances under which Mr. Bergne's memorandum was written, and Lord Russell's endorsement thereon was made.

That we should see from that memorandum that Mr. Bergne's memorandum did not enter fully into all the bearings of the question, and that Lord Russell's endorsement thereon, besides being founded on imperfect information, merely amounted to an expression of opinion on the part of his Lordship, and was not followed by any action on the part of Her Majesty's Government, nor communicated to the Spanish Government.

That, in those circumstances, it appeared to your Lordship that the opinion thus expressed by Lord Russell in 1868 did not in any way preclude Her Majesty's Government from maintaining the claim which had been consistently upheld by the Government of Great Britain, both before and since that date, that British subjects in Spain are entitled to be treated on the footing of subjects of the most favoured nation.

That, in view of the very important interests involved in that question, Mr. Lister was to request that we would take the matter into our most serious consideration, and that we would be good enough to inform your Lordship, at our early convenience, whether we concurred in the opinion set forth in that letter, or whether we still considered that the Government of Great Britain cannot rely upon the ancient Treaties with Spain as conferring on British subjects in Spain the privileges and immunities of "subjects of the most favoured nation."

We are also honoured with a further letter from Mr. Lister of the same date, stating that, with reference to his other letter of that day's date respecting the right of British subjects in Spain to be treated on the footing of the subjects of the most favoured nation, he was directed by your Lordship to transmit to us Parliamentary Papers containing the correspondence which passed between the Earl of Aberdeen and the Duke of Sotomayor, the Spanish Minister, in 1845, together with a manuscript volume, in which would be found a Report of the Law Officers of the 30th June, 1845, and other papers bearing on that subject.

That we should see from those papers that Lord Aberdeen then contended, and

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the Spanish Government accepted, the interpretation that the ancient Treaties were still in force, but that—

1. The West Indian Colonies of both countries were excepted.
2. The most-favoured-nation clauses applied only to the subjects personally, and not to the produce of the respective nations.

That we should also observe that Lord Aberdeen, in his note of the 5th December, 1845, deprecated a reference on the part of the Spanish Minister to proceedings in Parliament.

That your Lordship did not consider that it was now necessary to examine the force of Lord Aberdeen's arguments in regard to commercial privileges, but that your Lordship was of opinion that we should have these papers before us as tending to establish the right of British subjects in Spain to the privileges of the subjects of the most favoured nation, since they show that that right was asserted and admitted by both Governments on one of the principal occasions when the interpretation of the Treaties was in dispute.

We have also the honour to acknowledge a memorandum from Lord Tenterden of the 10th ultimo, stating that he was directed by your Lordship to transmit to us a further despatch from Mr. Layard respecting the excessive war taxes levied in Spain, and to request that we would have the goodness to take the same into our consideration, in conjunction with the papers inclosed in Mr. V. Lister's letters of the 26th ultimo.

We are also honoured with a further letter from Lord Tenterden of the 23rd November ultimo, stating that, with reference to Mr. Lister's letter of the 26th ultimo, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Madrid in regard to the exemption of the subjects of certain countries to pay extraordinary war taxes which might be levied in Spain; and that he (Lord Tenterden) was to request that we would take that despatch into our consideration, together with the other papers upon the same subject then before us.

In obedience to your Lordship's commands we have the honour to report—

That we have taken into our consideration the whole of the papers transmitted to us by Mr. Lister.

It appears to us that in 1845 the Governments of Great Britain and Spain agreed upon and concurred in the sense to be attached to the Treaties subsisting between the two Powers.

And the sense so agreed upon and concurred in was that, by the Treaties, the subjects of the one Government were to be treated by the other Government as coming within the most-favoured-nation clause.

And consequently that the same exemption from taxes of any class which is granted by Spain to the subjects of any other country may be claimed under the Treaties between Great Britain and Spain for British subjects in Spain.

We think that it would be dangerous, inconvenient, and probably impracticable to put the claim to exemption on the ground of any supposed reciprocity.

In reference to the Report of the 20th August last relative to the liability of Richard Tarque to military service, we have come to the conclusion, upon the further information which your Lordship has now directed to be submitted to us, that Great Britain is not prejudiced by the endorsement of Earl Russell upon the memorandum drawn up by the late Mr. Bergne in 1862, nor prevented thereby from relying upon the ancient Treaties (including that of 1814) as being still in force.

We have, &c.
(Signed) JOHN HOLKER.
HARDINGE S. GIFFARD.
J. PARKER DEANE.

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## No. 106.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 30.)

My Lord,
*Temple, December* 29, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd ultimo, stating that he was directed by your Lordship to transmit to

us the accompanying despatch from Her Majesty's Minister at Madrid, in which he asked for instructions as to how he should act with regard to the property left by William Higgs, a British subject, who had lately died at Madrid, intestate.

That the case which formed the subject of the correspondence in 1872 referred to by Mr. Layard (inclosed therewith) differed from this, but that, in the course of that correspondence, the proper mode of dealing with the property of British subjects dying intestate in Spain was incidentally laid down by the Law Officers of the Crown; and that it was on account of the difficulty of following the course then prescribed that Mr. Layard applied for further instructions.

That we should see that the course prescribed by the Law Officers in 1872 was founded on the provisions of the Treaty between Great Britain and Spain of 1667; and the question now raised was, in the first instance, dependent upon that of the validity of the ancient Treaties with Spain, which question had been referred to us for reconsideration in Lord Tenterden's two letters of the 26th ultimo; since, if those Treaties were ultimately decided to be no longer valid, their provisions would cease to afford any guidance in the matter.

That if, however, we should, on reconsideration, come to the conclusion that the Treaties were still in force as regards British subjects in Spain, it would remain to be considered how the provisions of the Treaty of 1867 could be complied with in face of the difficulties to which Mr. Layard called attention; and it appeared to your Lordship that the intention of the Treaty would be sufficiently met in that, and in similar cases, if, in the absence of any objection on the part of the persons interested, Her Majesty's Consul were to remit the proceeds of the estate in the usual manner to this country, for the benefit of the next of kin.

That Lord Tenterden was to request that we would be good enough to take the inclosed papers into our consideration, and favour your Lordship with our opinion as to the answer that should be returned to Mr. Layard's last despatch.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, for the reasons more fully given in our Report on the question of the liability of British subjects resident in Spain to war taxes, the ancient Treaties between Great Britain and Spain are still in force.

The difficulties with respect to the property in Spain of British subjects dying testate, but without appointing executors in Spain, arises from the wording of the Articles XXXIII and XXXIV in the Treaty of 1667. The Article XXXIII does not say by whom the property of such persons is to be preserved, whilst Article XXXIV not merely names the Consul or other public Minister who is to act, but excludes the Cruzada or other Judicatory.

It appears that the Spanish authorities interfere only exceptionally, and so long as the Spanish Government is secured the payment of any duty or tax, which it may be entitled to upon the administration and devolution of the estates of British subjects dying intestate in Spain, and with property in that country, but without executors, and so long as the rights of creditors and others in Spain are protected, we should apprehend that the Spanish Government would not care to put the strict construction upon Article XXXIII and claim to exercise its right to preserve the testator's property.

We therefore think that any British Consul or public Minister, although he has no legal right to do so, may, in the majority of cases, venture to get in such property, but in so doing he must exercise great caution with the Spanish authorities, and a power of attorney, or other instrument authorizing him or some one else to act, should be obtained as soon as possible from the person or persons entitled to the property.

The property should not be sent over to England till all legal claims upon it in Spain are settled there.

With reference to the case under Article XXXIV, as to which Mr. Layard suggests a difficulty when two or three merchants cannot be found with whom to deposit the property, books, &c., of the intestate, we would remark that the Article in question does not require the merchants to be British merchants, so that the main difficulty suggested does not arise. With respect to the suggestion that the persons made custodians of the property deposited with them may require some remuneration for their trouble in taking care of it, we do not see that any reasonable claim on their part could be objected to by the persons entitled to the estate.

There is in vol. liii, State Papers, p. 1057, a Decree of the Queen of Spain providing (Article 28) for the case of foreigners dying intestate, and cases of testamentary successions, which may simplify the action of British Consular officers in cases

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similar to that referred to us, and we suggest that the attention of Mr. Layard should be directed to this Decree.

We have, &c.
(Signed) JOHN HOLKER.
HARDINGE S. GIFFARD.
J. PARKER DEANE.

## Sweden.

### No. 107.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 3.)

My Lord, *Lincoln's Inn, July* 2, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 20th May last, stating that he was directed by your Lordship to transmit to us the accompanying despatches from Her Majesty's Consul at Stockholm relative to a difficulty which had arisen in regard to the transfer to the British community in that city of the church property hitherto held by the Church Committee there under the provisions of the Consular Act 6 and 7 Geo. IV, cap. 87; and that he was to request that we would take these papers into our consideration, and favour your Lordship with our opinion as to the instructions which it might be proper to give to Mr. Consul Segrave, with the view to provide that the property in question should be at all times devoted to the purposes for which it was originally intended.

In obedience to your Lordship's commands we have the honour to report—

That the difficulty seems, from Mr. Consul Segrave's letter (Confidential) of the 28th January, to arise from the refusal of the British community or congregation to take over and make themselves liable for the support of the building.

The schemes suggested by the Swedish lawyers will not solve this difficulty.

Besides, if the British community did consent now to take over the building and to give a mortgage upon it as security that it should be at all times devoted to the purpose for which it was originally intended, and not disposed of or given up to other uses, Her Majesty's Government might hereafter be embarrassed by having to take back the mortgaged property and dispose of it in some way.

We are therefore of opinion that Mr. Consul Segrave should be instructed to make over the building transferred to the British community absolutely, leaving the individuals making up that body to deal with it as may to them seem best, and that Her Majesty's Government should be free from all future connection with, or responsibility arising out of, the British church property in Stockholm.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

## Tunis.

### No. 108.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received February* 6.)

My Lord, *Lincoln's Inn, February* 5, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 20th January ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul-General at Tunis,* reporting the trial and condemnation of Carmelo Villa for the manslaughter of an Italian sea captain at Sfax, and to request that we would take the case into our consideration, and favour your Lordship with our opinion as to whether Mr. Consul-General Wood's action in the matter should be approved by Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That the action of Mr. Consul-General Wood may, in our opinion, properly be approved.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

### No. 109.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 26.)

My Lord, *Lincoln's Inn, May* 24, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 8th instant, stating that, with reference to the Report of the Law Officers of the 10th April, 1874, on the draft of the proposed Treaty between Great Britain and Tunis, he was directed by your Lordship to transmit to us, for our consideration, a despatch which he had received from Her Majesty's Agent and Consul-General at Tunis,† reporting that, with a few verbal alterations, the modifications proposed by Her Majesty's Government had been accepted by the Bey.

That he (Lord Tenterden) was to request that we would take that despatch, together with its inclosures (wherein the proposed alterations were made), into our consideration, and favour your Lordship with any observations we might have to make thereon, as well as with our opinion whether the Treaty, as amended, might be returned to Mr. Wood for conclusion with the Government of the Bey.

That he (Lord Tenterden) was to inclose therewith, for reference, the correspondence as marked in the margin.‡

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Treaty, as amended, may be returned to Mr. Wood for conclusion with the Government of the Bey.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Wood, No. 26, December 23, 1874.

† Mr. Wood, No. 14, April 14, 1874.

‡ Law Officers, April 10; to Mr. Wood, No. 3, Commercial, May 13, 1874; Board of Trade, May 5, 1875.

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# Turkey.

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## No. 110.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received January* 7.)

*Lincoln's Inn, January* 6, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 23rd ultimo, stating that he was directed by your Lordship to transmit to us papers relative to the circumstances under which the intervention of Her Majesty's Government had been invoked in support of Mr. J. F. H. Reade's claim to the concession by the Porte of the Sari Yeri copper mines; and that Lord Tenterden was to request that we would take the same into our consideration, and favour your Lordship with our opinion as to the course which it would be proper for Her Majesty's Government to take in that matter.

In obedience to your Lordship's commands we have the honour to report—

That we have carefully considered the claim put forward for the intervention of Her Majesty's Government on behalf of Mr. J. F. H. Reade, and we are of opinion that Her Majesty's Government cannot properly afford diplomatic assistance to Mr. J. F. H. Reade pending the present legal proceedings at Constantinople, but we think any assistance which can officiously be given may rightly be afforded to that gentleman.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 111.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received January* 11.)

*Lincoln's Inn, January* 9, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 1st instant, stating that your Lordship had received a telegram from Mr. Vivian, Her Majesty's Agent and Consul-General at Bucharest, asking whether he could legally solemnize a marriage at the British Vice-Consulate at Jassy, in Moldavia, the Vice-Consul, Mr. St. John, not possessing a warrant to enable him to solemnize marriages.

That Mr. Bourke was to inclose copies of the Queen's Commission under which Mr. Vivian held his appointment, and of the warrant which enabled him to solemnize marriages; and that Mr. Bourke was to request that we would favour your Lordship with our early opinion as to whether a marriage solemnized by Mr. Vivian at Jassy would be considered valid.

That a copy of the Act for facilitating marriages abroad was inclosed.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Vivian being Consul for Moldavia, and no directions being contained in the warrant of the 25th November, 1874, which would have the effect of limiting his authority, a marriage solemnized by him in Moldavia, at Jassy, will, in our opinion, be valid.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 112.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received January* 15.)

*Lincoln's Inn, January* 14, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 28th December ultimo, stating that he was directed by your Lordship to transmit to us papers, as marked in the margin,[*] relative to the increase of the hospital tonnage fee at Smyrna to 2*d.* a-ton, to be levied as at present advised once a-month.

That with this view Mr. Reilly had prepared a draft Order in Council, which formed an inclosure in his letter of the 19th November last; and that he (Mr. Bourke) was to request that we would take the draft into our consideration, in connection with the other inclosed papers, and favour your Lordship with our opinion as to whether it is right and proper to be submitted for the approval of Her Majesty.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft Order in Council, with the necessary correction of the date in Article 1, and the omission of the words within red brackets in Article 5, may rightly and properly be submitted for the approval of Her Majesty.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 113.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 2.)

*Lincoln's Inn, March* 1, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 8th January ultimo, stating that he was directed by your Lordship to transmit to us papers, as marked in the margin,[†] relative to petitions from one Leon Franco, a prisoner at Malta under sentence of the Consular Court at Alexandria, praying for a pardon.

That he (Mr. Bourke) was also to transmit the despatch of the 15th January, 1870, from Mr. Lane (No. 1), referred to by Dr. Arpa as bearing on the question of the dispersion of the jury during the petitioner's trial, and a Report of the then Law Officers (February 9, 1870) on that despatch; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to whether there are any grounds for complying with Leon Franco's petition.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, there are not sufficient grounds for complying with the petition of Leon Franco.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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[*] To Mr. Reilly, October 24; Mr. Reilly, November 19; to Board of Trade, November 26; Board of Trade, December 16, 1874.

[†] Colonial Office (two), March 21; to Mr. Lane, No. 6, March 29; Mr. Lane, No. 5, May 5; Sir P. Francis, June 7; to Colonial Office, June 16, 1873; Colonial Office, July 17; to Dr. Arpa, No. 10, July 24; Dr. Arpa, No. 30, October 27; Sir P. Francis, No. 102, November 21, 1874.

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## No. 114.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 3.)

*Lincoln's Inn, March* 2, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 10th February ultimo, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Stibbard and Cronshey (January 26), applying for permission to inspect and to obtain copies of the correspondence in the Foreign Office relative to a complaint preferred by M. Giuseppe Mirabita against the interference of Her Majesty's Consul-General and Judge at Constantinople in regard to a contract entered into by M. Mirabita for the sale of two vessels to the British Government.

That the correspondence in question, as noted in the margin,* was also inclosed; and that he (Mr. Lister) was to request that we would take the papers into our consideration, and favour your Lordship, at our early convenience, with our opinion as to the answer which should be returned to Messrs. Stibbard and Cronshey's application in the matter.

In obedience to your Lordship's commands we have the honour to report—

That we do not know what course is usually taken in applications similar to that of Messrs. Stibbard and Cronshey, but the correspondence referred to contains matters affecting the character of M. Mirabita, and not connected with the subject of litigation between that person and Mr. Dale.

Messrs. Stibbard and Cronshey may, therefore, in our opinion, properly be answered that their application cannot be complied with.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 115.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 5.)

*Lincoln's Inn, March* 4, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 11th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence relative to a question which had arisen on the subject of coal duties in Turkey.

That he (Mr. Lister) also inclosed a memorandum which had been prepared in the Foreign Office on the question, and some correspondence connected with it which took place last year, and likewise, for reference in its bearing upon the point, our Report of the 25th August last on coal duties at Port Saïd.

That Mr. Lister was to request that we would take the inclosed papers into our consideration, and that we would favour your Lordship with our opinion as to the instruction which should be addressed to Sir Henry Elliot in reply to his despatches Nos. 3 and 4, Commercial, of the 19th and 22nd January.

That the Treaty of Commerce and Navigation between this country and Turkey of the 29th April, 1861, would be found in vol. xi of Hertslet's Commercial Treaties, p. 561.

We are also honoured with a memorandum from Mr. Bourke of the 23rd ultimo, stating that, with reference to the letter from the Foreign Office of the 11th ultimo, he was directed by your Lordship to transmit to us, for our consideration in connection with the papers on the subject then before us, a letter from the North of England Steam-Ship Owners' Association, protesting against the imposition of coal duties at Constantinople.

In obedience to your Lordship's commands we have the honour to report—

That we agree, but not without some doubt, with the opinion of Sir Henry Elliot upon the meaning of the XIth Article of the Treaty between Great Britain and Turkey, 1861, that coal shipped, not for re-exportation, but for consumption on board, cannot correctly be exempt from duty under that Article.

But we think that Sir H. Elliot may properly be instructed to inform and press upon the Turkish Government that all rights, privileges, or immunities granted or suffered to be enjoyed by the subjects, ships, commerce, or navigation of any other foreign Power will be claimed on behalf of the subjects, ships, commerce, and navigation of Her Majesty's subjects under the Ist Article of the Treaty with this country of 1861.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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[*] M. Mirabita, February 19; to ditto, February 20; to Mr. Locock, No. 17, Commercial; Mr. Locock, Nos. 30, 31, and 32, Commercial; to ditto, No. 30, Commercial; to M. Mirabita, March 20, 1874.

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## No. 116.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 5.)

*Lincoln's Inn, March* 4, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 9th February ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Consul-General at Bucharest,* inclosing copy of an application from Isidore Gilberg, a Jewish youth of 16, praying to be admitted to British protection; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to what instructions should be sent to Mr. Consul-General Vivian for his guidance in the matter.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Consul-General Vivian may, in our opinion, properly be instructed that Isidore Gilberg is not entitled to claim protection as a naturalized British subject.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 117.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 9.)

*Lincoln's Inn, March* 8, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 12th February ultimo, stating that, with reference to our Report of the 12th October last upon the subject of the suppression by the Turkish Government of the "Levant Times," an English newspaper published at Constantinople, he was directed by your Lordship to transmit to us the accompanying correspondence which had subsequently taken place with Her Majesty's Ambassador at Constantinople and with Mr. Hanley on the subject.†

That we would perceive from that correspondence that since the suppression of the "Levant Times" another paper which Mr. Hanley had been permitted to publish, the "Progrès d'Orient," having also been suppressed, Mr. Hanley urges that this second act of confiscation renders it the more incumbent upon him to press his claim for 10,000*l.* compensation on account of the suppression of the "Levant Times;" and that he (Mr. Lister) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the course which should now be pursued by Her Majesty's Government.

That the previous papers regarding the suppression of the "Levant Times" were therewith inclosed for convenience of reference.‡

In obedience to your Lordship's commands we have the honour to report—

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[*] Mr. Vivian, No. 8, Consular, January 30, 1875.

[†] To Sir H. Elliot, No. 192, October 17; Sir H. Elliot, No. 266, November 2; ditto, No. 306, November 22; Mr. Hanley, November 26; ditto, November 27; Sir H. Elliot, No. 320, December 1; to Mr. Hanley, December 22; to Sir H. Elliot, No. 294, December 24; Sir H. Elliot, No. 360, December 19; Mr. Hanley, December 23, 1874; to Sir H. Elliot, No. 2, January 6; ditto, No. 3, January 7; to Mr. Hanley, January 7; Sir H. Elliot, No. 27, January 10, 1875.

[‡] Sir H. Elliot, Nos. 123 and 124; to ditto, Nos. 125 and 126; Mr. Hanley, August 14; to ditto, August 29; Sir H. Elliot, Nos. 141, 152, and 159; ditto, No. 170, September 2 ditto, No. 186, September 10; to Law Officers, October 12, 1874.

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That we have carefully considered the papers transmitted to us, and particularly the article which caused the suppression of the "Progrès d'Orient," the notice published by Mr. Hanley in consequence of the suppression of his paper, the "Progrès d'Orient," the opinion of counsel forwarded by Mr. Hanley, and the despatch of Sir H. Elliot No. 27, January 18th, 1875, and we are of opinion that Her Majesty's Government cannot properly support in any way the claim of Mr. Hanley for compensation on account of the suppression by the Turkish Government of his paper, the "Levant Times."

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 118.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 25.)

*Lincoln's Inn, March* 24, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th instant, stating that he was directed by your Lordship to transmit to us the correspondence, as marked in the margin,* relative to an outrage recently committed upon two British subjects near Galatz; and to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to whether pecuniary compensation can properly be claimed from the Roumanian Government by that of Her Majesty on behalf of the sufferers through the crime in question.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, no pecuniary compensation can properly be claimed from the Roumanian Government by that of Her Majesty on behalf of the sufferers through the crime in question.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 119.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 25.)

*Lincoln's Inn, March* 24, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 19th ultimo, stating that he was directed to transmit to us the papers, as per inclosed list, respecting a charge which had been preferred against Mr. Etienne Pisani, First Dragoman to Her Majesty's Embassy at Constantinople, of having received bribes from certain Mining Companies in Turkey for advocating their cause and promoting their interests at Constantinople.

That as the charges in question appeared to Her Majesty's Ambassador to be not altogether unfounded, his Excellency, in consideration of the long services of Mr. E. Pisani in connection with Her Majesty's Embassy at Constantinople, was prepared to allow him to tender the resignation of his post as Dragoman; he was, however, informed that he would not be entitled to a pension.

That Mr. Pisani had declined to retire on those terms, and had called for an investigation into his case, and the charges brought against him were contained in the papers Mr. Bourke was then laying before us.

That, should these charges be proved, Mr. Pisani would be dismissed from Her Majesty's service.

That Mr. Bourke was to request that we would be so good as to take that case into our consideration, and report to your Lordship—

1. Whether we considered the accusation brought against Mr. Pisani to be proved.

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* Mr. Vivian, No. 11, February ; to ditto, No. 8, February 27; Mr. Vivian, No. 13, February 23, 1875.

2. Whether further explanations were required from Her Majesty's Embassy or from Mr. Pisani, and whether we considered that he had had full opportunity of defending his conduct.

3. Whether, supposing that we considered those papers sufficient for us to form a judgment upon, and the accusation not to be conclusively established, we saw grounds sufficient for it to be necessary for your Lordship to withhold the certificate required by the Pension Act, that Mr. Pisani had served "with diligence and fidelity to the satisfaction of" the Secretary of State.

In obedience to your Lordship's commands we have the honour to report—

That we are of opinion:—

1. That the accusation brought against Mr. Pisani cannot be treated as at present proved. In the last letter written by him to Sir Henry Elliot, under date the 18th January, 1875, he expresses his readiness and desire to meet the charges made against him; and in the despatch from the Foreign Office, under date the 26th January, he was informed that Sir Henry Elliot had been directed to investigate the matter.

We should infer also from the papers before us that Mr. Pisani's attention has not as yet been directed to that portion of the evidence against him which is contained in the inclosures in Sir Henry Elliot's despatch (No. 42) of the 24th January.

2. That Sir Henry Elliot should be instructed to prosecute the inquiry in accordance with the directions contained in the Foreign Office despatch of the 27th January; and that every opportunity should be afforded to Mr. Pisani of knowing the precise nature of the charge against him, and of the evidence in support of it.

At present it appears to us to be not necessarily inconsistent with the adduced evidence that Mr. Pisani may have been the dupe of others.

3. But the evidence at present before us is not sufficient to enable us to advise your Lordship upon the question of granting or withholding a certificate.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 120.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 29.)

*Lincoln's Inn, March* 27, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 13th instant, stating that, with reference to our Report of the 6th January last, he was directed by your Lordship to transmit to us a despatch, with its inclosures, from Her Majesty's Ambassador at Constantinople,* relative to Mr. Reade's claim for the concession of the Sari Yeri copper mine.

That he (Mr. Lister) also inclosed, together with the previous correspondence in the case, a copy of a telegram from Mr. Harvey, together with copies of telegrams to and from Sir Henry Elliot, relative to the action of the Turkish authorities in regard to the ownership of the mines; and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the further instructions which should be addressed to Sir Henry Elliot in the case.

We are also honoured with a note from Mr. Lister of the 22nd instant, stating that, with reference to the letter from the Foreign Office of the 13th instant, he was directed by your Lordship to transmit to us, for our consideration in connection with the previous papers in the case already before us, a further despatch, with its inclosures, from Her Majesty's Ambassador at Constantinople,† relative to the question of the Sari Yeri copper mines.

In obedience to your Lordship's commands we have the honour to report:—

That the claim of Mr. Reade against the Mining Council cannot, in our opinion, be officially supported by your Lordship.

Mr. Reade or his agents appear to have entered into a contract for the concession of the mine with persons who had not the power to assign over any rights to such mine. The position of the Mining Council is that they were willing to accept Mr. Reade as the Concessionaire if he got the consent of those who had existing interests in the mine.

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* Sir H. Elliot, No. 10, Commercial.

† Sir H. Elliot, No. 28, Commercial.

The result of the lawsuit is that the consent of the real or existing Concessionaire was not obtained, and therefore the Mining Council are under no legal or other obligation to Mr. Reade.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 121.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 19.)

My Lord, *Lincoln's Inn, May* 18, 1875.

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 2nd ultimo, stating that we were doubtless aware that for some years past the Egyptian Government had been in negotiation with the different European Powers with the view of substituting for the impracticable Law Courts at present established in Egypt, in which cases between natives and foreigners were tried, Tribunals presided over by Judges selected by the Egyptian Government, partly from among European States, and partly from among Egyptian subjects.

That that project having met with the approbation of the Powers, a Commission was held at Cairo in 1869, when it was decided that the action of the new Courts should be restricted to civil and commercial cases alone. Certain rules of procedure were then laid down, and the scheme of the Egyptain Government was fully discussed. It was finally agreed upon by the Commission that the new Tribunals should continue in force for a probationary period of five years. That Lord Tenterden inclosed a copy of the Report of the Commission.

That some delay ensued in consequence of the war between Germany and France, and that in 1872 a second International Commission was held at Constantinople for the purpose of devising the necessary guarantees for putting into operation the scheme previously agreed upon by the Powers.

That the Imperial Iradé sanctioning those Tribunals was issued by the Porte on the 19th July, 1872.

That the Report of the Commission, which was signed by all the Delegates, we would find at p. 180 of the inclosed vol. i of the Correspondence; and that he (Lord Tenterden) was also to annex a memorandum on the case, drawn up in April 1873.

That although the Report of the Commission was unanimously accepted, the French Delegate had throughout the proceedings interposed every obstacle in his power, in the hope of rendering the project useless, in which policy he was to a certain extent supported by his German and Russian colleagues.

That with that purpose in view difficulties were raised by them with respect to the position of fraudulent bankrupts, the "statut personnel" of foreigners, and the composition of the Parquet; they further required that a second French Judge of Appeal should be appointed, thereby defeating one of the most striking principles of the scheme, viz., that although elected from European States by the Viceroy, the Judges should not hold any representative position, which would have the effect of rendering the Tribunals simply international and not Egyptian; subsequently, they further required, that when the suit of a foreigner was before the Court, the Judge of the nation to which the litigant belonged should be present on the Bench, and they took exception to the proposed Codes, which had been already approved by a Special Commission appointed to examine them.

That a Convention, however, was ultimately signed between the French and Egyptian Governments (see p. 33, vol. ii), modifying the scheme, and that Lord Tenterden was to draw our attention to the Reports thereon from Her Majesty's Representatives at Constantinople and Paris, which we should find at pp. 47 and 50, vol. ii.

That that Convention had been submitted with the whole scheme to the consideration of the French Chambers, whose consent was requisite before the adhesion of the French Government could definitely be given to the new judicial reforms. That we should see from the papers that it was doubtful whether that consent would be obtained, and in the event of the final rejection of the scheme by France, the Viceroy

### No. 120*.

*Mr. Liddell to Lord Tenterden.*—(*Received April* 3.)

My Lord, *Whitehall, April* 1, 1875.

I AM directed by Mr. Secretary Cross to acknowledge the receipt of your letter of the 17th ultimo, forwarding original correspondence,* now returned, respecting the expediency of concluding an Extradition Treaty with Turkey; and I am to transmit to you, for the purpose of being laid before the Earl of Derby, the accompanying copy of an opinion from the Law Officers of the Crown upon the subject, in which the Secretary of State concurs; and to acquaint you, for Lord Derby's information, that, on the question of policy alluded to in the last paragraph of the opinion, Mr. Cross thinks that the matter might very well be left alone for the present.

I am, &c.
(Signed) A. F. O. LIDDELL.

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### Inclosure in No. 120*.

### Extradition Treaty with Turkey.

*Law Officers' Opinion.*

WE are of opinion that Her Majesty has no power at present, by Order in Council, to give authority to the Consular Court in Turkey to deliver up British subjects who are fugitive criminals. Such power might, however, be obtained by Treaty with the Turkish Government.

2. That any Treaty entered into with Turkey for the surrender, whether by the Consular Court or by the Turkish Tribunals, of fugitive criminals, would be curtailed in its operation by the jurisdiction of the Foreign Consular Courts, and could apply to British and Turkish subjects only.

3. We agree with Sir Thomas Henry in thinking that a Treaty even of this restricted character might be found practically useful, but whether it would be sufficiently useful to counterbalance the inconveniences suggested by Sir Philip Francis in his Memorandum of the 2nd January, 1875, is a question of policy which appears to us to deserve the serious consideration of your Lordship.

(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.

*Lincoln's Inn, March* 22, 1875.

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* From Sir H. Elliot, No. 238, October 15, 1874; to ditto, No. 225, November 24, 1874; from ditto, No. 7, January 7, 1875.

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had signified his intention of proceeding with the reforms without the concurrence of the French Government.

That the other Powers appeared to have given their consent, and that some had already nominated Judges—the Russian Government alone proposed to reserve the right of receding from the arrangements prior to the termination of the five years' probation.

That Her Majesty's Government had given their adhesion to the new scheme, and at the request of the Egyptian Government they had recommended Mr. Scott as one of the Judges of the Court of Appeal.

That they had, however, delayed nominating officers to fill the posts of Judge of the Court of First Instance and a substitute to the "Procureur-Général" until they received satisfactory assurances that British interests would not be placed in a position inferior to that now demanded by France.

That, to guard against any such contingency, your Lordship considered that it would be necessary to conclude with the Egyptian Government a Convention claiming the right of England to enjoy all privileges and immunities which might be granted to other Powers in the new Tribunal; and that Lord Tenterden was to inclose the draft of an Agreement for that purpose, and that he was to request that we would take that draft into our consideration, and favour your Lordship with our opinion whether its provisions would meet the requirements of the case.

That we should observe that the draft was drawn so as to make it optional with Her Majesty's Government whether they would require to be put on the same footing as France or not, although, for political reasons, it was not desirable to allow France to occupy an exceptional position, and Great Britain should have the power to require that whatever was accorded to the subjects of any other nation should also be granted to British subjects, it might not be found in practice requisite to make the demand in regard to all the matters provided for in the French Agreement.

We are also honoured with a second letter from Lord Tenterden, dated the 8th ultimo, stating that, with reference to the papers already under our consideration respecting the judicial reforms in Egypt, he begged to forward the accompanying further despatch from Her Majesty's Consul-General in Egypt.

We have also the honour to acknowledge a further letter from Lord Tenterden, bearing date the 23rd ultimo, stating that he had the honour, by your Lordship's direction, to request that we would have the goodness to take into our consideration, together with the papers which were referred to us in his letter of the 2nd ultimo respecting judicial reform in Egypt, the two further despatches from Her Majesty's Agent and Consul-General at Alexandria, on that subject, which were therewith inclosed.

We are also honoured with a fourth letter from Lord Tenterden, dated the 7th instant, stating that, with reference to the question of judicial reform in Egypt, then under our consideration, he begged to forward a further despatch from Her Majesty's Minister at Rome on the subject.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft Convention inclosed in Lord Tenterden's letter of the 2nd April provides for the requirements of the case. As regards the statement in General Stanton's despatch of the 9th April, to the effect that the conviction has been forced upon the Egyptian Government that the best method of overcoming the French opposition will be to institute the new Tribunals, without waiting for the adhesion of the French Government, and which despatch was forwarded to us by Lord Tenterden on the 23rd April, it appears to us, so far as it is within our province to advise upon such a matter, that the adoption of such a course by the Egyptian Government would not be open to objection.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 122.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 26.)

My Lord, *Lincoln's Inn, May* 24, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 11th instant, stating that, with reference to our Report of the 16th December, he was directed by your Lordship to transmit to us a further correspondence, as marked in the margin,* relative to the contemplated sale of the disused burial-ground at Smyrna.

Mr. Lister stated that the British residents who object to the sale appear to have confused the operation of the Levant Act with that of the Consular Act. And that your Lordship believes that the Consular property at Smyrna, as having been taken over from the Levant Company, is wholly regulated by the Levant Act, and that the Consular Act is not in any way applicable to Smyrna; so that if the burial-ground had ever been under the joint management of the Consulate and the British residents, which, however, does not appear to have been the case, no lien on the ground could be claimed by the residents on that account.

Copies of the Levant and Consular Acts were inclosed, as well as the previous correspondence,† some of which Mr. Lister stated has already been before us; and Mr. Lister was to request that we would favour your Lordship with our opinion as to the correctness of the views as above stated, and as to whether we see any reason to modify our previous decision.

Mr. Lister stated that your Lordship would also be glad to learn whether we consider that Her Majesty's Government are under any legal obligation not to sell the ground in question.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, the burial-ground is under the Levant Act and not under the Consular Act, which last is not applicable to this burial-ground at Smyrna.

And we think Her Majesty's Government was not under any legal obligation not to sell the ground in question.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 123.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 9.)

My Lord, *Lincoln's Inn, June* 7, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 28th May ultimo, stating that he was directed by your Lordship to transmit to us a letter from Messrs. Clarke, Rawlins, and Clarke, requesting leave to inspect papers at the Foreign Office bearing upon a suit pending between the Chartered Mercantile Bank of India, London, and China, and Mr. Joshua, of Damascus.

That the correspondence relating to the case was inclosed, as well as a previous one of last year, bearing on Mr. Joshua's antecedents;* and he was to request that we would take the papers into our consideration, and favour your Lordship, at our early convenience, with our opinion as to whether the request of Messrs. Clarke and Rawlins could properly be complied with.

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* To Messrs. Barker, Stevens, and Sons, December 29, 1874; Mr. Wood, February 6; Memorandum, March 16; to Consul Cumberbatch, No. 9, March 23; Consul Cumberbatch, No. 34, April 17, 1875.

† Levant Act (see Inclosure 2A); Consular Act; Smyrna residents, No. 12; Consul Cumberbatch, No. 81, November 13; ditto, No. 86, December 4, 1874.

‡ Mr. A. Sydney, January 9; to Vice-Consul Green, No. 1, January 27; to India Office, January 27; to Mr. Sydney, January 29; India Office, February 5; Vice-Consul Green, No. 1, February 14; to Sir P. Francis, No. 13, March 9; Sir P. Francis, No. 32, April 2; ditto, No. 37, April 13; to Mr. Sydney, April 28, 1874; Mr. Tomkins, February 19; to ditto, February 25; to Sir P. Francis, No. 11, February 26; Mr. Tomkins, March 6; to Vice-Consul Green, No. 4, March 11; to Sir P. Francis, No. 17, March 12; to Mr. Tomkins, March 13; Vice-Consul Green (Telegraphic), March 13; to Mr. Tomkins, March 16; Sir P. Francis, No. 31, March 23; Vice-Consul Green, No. 4, March 13; Chartered Mercantile Bank, received April 2; to ditto, April 12; to Sir H. Elliot, No. 24, April 12; Sir P. Francis, No. 41, April 9; ditto, No. 55, April 29; to Mr. Tomkins, May 15, 1875.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the request of Messrs. Clarke, Rawlins, and Clarke cannot, without the risk of establishing a bad precedent, be complied with to the extent which they require.

But as the plaintiff in the Chancery suit proposes to adduce certain letters which were sent from the Foreign Office to Mr. Tomkins, we think Messrs. Clarke might properly be allowed to inspect the letter from the Foreign Office to Mr. Tomkins dated the 15th May, 1875.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 124.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 16.)

My Lord, *Lincoln's Inn, June* 15, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 14th ultimo, stating that, with reference to the Report of the Law Officers of the Crown, dated the 27th April, 1874, respecting the case of Mrs. Rassam, he was directed by your Lordship to transmit to us a letter, and its inclosures, from Mr. Joseph P. Turner, requesting to be furnished, in Mrs. Rassam's behalf, with any information which might be in your Lordship's possession in regard to the matter in question, together with a despatch from Her Majesty's Consul-General and Judge at Constantinople, forwarding the Report made upon the case on the 15th December last by the Acting British Vice-Consul at Mossul; and that Mr. Lister was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to whether Mr. Peretie's Report above mentioned might properly be communicated to Mrs. Rassam's solicitor, as suggested by Sir P. Francis.

That the previous papers relating to that case were annexed for convenience of reference.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Report of Mr. Peretie cannot properly be communicated to Mrs. Rassam's solicitor.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 125.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 16.)

My Lord, *Lincoln's Inn, June* 16, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 11th instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Mr. Kirby Green, Her Majesty's Vice-Consul at Damascus, who was then on leave in this country, stating that he had been subpœnaed to appear before a Special Examiner appointed by the Court of Chancery, for his examination as a witness in the suit between Mr. Joseph Joshua and the Chartered Mercantile Bank of India, London, and China, and requesting to be informed whether he should resist an attempt which was being made, on his cross-examination, to force him to give evidence of the reasons which guided Sir Philip Francis and himself in certain judicial matters unconnected with the suit; and that he was to request that we would take that paper into our consideration, and favour your Lordship with our opinion as to the course which should be pursued by Mr. Kirby Green in that matter.

In obedience to your Lordship's commands we have the honour to report—

That Mr. Kirby Green may, in our opinion, properly be instructed to decline to answer all questions foreign to Mr. Joshua's suit, or connected with any confidential judicial

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communications which may have passed between the Supreme Consular Court in Constantinople and Mr. Kirby Green's Court at Damascus.

We are not informed what the questions were to which Mr. Kirby Green objects, and we are therefore unable to say how far, or whether at all, Mr. Kirby Green's apprehensions are well founded.

But the Judge before whom the case may be tried is the proper person to decide whether the question can properly be answered, and we see no reason for the attendance before the Examiner of Counsel on behalf of the Crown.

The Examiner, on Mr. Kirby Green's refusing to answer, must refer the matter to the Judge.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 126.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 23.)

*Lincoln's Inn, June* 21, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 1st instant, stating that he was directed by your Lordship to transmit to us the accompanying letter from Messrs. Lynch, Brothers, requesting to be informed whether, in the event of the destruction, by order of the Turkish Government, of certain property which they held in the neighbourhood of districts in Mesopotamia stated to be infected with plague, they would be entitled to compensation for its loss; and that he was to request that we would take that paper into our consideration, and favour your Lordship with our opinion as to the answer which should be returned to Messrs. Lynch in regard to the matter.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, Messrs. Lynch may properly be answered that they will not be entitled to compensation in the event of the destruction, by order of the Turkish Government, of certain property belonging to them in districts infected by the plague, unless the Turkish Government should compensate Turkish subjects for losses incurred under similar circumstances.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 127.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 23.)

*Lincoln's Inn, June* 21, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 21st May ultimo, stating that, with reference to our Report of the 13th July last, he was directed by your Lordship to transmit to us a letter, with its inclosures, from Mr. Tipping, the Chairman of the Danube and Black Sea Railway and Kustendje Harbour Company (May 12, 1875), containing observations with respect to the bearing upon that Company's claim against the Turkish Government of certain circumstances connected with the construction of the jetty at Kustendje.

The former papers in this case were likewise inclosed; and Mr. Lister was to request that we would take the same into our consideration, and favour your Lordship with such observations as we may have to offer thereupon.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, as we understand the case, the Danube and Black Sea Railway and Kustendje Harbour Company have contracted, by agreement with the Turkish Government, to execute certain works connected with the harbour, and for which the Turkish Government, in performance of the work, "*contre justification de l'exécution d'un tiers au moins des travaux*," undertook to pay.

In our Report to your Lordship of the 13th July last we said that, in our opinion, the Turkish Government had a right to see that the works were properly executed, in other words, that the Company had performed its part of the contract, before payment could be insisted upon.

We see no reason to change that opinion; at the same time, it is obvions that the Turkish Government should not indefinitely delay an examination of the work for the purpose of putting off the payments properly due.

We are utterly at a loss to conceive what Mr. Tipping means by supposing that the words of the Report, as contained in your Lordship's instructions, or in Lord Tenterden's letter, conveyed any imputation upon his Company. They mean no more than that the Turkish Government, which has to pay for the work, has, before parting with its money, the right to see that the work has been efficiently and properly done.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 128.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received June* 30.)

*Lincoln's Inn, June* 30, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 31st ultimo, stating that he was directed by your Lordship to transmit to us, together with the former papers on the question of judicial reform in Egypt, a further despatch from Her Majesty's Agent and Consul-General at Alexandria, forwarding a copy of a Convention which had been signed by the Egyptian Government and the German Consul-General; and that he (Lord Tenterden) was to request that we would inform your Lordship whether, in our opinion, the Convention which Her Majesty's Government proposed to enter into with Egypt will secure to them similar privileges to those sought to be obtained by Germany.

That Lord Tenterden was to request the favour of an early reply on that point.

We are also honoured with a letter from Mr. Lister, bearing date the 14th instant, stating that, with reference to Lord Tenterden's letter of the 31st ultimo, he had the honour to transmit to us therewith a copy of the Agreement entered into between the German Consul-General in Egypt and the Government of the Khedive on the subject of judicial reform.

That that Agreement had been communicated to your Lordship by the German Ambassador, and that your Lordship was desirous that it should be compared with the copy of the same Agreement sent home by Major-General Stanton in his No. 64 of the 14th May, which despatch was, together with other papers, before the Law Officers.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the reservations with regard to British churches and schools in Egypt, and to British subjects belonging to the Catholic establishments in Egypt, which are made in the German and Egyptian Convention, should be made in the Convention between Her Majesty's Government and the Egyptian Government.

General Stanton does not suggest any other reservations, but since Conventions will probably be made by other Governments, we think, and suggest for your Lordship's consideration, that the British Convention, in addition to the special reservation recommended by General Stanton, should contain a general clause securing to Her Majesty's Government, if that Government should so desire, reservations similar to any which may hereafter or have already been made in any Convention between the Egyptian and other foreign Governments.

This general clause will not, as it appears to us, interfere either with the most-favoured-nation clause, or the special reservations, and may be useful.

And in answer to Lord Tenterden's letter of the 23rd instant, stating that your Lordship would be much obliged if we would favour your Lordship, at our early convenience, with our opinion whether the Convention which Her Majesty's Government proposed to enter into with Egypt would secure to them privileges similar to those sought by Germany, and that Lord Tenterden was at the same time to inclose the correspondence, from which we should perceive that the Egyptian Government

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had expressed their hope that the proposed Agreement might be submitted to them as soon as possible, we are of opinion that such a clause will secure to Her Majesty's Government all privileges similar to those sought by Germany.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 129.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 13.)

My Lord, *Lincoln's Inn, July* 13, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 15th May last, stating that he was directed by your Lordship to inform us that upon the receipt of our Report of the 24th March last relative to the charges brought against Mr. Pisani, your Lordship instructed Her Majesty's Ambassador at Constantinople to make further inquiry into the matter, it being essential that Mr. Pisani should know the precise nature of the charges brought against him, as it was not impossible that he had been made the dupe of others.

That he (Mr. Lister) was then to transmit to us a further despatch from Sir H. Elliot (No. 222, April 29), stating that he had communicated to Mr. Pisansi the various documents containing the charges brought against him, and inclosing a copy of Mr. Pisansi's reply thereto and that he was also to inclose a letter from Mr. Piansi (May 10), containing a copy of his reply to Sir H. Elliot; and to request that we would again take the case into our consideration and advise your Lordship as to the course which should be taken as regards the pension which Mr. Pisani claims.

That the former papers, as noted in the inclosed list, were forwarded for convenience of reference.

We are also honoured with a note from Lord Tenterden of the 25th May last, stating that he was directed by your Lordship to request that we would suspend our Report on Mr. Pisani's case until the receipt of a further communication from the Foreign Office, as a telegram had been received from Her Majesty's Ambassador at Constantinople stating that he hoped shortly to send some fresh and important evidence in the case.

We are also honoured with a note from Mr. Lister of the 14th June ultimo, stating that, with reference to Lord Tenterden's letter of the 25th May, he had the honour to transmit therewith a further despatch from Her Majesty's Ambassador at Constantinople (No. 270, June 2, 1875), bearing upon the case of Mr. Pisani.

That as soon as Mr. Pisani's reply was received it would be submitted to us.

We are also honoured with a further letter from Lord Tenterden of the 21st June ultimo, stating that, with reference to his letter of the 14th June relative to the charges preferred against Mr. Pisani, he was directed by your Lordship to transmit to us therewith a despatch from Her Majesty's Ambassador at Constantinople (Sir H. Elliot, No. 279, June 8, 1875), containing further explanations from Mr. Pisani, together with a letter addressed direct to your Lordship from that gentleman (June 11, 1875); and that he (Lord Tenterden) was further to add that your Lordship would now be glad to be furnished with our opinion upon the whole case.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, your Lordship cannot arrive at any satisfactory decision respecting the conduct of Mr. Pisani upon the evidence laid before us.

That evidence consists of statements made, which, if true, seriously affect the character of Mr. Pisani. On the other hand, Mr. Pisani explains away or directly contradicts the statements so made.

We think that an inquiry should be made before a Commissioner, who, having taken all the evidence upon the alleged facts, and examined the witnesses against Mr. Pisani in his presence, and given him the opportunity of cross-examination, should make a full Report to your Lordship.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 130.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

My Lord, *Lincoln's Inn, July* 14, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 11th June ultimo, stating that he was directed by your Lordship to transmit to us the accompanying correspondence with M. Kayat,* who, having been born in Syria, claims to be a British subject in virtue of his father having received a certificate of naturalization in July 1847.

That we would observe that that certificate was granted before any restrictions were imposed in the certificates, as would be seen on referring to the Report of the Naturalization Commission, of which a copy was inclosed, p. 9.

That your Lordship nevertheless apprehended that the grant of a certificate under the Act 7 and 8 Vict., cap. 66, sec. 6, was personal, and did not confer British nationality by descent upon the children of the naturalized alien, born abroad, the Statutes 7 Anne, cap. 5, and 4 Geo. II, cap. 21, only being applicable to the children and grandchildren of natural-born-British subjects.

That a draft answer to M. Kayat had been prepared in that sense, and that your Lordship would be glad to be favoured with our opinion whether it was right and proper.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the draft answer to M. Kayat is right and proper.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 131.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 14.)

My Lord, *Lincoln's Inn, July* 14, 1875.

We are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 30th June ultimo, stating that, with reference to our Report of the 7th June in regard to the Joshua case, he was directed by your Lordship to transmit to us, for our consideration, a further letter upon the same subject from Messrs. Clarke, Rawlins, and Clarke (June 21, 1875); and that he was to request that we would favour your Lordship with our opinion as to whether their application to be furnished with copies of the two letters from Mr. Tomkins, to which reference is therein made, and which were also sent therewith for our information, could properly be complied with.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the request of Messrs. Clarke, Rawlins, and Clarke cannot properly be complied with.

Their clients can answer the interrogatory to the best of their information and belief, without seeing the letters copies of which are requested, and granting the request would lead to further appeals on behalf of both litigants in the present matter, and be an inconvenient precedent in other cases.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 132.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 28.)

My Lord, *Lincoln's Inn, July* 27, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us papers relating to the alleged detention at Constantinople of a girl named Catherine Wright by her uncle, Mr. Walsh; and that he (Mr. Bourke) was to request that we would take the case into our consideration, and favour your Lordship with our opinion as to what instructions should be given to Sir Philip Francis with regard to it.

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* M. Kayat, May 3; to ditto, May 15; M. Kayat, May 25; proposed draft to M. Kayat.

In obedience to your Lordship's commands we have the honour to report—

That the solution of the question as to the proper course to be pursued in the case of Catherine Wright is one not free from difficulty.

The Judicature Act of 1873, in the 10th sub-section of the 25th clause, enacts that, "In questions relating to the custody and education of infants the rules of equity shall prevail;" but this Act will not come into operation until the 1st November next.

At the present moment the rules of Courts of Equity and of Common Law differ as regards the course to be adopted in the case of a father demanding the custody of his child. The Court of Queen's Bench, upon a *habeas corpus*, would, in all probability, though possibly with a strong expression of regret as to the obligation upon it, direct the delivery of Catherine Wright to her father, notwithstanding his abandonment of all parental duty for at least twelve years; but a Court of Equity, if Catherine Wright were a ward of Court, so as to give it jurisdiction, would most certainly, before deciding either as to the custody or as to the education, religious or otherwise, of the child, direct a preliminary inquiry as to what was best, under the circumstances of the case, for the interests of the child, and would act upon the results of such inquiry.

In the case of Lyons *v.* Blenkin (reported in Jac., p. 245) Lord Eldon most distinctly laid down that a father might lose his right to the custody of his child by allowing it to be brought up by other persons, and these views have been since constantly recognized, and notably in the recent case of Andrews *v.* Salt, 8 Law Reports (Chancery Appeals), p. 622. A stronger case of abandonment of a father's rights over the bringing up of his child can hardly be imagined than that of the father of Catherine Wright.

Under the Order in Council creating jurisdiction in Turkey, the Council has to administer justice "in conformity with the Common Law, the Rules of Equity, and the Statute Law," and it appears to us that, under these circumstances, Sir Philip Francis, as the Judge exercising jurisdiction in Turkey, should, before complying with any application by Mr. Wright for the delivery to him, or to his nominee, of the custody his child, make all such inquiries as a Judge in Equity would, under similar circumstances, make in England, and should act upon the result of such inquiries. So far as the facts of the case can be inferred from the papers before us, it does not appear to us to be a case in which a Court of Chancery in England would allow any change to be made in the religious education of the infant.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 133.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received August* 7.)

*Lincoln's Inn, August* 6, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th July ultimo, stating that, with reference to the proposed scheme of judicial reform in Egypt, he was directed by your Lordship to transmit to us the accompanying correspondence, as marked in the margin,[*] on the subject of the supposed intention of the Egyptian Government to attribute to the new Tribunals jurisdiction in the matter of the imposition of new taxes upon foreigners.

That we would perceive that that matter had formed the subject of recent correspondence between the French and Egyptian Governments; that the Acting British Agent and Consul-General at Alexandria had requested to be furnished with instructions as to the language he should hold if called upon to discuss it; and that the French Government had asked, through their Ambassador at this Court, to be informed of the view entertained thereon by Her Majesty's Government.

That the "Règlement d'Oganisation Judiciaire," referred to in Mr. Cookson's despatch, was to be found at p. 195 of vol. i of the printed correspondence which was therewith inclosed;[*] and that he (Lord Tenterden) was to request that we would take the papers into our consideration, and favour your Lordship with our opinion on those questions, and as to the course which should be taken thereon by Her Majesty's Government.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the "Règlement d'Organisation Judiciaire," referred to in Mr. Cookson's despatch, and the construction of which forms the subject of the correspondence transmitted to us, will not give the new Tribunals in Egypt jurisdiction in the matter of the imposition of new taxes upon foreigners.

The power to impose such taxes must, when necessary, be sought in and founded upon the Treaties, and new taxes cannot be imposed upon foreigners in contravention of those Treaties, save with the consent of the parties to such Treaties.

The new Tribunals, however, will, we are of opinion, have jurisdiction to decide upon questions connected with the payment of, or exemption from, a tax, or the amount thereof, where the principle or legality of the tax is not in doubt.

Your Lordship will see that we concur with General Stanton on the construction of the Règlement.

We also concur with him in thinking that "the power of deciding whether a tax imposed upon foreigners by the Egyptian Government be legal or not should not be vested in the new Tribunals."

Therefore, and in order to obviate all future difficulties, and to clear away the possible construction of the Règlement apprehended by the Duc Decazes, your Lordship might, in our opinion, properly direct that the Egyptian Government should be directly informed that Her Majesty's Government refuses to give the new Tribunals jurisdiction to decide upon the legality of taxes imposed by the Egyptian Government upon British subjects.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 134.

*The Solicitor-General and Dr. Deane to the Earl of Derby.*—(*Received September* 17.)

*Temple, September* 15, 1875.

My Lord,

WE, the Solicitor-General and Dr. Deane, in the absence of the Attorney-General, who is at present on the Continent, are honoured with your Lordship's commands signified in Mr. Lister's letter of the 2nd instant, stating that he was directed by your Lordship to transmit to us the correspondence, as inserted in the margin;[†] which has taken place since the receipt of our Report of the 14th November last, in regard to the alteration proposed in the Table of Fees annexed to the Turkish Order in Council of the 12th December, 1873. The former papers were also annexed for convenience of reference;[‡] and Mr. Lister was to request that we would favour your Lordship with our opinion as to whether the Order in Council of which a draft was inclosed in Mr. Reilly's Report of the 12th March, 1874, may now be passed, together with the Table of Fees inclosed in his further Report of the 13th October, 1874.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

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[*] Lord Lyons, No. 463; Mr. Cookson, No. 79; General Stanton, July 11; Duc Decazes to M. d'Harcourt, July 1 (communicated July 10), 1875.

[*] Vols. i and ii, print: Report of International Commission lately sitting at Cairo, 1869 and 1870.

[†] Mr. Reilly, November 24; to Treasury, November 30, 1874; Treasury, March 17; to Sir P. Francis, No. 22, March 30; Sir P. Francis, No. 62, May 8; to Mr. Reilly, June 28; Mr. Reilly, July 7; to Treasury, July 16; Treasury, August 20, 1875.

[‡] Sir P. Francis, No. 11, January 19; to Mr. Reilly, January 27; Mr. Reilly, February 3; Law Officers, February 17; to Mr. Reilly, February 26; Mr. Reilly, March 12; to Treasury, March 14; Treasury, April 1; to Sir P. Francis, No. 20, April 8; Sir P. Francis, No. 57, May 28; ditto, No. 63, June 22; to Treasury, July 16; Treasury, July 30; Law Officers, August 25; ditto, August 27; to Mr. Reilly, September 8; Mr. Reilly, October 13; Law Officers, November 14, 1874.

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That the Order in Council may, in our opinion, be passed, together with the Table of Fees as finally approved. See Mr. Reilly's letter, 24th November, 1874, and Sir P. Francis' despatch, 18th May, 1875, No. 62, Judicial.

We have, &c.
(Signed) JOHN HOLKER.
J. PARKER DEANE.

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### No. 135.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 16.)

My Lord,

*Lincoln's Inn, October* 15, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 18th ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Acting Agent and Consul-General in Egypt, requesting instructions as to the manner in which British Consular jurisdiction should be suspended upon the opening of the new Judicial Tribunals in that country.

That, as it was uncertain whether the new Courts would commence operations before the expiration of the present year, it would be premature to give any final instructions to Mr. Cookson upon that subject; but that your Lordship would be glad, nevertheless, to have our opinion as to the proper course which should be adopted for putting an end to British Consular jurisdiction when the new Courts should be opened.

That we would bear in mind that the new Tribunals were only probationary for a period of five years; and were precluded from dealing with criminal cases, except such as referred to the execution of the sentences of the Judges.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, an Order in Council will be required, applicable to the changes made in the Consular jurisdiction in Egypt by the introduction of new Judicial Tribunals in that country.

The Order, whenever made, should take effect at the same time with the beginning of the working of the new Tribunals, that there may be no conflict of jurisdiction.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 136.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received October* 21.)

My Lord,

*Lincoln's Inn, October* 20, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 22nd ultimo, stating that he was directed by your Lordship to request that we would take the inclosed despatch from Her Majesty's Consul-General at Bucharest into our consideration, and favour your Lordship with our opinion, at our early convenience, on the validity of the will of which a copy was therein contained.

In obedience to your Lordship's commands we have the honour to report—

That it does not clearly appear, from the papers before us, what was the domicile of origin of Miss Greenwood, or what was her domicile at the date of her will, but, upon the assumption that her domicile of origin was English, and that her domicile was also English at the date of her will, we are of opinion that such will was valid, and should be admitted to probate, if it was made according to the forms required by the laws in force at Kronstadt in Transylvania, where, it appears, the will was made (see 24 and 25 Vict., cap. 114, sec. 1), but that, unless the will was made in accordance with the forms required by the laws in force in Kronstadt, it is not a valid will, inasmuch as, not having been signed by the testatrix or by any other person in her presence and by her direction, it was not made in accordance with the forms required by law in England (see 1 Vict., cap. 26, sec. 9).

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 137.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 30.)

My Lord,

*Temple, December* 30, 1875.

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 24th instant, stating that, with reference to our Report of the 15th October, in which we stated that it would be necessary that an Order in Council should be prepared to enable Her Majesty's Government to make use of the new Tribunals to be instituted in Egypt, he was directed by your Lordship to transmit to us the accompanying letter from Mr. Reilly, inclosing the draft of the required document, and to request that we would have the goodness to take this draft into our consideration, and report to your Lordship whether it will meet the requirements of the case.

Lord Tenterden was also pleased to state that, as it is proposed to put the new Tribunals into operation by the 1st January, he was to request that we would favour your Lordship with our opinion at our earliest convenience.

The former papers were annexed for reference if required.

In obedience to your Lordship's commands we have taken this matter into our consideration and have the honour to report—

That the draft Order in Council, in our opinion, meets the requirements of the case.

We have, &c.
(Signed) JOHN HOLKER.
HARDINGE S. GIFFARD.
J. PARKER DEANE.

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## United States.

### No. 138.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received March* 18.)

My Lord,

*Lincoln's Inn, March* 17, 1875.

WE were favoured with your Lordship's commands signified in Mr. Bourke's letter of the 23rd February ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch from Her Majesty's Minister at Washington,* together with its inclosures, relative to lands occupied by British subjects in the Island of San Juan and other islands in the neighbourhood, which had become United States' territory under the award of the Emperor of Germany, in accordance with the provisions of the XXXIVth Article of the Treaty of Washington of the 8th May, 1871; and that he was to request that we would take the paper into our consideration, and favour your Lordship with our opinion upon the point raised by Sir Edward Thornton.

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* Sir E. Thornton, No. 1, January 4, 1875.

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That he (Mr. Bourke) was likewise to transmit, for our information, the further papers, as marked in the margin, bearing upon the question.

In obedience to your Lordship's commands we have the honour to report—

That we entirely agree with the view taken of these cases by Sir E. Thornton.

Not one of the fourteen deponents has, in our opinion, a title to the lands occupied by him, except by sufferance. He might on that ground be entitled to the favourable consideration of the Government of the United States. But that favourable consideration has apparently been withheld, and we think that Sir Edward Thornton cannot properly be instructed to press the matter any further.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 139.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received March 22.)*

My Lord, *Lincoln's Inn, March* 22, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 8th ultimo, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, forwarding a despatch from the Governor of Hong Kong relative to a protest made by the United States' Consul in that Colony against a decision given by a Court of Law in a suit for wages between an American seaman and the master of an American vessel, on the ground that the Hong Kong Courts had no jurisdiction over American seamen in matters of discipline; and that Mr. Lister was to request that we would take the papers into our consideration, and report to your Lordship our opinion as to the right of the Hong Kong Court to exercise jurisdiction in such cases.

That in order to assist us in forming a judgment on the matter, a despatch from Her Majesty's Consul-General at New York, referring to the jurisdiction exercised by United States' Courts in suits brought by foreign seamen, was inclosed, together with a memorandum on Consular Conventions drawn up in the Foreign Office, the Appendix to which contained passages bearing on the subject at pp. 62 and 66.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the Hong Kong Court had the right to exercise jurisdiction in the suit for wages between an American seaman and the master of an American vessel.

That jurisdiction is freely exercised by the United States' Courts, and the decision of the Marine Court at New York expressly recognizes that right (see p. 13 of the Report of the case Petersen *v.* Brockleman).

And though Chief Justice Shea, at p. 14, expresses a doubt whether the Marine Court, over which he presided, had jurisdiction in a suit in which a vessel is attached for seamen's wages, he grounds his decision (p. 19) substantially upon the Consular Convention between the United States and the German Empire, by virtue of which (p. 22) all local jurisdiction over the discipline and internal order of merchant vessels belonging to the German Empire had been suspended.

In making this Report, in obedience to your Lordship's commands, we have confined ourselves to the question stated by Mr. Lister; but, whilst we are of opinion that the jurisdiction is clear, we think that, in cases where the Consular officer of the nation to which the ship and the parties belong protests, the local Court should entertain the suit only in cases of great urgency. And we doubt whether the local Court should, as a matter of discretion, entertain the suit at all where the Consular officer has determined the questions at issue between his own countrymen.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 140.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received March 25.)*

My Lord, *Lincoln's Inn, March* 24, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 13th instant, stating that, with reference to the Report of the Law Officers (therewith inclosed), dated the 12th August, 1873, relative to the claim of the Great Western Steam-ship Company against the State of New York, on account of head-money wrongfully levied by that State upon passengers from Great Britain; and that he (Mr. Lister) was directed by your Lordship to transmit to us a letter (with its inclosures) from Mr. John Miles,* wherein he urges a reconsideration of the decision arrived at in this case by Her Majesty's Government, as communicated to him in a letter from the Foreign Office of the 15th August, 1873.

The previous papers in this case were likewise inclosed;† and Mr. Lister was to request that we would take the same into our consideration, and favour your Lordship with such observations as we might have to offer thereupon.

In obedience to your Lordship's commands we have the honour to report—

That we have considered the letter, with its inclosures, of Mr. John Miles, but we see no reason for differing from the opinions submitted to your Lordship in April and August 1873, and we think the request of Mr. John Miles cannot properly be complied with.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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## No. 141.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received April 22.)*

My Lord, *Lincoln's Inn, April* 21, 1875.

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 11th ultimo, stating that he was directed to transmit to us two despatches from Her Majesty's Minister in Japan, requesting instructions as to whether British subjects serving on board American men-of-war were amenable to American or British jurisdiction for offences committed on shore in Japan, and that he, Mr. Lister, was to request us to take these papers into our consideration, and to report to your Lordship our opinion as to the answer that should be returned to Sir H. Parkes' inquiry.

In obedience to your Lordship's commands we have the honour to report—

That the question whether a British subject serving on board an American man-of-war is or is not amenable to British jurisdiction, for offences committed on shore in Japan, is one of considerable nicety. If the question had reference to offences committed on shore within the British dominions, we should have concurred in thinking that it should be answered in the affirmative; though, in any such case, the commander of the man-of-war should be apprized of the circumstances attending the arrest, in order that he may secure the due administration of justice. This view, enunciated by Ortolan ("Dipl. de la Mer," vol. i, p. 291), and adopted by Sir R. Phillimore ("International Law," vol. i, p. 401), appears to us to be in accordance with general principles of International Law.

But the question submitted to us by your Lordship has reference to offences committed on shore in Japan, where the jurisdiction is mixed. Upon this our views differ: Dr. Deane is of opinion that a British subject serving on board of an American man-of-war is not amenable to British jurisdiction in respect of offences committed by him on shore in Japan; whilst the Attorney-General and Solicitor-General are of opinion that the British subject is equally amenable to British jurisdiction in respect of offences committed by him on shore in Japan, as in respect of offences committed by him on shore within the British dominions.

We, however, concur in thinking that as, in the case referred to in Sir H. Parkes' despatch of the 18th January, 1870, the American Consul and the American Minister in Japan differ in their views upon the subject, and the latter appears to have referred

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* Mr. Miles, February 8, 1875.

† Mr. Miles, April 17; Law Officers, August 1; to Mr, Miles, August 15, 1873.

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the matter to his Government, it would be expedient to take no further action until the claim for the repayment of the fine imposed by the British Consul is either renewed by the American Government or abandoned.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 142.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received May* 15.)

*Lincoln's Inn, May* 14, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 3rd instant, stating that he was directed by your Lordship to transmit to us a despatch from Sir Edward Thornton (No. 120, April 5, 1875), inquiring the views of Her Majesty's Government as to the right of British vessels to import into the United States, free of duty, fish taken in the waters of that country.

That a letter from the Colonial Office (April 27, 1875) on the subject was also inclosed, together with a copy of the Treaty of Washington; and that he (Lord Tenterden) was to request us to take the matter into our consideration, and to report to your Lordship our opinion as to the answer which should be sent to Sir Edward Thornton's despatch.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, fish taken in the waters of the United States may be imported into that country free of duty, in British vessels. But Sir Edward Thornton may properly be instructed, as some doubt may exist upon the true meaning of the XXIst Article, not to raise the question unless it is forced upon him by the United States' Government, and to express no opinion to any individual citizen of the United States.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 143.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 12.)

*Lincoln's Inn, July* 12, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 4th June ultimo, stating that he was directed by your Lordship to transmit to us two letters from the Colonial Office (April 27 and May 28) and a despatch from Her Majesty's Minister at Washington (No. 127), relative to the refusal of the United States' Customs authorities to allow the importation, free of duty, of fish and fish-oil from British Columbia, under the XXIst Article of the Treaty of Washington.

That Article provided that fish and fish-oil, the produce of the United States or of the Dominion of Canada, should be admitted into each country free of duty. Mr. Lister stated that it must be borne in mind that, at the date of the signature of the Treaty, British Columbia did not form part of the Dominion. The Canadian Government, however, contend that, as the Act of the United States' Congress giving effect to the provisions of the Treaty respecting fisheries was passed after the admission of British Columbia to the Dominion, and applied to "all fish-oil and fish of all kinds (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the Dominion of Canada or of Prince Edward Island," they have a right to claim free admission for fish-oil and fish from British Columbia.

A copy of the Washington Treaty, and a volume containing the Revised Statutes of the United States, were annexed for convenience of reference; and Mr. Lister was to request us to take the papers into our consideration, and to report to your Lordship our opinion as to the course which Her Majesty's Government should pursue in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, the words "Dominion of Canada," in the Treaty of Washington, Article XXI, must be governed by the state of things existing in May 1871, and cannot now receive a wider construction from the fact that additional territory has since been added to the Dominion.

We are unable to agree with the reasoning in the Report of the Committee of Privy Council of the 30th April, 1875, upon the XXVIth Article of the Treaty of Washington; and we think no inference applicable in any way to the present case can be drawn from the provision that the navigation of certain specified rivers is to be free.

But we think that some confirmation of the view taken by the United States' Custom-house is given by Articles XVIII and XIX of the Treaty, which apply only to fisheries on the eastern, or Atlantic, side of the continent.

The Article XXXIII provides the means by which the several Articles named are to be carried into operation, but does not provide for extending the meaning or operation of those Articles; and we think the Act of Congress of the 1st March, 1873, and the Act of the Parliament of Canada of the 14th June, 1872, must both be construed with reference to the "Dominion of Canada" as that Dominion was on the 8th May, 1871.

We are therefore of opinion that your Lordship cannot properly instruct Sir E. Thornton to bring the matter before the United States' Government.

Whether the Canadian Government should refuse to admit the similar produce of the United States free of duty, or an Additional Article should be added to the Treaty providing for the case of British Columbia, are questions of policy which we venture to suggest for consideration.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 144.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received July* 13.)

*Lincoln's Inn, July* 12, 1875.

My Lord,

WE were honoured with your Lordship's commands signified in Lord Tenterden's letter of the 18th June ultimo, stating that, with reference to our Report of the 21st April last on the subject of jurisdiction over offences committed on shore in Japan by British subjects serving on board United States' men-of-war, he was directed by your Lordship to transmit to us a despatch from Her Majesty's Minister at Washington,* reporting a conversation which he had had with Mr. Fish on that subject; and Lord Tenterden further stated that he was to request that we would take the despatch into our consideration, and favour your Lordship with our opinion whether, in the event of such a course being considered advisable, Her Majesty's Government have power under the Treaties between China and Japan, and without legislation in this country, to enter into an agreement of a nature similar to that suggested by the United States' Government.

In obedience to your Lordship's commands we have taken the despatch into consideration and have the honour to report—

That, in our opinion, an agreement such as that suggested by Mr. Fish could not properly be concluded without legislation in this country, nor under the Treaties with China and Japan. But we think that until some agreement on the subject is come to with the Government of the United States, the British authorities in China and Japan might properly be instructed not to interfere with British subjects serving in United States' or other foreign men-of-war, upon the principle that, having taken service with a foreign State, they are for the time being under the protection of such foreign State, and not that of Her Majesty's Government.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Sir E. Thornton (original), No. 156, Confidential, May 24, 1875.

## No. 145.

*The Solicitor-General and Dr. Deane to the Earl of Derby.*—(*Received September* 17.)

*Temple, September* 17, 1875.

My Lord,

WE, the Solicitor-General and Dr. Deane, in the absence of the Attorney-General, who is at present on the Continent, are honoured with your Lordship's commands signified in Mr. Lister's letter of the 6th instant, stating that he was directed by your Lordship to transmit to us two letters from the Home Office, relative to the reported intention of the United States' Government to cause one Charles Lewis Lawrence, who was surrendered to them by Her Majesty's Government on a charge of forgery, to be tried on charges other than those on which his extradition was granted.

That it appears from the accompanying telegrams from Sir Edward Thornton, who was directed to inquire into the state of the case, that the United States' Government have been advised by their Solicitor-General that the course which they are pursuing with regard to Lawrence is legal; and Mr. Lister was to request us to take the papers into our immediate consideration, and report to your Lordship, at our earliest convenience, our opinion as to the steps that should be taken in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, Sir E. Thornton may properly be instructed to protest against Lawrence being put upon his trial for any offence other than the offence on account of which he was surrendered.

The reasons for such protest are so clearly put in the Home Office letter of the 4th September, that we suggest, for your Lordship's consideration, that the paragraphs in that letter numbered 1, 2, 3, and 4 should be communicated to Sir E. Thornton as part of his instructions.

We have, &c.
(Signed) J. PARKER DEANE.
(For the Solicitor-General and myself.)

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## No. 146.

*The Attorney-General to the Earl of Derby.*—(*Received October* 26.)

*Lincoln's Inn, October* 25, 1875.

My Lord,

IN conjunction with the Solicitor-General and Dr. Deane, I was honoured with your Lordship's commands signified in Mr. Lister's letter of the 28th September, 1875, stating that, with reference to the letter of the Solicitor-General and Dr. Deane of the 17th September, relative to the case of Lawrence's extradition, he was directed by your Lordship to transmit to us a despatch, received on the 19th September from Sir E. Thornton, forwarding a copy of the argument presented by the District Attorney of the State of New York in support of the right of the United States' Government to try Lawrence for crimes other than those for which he was given up.

That he (Mr. Lister) was at the same time to inclose a memorandum on the subject, which had been prepared in the Foreign Office, and that he was to call our attention to the accompanying Report by the Law Officers of the 25th February, 1865, on the case of Burley, who was surrendered to the United States on a charge of robbery, in which they gave it as their opinion that if Burley was "*bonâ fide* put on his trial for the offence in respect of which he was given up, it seemed difficult to question the right of the United States' Government to put him upon his trial also for piracy, or any other offence of which he might be accused of having committed within their territory, whether or not such offence was a ground of extradition, or even within the Treaty."

That your Lordship would wish that, before any instruction was sent to Sir E. Thornton, we should take the case again into our consideration, and report to you our opinion upon the following points, as well as upon any others which we might think required notice:—

1. Have Her Majesty's Government the right, in view of the fact that Lawrence was given up unconditionally, of protesting against his trial upon a charge other than the extradition crime, if he is first *bonâ fide* tried for that crime?

2. Have they such a right if he is tried upon the other charge without being first tried for the extradition crime?

3. If the offence for which the United States' Government proposed to try him was not a crime mentioned in the Treaty of 1842, would that be a ground for protesting, if their right in other respects was admitted?

4. Do the terms of the Treaty of 1842 debar Her Majesty's Government from refusing the extradition of a fugitive criminal without such an "arrangement," that he shall not be tried fer another offence than the extradition crime, as is contemplated by the 3rd clause of the Act of 1870?

That the former papers were annexed for convenience of reference.

That he (Mr. Lister) inclosed a further despatch from Sir E. Thornton, reporting the proceedings in the case, from which it appeared that the prisoner's counsel had waived their right to have him first tried on the extradition charge.

In obedience to your Lordship's commands we have taken these papers into our consideration; but as we have the misfortune to differ in the views which we take of the subject referred to us, we have thought it convenient to address to your Lordship separate Reports. In my own case, I feel that the adoption of this course is the more convenient, as I was unable to take part in the consideration of the papers upon which the Solicitor-General and Dr. Deane reported to your Lordship on the 17th September.

Under these circumstances, I have the honour to report to your Lordship as follows:—

That, in my opinion, the Treaty of 1842, so far as regards the construction to be put upon it and the application of its provisions to the case of Lawrence, is in no way affected by the Extradition Act of 1870.

That, inasmuch as the 10th section of the Treaty provides for the surrender of a prisoner charged with any of the extradition offences, upon such evidence of criminality as would justify his apprehension and commitment for trial if the offence had been committed in the place where he is found, but imposes no condition whatever as to the mode in which the surrendered person is to be subsequently dealt with, it appears to me that, under no fair construction of the Treaty itself, can the Contracting Party who has surrendered the prisoner be entitled to complain of, or to inquire into, the manner in which the other Contracting Party has dealt, or proposes to deal, with him.

It is very probable that, at the date of the Treaty, both Her Majesty's Government and that of the United States contemplated the surrender of the accused party, with a view to his subsequent trial for the offence with which he was charged, and with no other view; but the Treaty is silent upon the subject; and, though doubtless the view that such a condition should be attached to extradition was so strongly entertained in Great Britain that the Act of 1870 was passed, which expressly provides for giving effect to it, I am unable to say that there is, in my opinion, any sufficient ground for contending that the parties to the Treaty must be considered as bound to act upon a presumed understanding that no person extradited under the Treaty should be tried for any other offence than that in respect of which he was surrendered.

As far as I can gather from the papers before us, it is not suggested that there is any evidence of the existence of such an understanding at the time when the Treaty was signed; nor does it appear to me that any argument in favour of the view that such an understanding did exist can be deduced from the way in which the cases which have arisen under the Treaty have been dealt with.

After as careful an examination as I have been enabled to make into the reported cases, I am unable to find any instance in which the right of the party, to whom a prisoner has been surrendered under the Treaty, to try such offender for another offence has been objected to by the other Contracting Party. The question was certainly raised in the case of Burley, to the extent that it was submitted for the consideration of the Law Officers in 1865; they then in substance advised that an extradited prisoner might be tried for another offence, if he were first tried for the offence in respect of which he was surrendered, but that he ought not to be tried for the offence with which he was newly charged unless he had previously been put upon his trial for the other offence.

With every respect for the opinion so expressed, I am unable to concur in it; nor can I comprehend any sound principle upon which it can be maintained, in the absence of any stipulation to such effect in the Treaty. Nor does it appear to me that the case has any value as a precedent, for Her Majesty's Government, acting upon the opinion of the Law Officers, made no protest against the course pursued by the United States, and the Government of that country were not concerned to inquire into the soundness of the reasons which induced Her Majesty's Government to acquiesce in such a course.

The other cases referred to in the memorandum of the Attorney for the Southern District of New York support the view which appears to me the sound one to take of the true construction of the Treaty, viz., that when the prisoner has been legally surrendered under it, he becomes amenable to the laws of the country to which he has been surrendered.

If I am correct in the views I have expressed, it would appear that the following answers should be given to the questions contained in Mr. Lister's letter:—

1 and 2. That, in view of the fact that Lawrence was given up unconditionally, Her Majesty's Government have not any right of protesting against his trial upon a charge other than the extradition crime, whether he is first *bonâ fide* tried for that crime or not.

3. That it would form no ground for Her Majesty's Government protesting, if the offence for which the United States' Government proposed to try Lawrence was not a crime mentioned in the Treaty of 1842.

4. That the terms of the Treaty of 1842 debar Her Majesty's Government from refusing the extradition of a fugitive criminal without such an "arrangement," that he shall not be tried for another offence than the extradition crime, as is contemplated by the 3rd clause of the Act of 1870.

With respect to the postscript to Mr. Lister's letter, to the effect that Lawrence through his counsel had waived his right (if he had any) to be first tried on the extradition charge, I may state that, though, in my opinion, any right which Her Majesty's Government might possess of protesting against the course proposed to be adopted by that of the United States could not be affected by the act of the prisoner or his counsel, it appears to me that the fact of the proposal to try in the first instance upon the new charge having been made with the consent, if not at the request, of the prisoner, would afford a very sufficient reason for Her Majesty's Government not making or insisting upon a protest which they were otherwise entitled to make.

I have, &c.
(Signed) RICHARD BAGGALLAY.

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### No. 147.

*The Solicitor-General to the Earl of Derby.*—(*Received October* 26.)

*Temple, October* 25, 1875.

My Lord,

IN conjunction with the Attorney-General and Dr. Deane, I was honoured with your Lordship's commands signified in Mr. Lister's letter of the 28th September ultimo, stating that, with reference to the Law Officers' letter of the 17th September ultimo, relative to the case of Lawrence's extradition, he was directed by your Lordship to transmit to us a despatch, received on the 19th September from Sir E. Thornton, forwarding a copy of the argument presented by the District Attorney of the State of New York in support of the right of the United States' Government to try Lawrence for crimes other than those for which he was given up.

That Mr. Lister was at the same time to inclose a memorandum on the subject, which had been prepared in the Foreign Office, and that he was to call our attention to the accompanying Report by the Law Officers of the 25th February, 1865, on the case of Burley, who was surrendered to the United States on a charge of robbery, in which they gave it as their opinion that if Burley was "*bona fide* put on his trial for the offence in respect of which he was given up, it seemed difficult to question the right of the United States' Government to put him upon his trial also for piracy, or any other offence which he might be accused of having committed within their territory, whether or not such offence was a ground of extradition, or even within the Treaty.

That your Lordship would wish that before any instruction was sent to Sir E. Thornton we should take the case again into our consideration, and report to your Lordship our opinion upon the following points, as well as upon any others which we might think required notice:—

1. Have Her Majesty's Government the right, in view of the fact that Lawrence

was given up unconditionally, of protesting against his trial upon a charge other than the extradition crime, if he is first *bonâ fide* tried for that crime?

2. Have they such a right if he is tried upon the other charge without being first tried for the extradition crime?

3. If the offence for which the United States' Government proposed to try him was not a crime mentioned in the Treaty of 1842, would that be a ground for protesting, if their right in other respects was admitted?

4. Do the terms of the Treaty of 1842 debar Her Majesty's Government from refusing the extradition of a fugitive criminal without such an "arrangement," that he shall not be tried for another offence than the extradition crime, as is contemplated by the 3rd clause of the Act of 1870?

That the former papers were annexed for convenience of reference.

That he (Mr. Lister) inclosed a further despatch from Sir E. Thornton, reporting the proceedings in the case, from which it appeared that the prisoner's counsel had waived their right to have him first tried on the extradition charge?

In obedience to your Lordship's commands I have taken these papers into consideration. I am unable altogether to concur in the opinion at which the Attorney-General and Mr. Deane have arrived, and I have the honour to report that the opinion I have formed is as follows:—

The main question which arises is not whether the alleged criminal can claim the right to be tried only on the charge upon which his extradition was obtained, but whether the Government of this country can interfere and demand that the right of asylum she extends to strangers shall be respected.

The point at issue must, I admit, be decided by ascertaining the meaning of the Treaty of 1842 between Great Britain and the United States.

That Treaty provides in effect that person accused of certain specified offences shall be debarred from claiming asylum, and shall be given up to be dealt with by the Courts of the country in which they are alleged to have committed the crimes imputed to them.

The Treaty is silent with regard to the trial of the person whose extradition is obtained in the country demanding him.

Although, however, no provision for the trial of the accused is expressly made, still I think the spirit of the Treaty demands that there shall be implied a condition not merely that the accused shall be tried for the offence for which his extradition has been obtained, but for that offence only.

What object had the High Contracting Powers in view when the Treaty was entered into?

Surely they merely intended to provide that in certain specified cases the right of asylum might be interfered with.

If this is so, it follows that if the crime for which the person sent into extradition from this country is delivered up is not established, the right to afford him asylum revives. Were it otherwise, a man might be given up on a charge of having committed some crime included in the Treaty, and be tried for a political offence.

If, then, the true construction of the Treaty is such as I have suggested, there is nothing in the Extradition Act of 1870 inconsistent with its provisions, but the Statute merely expresses in words that which is to be implied from the language of the Treaty.

It is, however, contended by the Attorney for the Southern District of New York, in his memorandum of the 28th May, 1875, that the Government of this country is bound to put a different construction upon the Treaty than the one suggested, in consequence of the precedents referred to by him, of the declaration as to the law by the Law Officers when consulted in Burley's case, and of the statements by Lord Hammond in his evidence given before the Committee of the House of Commons in 1867 and 1868.

With regard to the precedents it appears that a few cases have occurred in which persons delivered up for extradition crimes alleged against them were tried for other offences, but in none of these, except Burley's case, does the attention of the Government of the country from which the extradition took place seem to have been directed to the matter; and in Burley's case I do not gather that there was any official recognition at the time by the Government of England that the trial was justifiable. Such precedents, therefore, as have been cited should not, I think, conclude so grave a question as the present.

As to the opinions expressed by the Law Officers and Lord Hammond, I fail to

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see how this country can be bound by them. The opinions are, no doubt, those of eminent men who occupied official position, but who were not authorized to make admissions with regard to the state of the law.

Having made the above observations, I would, with regard to the specific questions contained in Mr. Lister's letter, answer the first, second, and fourth in the affirmative, and the third in the negative.

I have, &c.
(Signed) JOHN HOLKER.

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## No. 148.

*Dr. Deane to the Earl of Derby.*—(*Received October* 26.)

*Temple, October* 25, 1875.

My Lord,

IN conjunction with the Attorney- and Solicitor-General, I was honoured with your Lordship's commands signified in Mr. Lister's letter of the 28th ultimo, stating that, with reference to the Law Officers' letter of the 17th ultimo, relative to the case of Lawrence's extradition, he was directed by your Lordship to transmit a despatch received on the 12th ultimo from Sir E. Thornton, forwarding a copy of the argument presented by the District Attorney of the State of New York, in support of the right of the United States' Government to try Lawrence for crimes other than those for which he was given up.

That Mr. Lister was at the same time to inclose a memorandum on the subject, which had been prepared in the Foreign Office, and that he was to call attention to the accompanying Report by the Law Officers of the 25th February, 1865, in the case of Burley, who was surrendered to the United States on a charge of robbery, in which they gave as their opinion that if Burley was "*bonâ fide* put on his trial for the offence in respect of which he was given up, it seems difficult to question the right of the United States' Government to put him upon his trial also for piracy, or any other offence which he may be accused of having committed within their territory, whether or not such offence was a ground of extradition, or even within the Treaty.

That your Lordship would wish that before any instruction was sent to Sir E. Thornton we would take the case again into our consideration, and report to your Lordship our opinion upon the following points, as well as upon any others which we might think require notice:—

1. Have Her Majesty's Government the right, in view of the fact that Lawrence was given up unconditionally, of protesting against his trial upon a charge other than the extradition crime, if he is first *bonâ fide* tried for that crime?

2. Have they such a right if he is tried upon the other charge without being first tried for the extradition crime?

3. If the offence for which the United States' Government proposed to try him was not a crime mentioned in the Treaty of 1842, would that be a ground for protesting, if their right in other respects was admitted?

4. Do the terms of the Treaty of 1842 debar Her Majesty's Government from refusing the extradition of a fugitive criminal without such an "arrangement," that he shall not be tried for another offence than the extradition crime, as is contemplated by the 3rd clause of the Act of 1870?

That the former papers were annexed for convenience of reference.

That Mr. Lister also inclosed a further despatch from Sir E. Thornton, reporting the proceedings in the case, from which it appeared that the prisoner's counsel had waived their rights to have him first tried on the extradition charge.

In obedience to your Lordship's commands I have taken these papers into consideration; but differing, as I have the misfortune to do, from the opinions of the Attorney- and Solicitor-General, I have the honour to submit to your Lordship the following Report:—

That, in my opinion, the Xth Article of the Treaty of the 9th August, 1842, between Her Majesty and the United States of America, is the authority to and by which both Governments must refer and be bound in questions of extradition.

The crimes named in that Article are the only crimes, the alleged commission of which on the one hand founds the demand for extradition, and on the other hand justifies extradition.

No expressed stipulation that the person extradited shall be tried in the first instance or only for the particular extradition crime upon which he was surrendered is to be found in this Xth Article, or elsewhere in the Treaty. But the Treaty is a contract *uberrimæ fidei*, and its provisions should not be so construed as to enable either Government, having obtained the surrender of a person on the charge of a crime named in the Treaty, to at once pass over that charge and proceed to try the surrendered person on a different offence not named in the Treaty.

The former Report was drawn and signed by me, under the impression that the United States' Government intended to try Lawrence at once for smuggling, and not to try him at all for the forgery on account of which he was surrendered. And although that Report was, perhaps, too strongly worded, I still in substance adhere to the opinion which was then submitted to your Lordship upon the facts as I took them to be.

It appears, however, that in the first instance, and immediately upon the arrival of Lawrence in the United States, Lawrence, but for the act of his counsel, would have been put upon his trial for the crime upon which he was surrendered; and, although the rights of Her Majesty's Government are not affected by the act of Lawrence's counsel, yet the fact totally changes the case as regards the course which it seems the United States' Government is now likely to take; and with the former papers now before me, I am of opinion that no instructions founded upon the former Report can properly be sent to Sir E. Thornton.

In answer to the specific questions put in Mr. Lister's letter, I am of opinion:—

1st. That bearing in view that Lawrence was given up unconditionally, Her Majesty's Government has not a right to protest against his trial upon a charge other than the extradition crime, if he is first *bonâ fide* tried for that crime.

2nd. That Her Majesty's Government has a right to protest if Lawrence is tried upon another charge without being first *bonâ fide* tried for the extradition crime.

3rd. That the offence for which the United States' Government propose to try Lawrence was not a crime mentioned in the Treaty of 1842, would not be a ground for protesting.

4th. The rights of the Unittd States' Government under the Treaty cannot be limited by the Act of 1870.

In answering the second of the questions in Mr. Lister's letter, I have borne in mind the very small distinction which may practically be found between trying an extradited person before or after his trial for the extradition offence; but the point was taken in the Report of the Law Officers in February 1865, and in Lord Hammond's evidence, referred to by the United States' Attorney for the Southern District of New York.

The stipulation of the prisoner Lawrence's counsel, referred to by Sir E. Thornton in his despatch No. 260 of the 14th September, 1875, in no way, as I have said before, affects the rights of Her Majesty's Government, but is an answer to any further application on behalf of Lawrence.

Upon the whole of these papers, as they are now before me, I humbly suggest for your Lordship's consideration that Sir E. Thornton may properly be instructed to urge upon the United States' Government that Lawrence, nowithstanding his counsel's stipulation, should be first tried upon the forgery, since that course will clearly bring the case within the provisions of the Treaty and dispose of all possible doubts or difficulties.

I have, &c.
(Signed) J. PARKER DEANE.

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## Venezuela.

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### No. 149.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received January* 27.)

*Lincoln's Inn, January* 26, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 2nd instant, stating that he was directed by your Lordship's to transmit to us therewith a letter, with its inclosures, from the Colonial Office, forwarding for your Lordship's consideration a despatch from the Officer administering the Government of Trinidad, inclosing a correspondence which had taken place with the Consul-General for Venezuela in that island relative to the demand made by that gentlemen for the detention of a British vessel called the "Indiana," which was preparing to sail to Venezuela, on account of the alleged complicity of certain passengers on board in a conspiracy said to have for its object a descent upon the coast of Venezuela; and that he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion as to the line of conduct pursued by the Administrator on the occasion in question.

That he (Mr. Bourke) was at the same time to transmit to us a further letter from the Colonial Office (January 2, 1875) on the subject, which had just been received at the Foreign Office.

In obedience to your Lordship's commands we have the honour to report—

That the several facts stated in the correspondence and protests of the Venezuelan Consul show that Trinidad is the resort of and is used by persons disaffected to the Government of Venezula, and we are therefore of opinion that the Officer administering the Government of Trinidad may properly be instructed to exercise the greatest vigilance for preventing any breach of neutrality.

In the particular case of the "Indiana," the Officer administering the Government of Trinidad had to consider whether, first, he had reasonable and probable cause for believing any infringement of the Foreign Enlistment Act of 1870 was intended, and secondly, whether, if the ship had been detained, a conviction could have been obtained.

Considering the information which was obtained and given by the police as to the destination and cargo of the "Indiana," and also bearing in mind the statements made, no doubt with perfect good faith, by the Consul-General, we are unable to say that the Officer administering the Government of Trinidad, and who acted under the advice of the Attorney-General, erred in refusing to detain the "Indiana;" and we are of opinion that the line of conduct pursued by the Administrator in regard to the vessel may properly be approved.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 150.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received April* 21.)

*Lincoln's Inn, April* 20, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th March ultimo, stating that he was directed by your Lordship to transmit to us the accompanying despatch, with its inclosures, from Her Majesty's Minister Resident at Carácas,* respecting the circumstances connected with the detention of the British steamer "Alps" at Puerto Cabello, in consequence of that port being closed against all vessels leaving it; and Lord Tenterden was to request that we would take these papers into our consideration, and favour your Lordship with any observations we may have to offer thereupon.

Lord Tenterden was to add that your Lordship intends to approve the course pursued by Mr. Middleton in the matter.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That, in our opinion, the circumstances under which the "Alps" was chartered for the conveyance of troops to the coast of Coro should be inquired into, before any further representation is made to the Government of Venezuela on the subject of her detention, as it appears to us by no means improbable that any possible claim which Mr. Drakeford may have had for the detention of his ship was put an end to by the contract entered into by him with the Government authorities.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Mr. Middleton, No. 11, February 5, 1875.

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### No. 151.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received April* 29.)

*Lincoln's Inn, April* 28, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 21st instant, stating that, with reference to our Report of the 17th December last, in regard to the case of the vessel "Rosalina," he was directed by your Lordship to transmit to us a further despatch (No. 24), with its inclosures, from Her Majesty's Minister Resident in Venezula in regard to that case.

That your Lordship proposed to instruct Mr. Middleton to confine himself to promoting an amicable settlement of the matter between the owner of the vessel and the Venezuelan Government, and, should that fail, to press for an immediate trial before the proper Tribunals.

That he (Lord Tenterden) was therefore to request that we would take the papers into our consideration, and favour your Lordship with any observations we might have to offer thereupon, and with our opinion as to whether we concur in the instruction which your Lordship proposed to address to Mr. Middleton.

That the previous correspondence on the subject was therewith returned to us for convenience of reference.*

In obedience to your Lordship's commands we have the honour to report—

That the proposed instructions may, in our opinion, properly be sent to Mr. Middleton.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 152.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.—(Received May* 13.)

*Lincoln's Inn, May* 11, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Mr. Lister's letter of the 24th April ultimo, stating that he was directed by your Lordship to transmit to us therewith the papers noted in the margin,† relative to an Article in the Financial

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* Vice-Consul Mathison, No. 8; Mr. Middleton, No. 75; ditto, No. 87; Law Officers, December 17, 1874; to Mr. Middleton, No. 51; Mr. Middleton, No. 14, 1875.

† Mr. Middleton, No. 17, Commercial, 1874; Board of Trade, January 25; to Mr. Middleton, No. 1, Commercial; Mr. Middleton, No. 5, Commercial; ditto, No. 8, Commercial; Memorandum, April 17, 1875.

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Code of Venezuela, whereby it was required that the papers of ships arriving in the ports of the Republic should be deposited with the Customs authorities instead of with the Consul of the nation to which the ship belonged; and that he was to request that we would take the same into our consideration, and favour your Lordship with our opinion as to whether the regulation in question was contrary to the existing Treaty stipulations between Great Britain and Venezuela as set forth in the Treaties of the 18th April, 1825, and the 29th October, 1834 (Hertslet's Treaties, vol. iii, p. 56, and vol. iv, p. 534).

We are also honoured with a further note from Mr. Lister of the 30th April ultimo, stating that, with reference to the letter from the Foreign Office of the 24th April ultimo, he was directed by your Lordship to transmit to us, for our consideration together with the papers then before us, a further despatch, with its inclosures, from Her Majesty's Minister at Carácas,* relative to the Venezuelan Law requiring ships' papers to be deposited at the custom-houses of the Republic.

In obedience to your Lordship's commands we have the honour to report—

That, in our opinion, the regulation in the Financial Code of Venezuela requiring that the papers of ships arriving in the ports of that Republic should be deposited with the Customs authorities, instead of with the Consul of the nation to which the ship belongs, is not contrary, in reference to British ships, to the existing Treaty stipulations between Great Britain and Venezuela.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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### No. 153.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—(*Received December* 3.)

*Temple, December* 3, 1875.

My Lord,

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 10th ultimo, stating that he was directed by your Lordship to state to us that serious differences had lately arisen between the Government of the Netherlands and that of Venezuela, and that a report having reached the Government of the Netherlands that in the event of hostilities it was the intention of the Venezuelan Government to issue letters of marque, the Netherlands Chargé d'Affaires at this Court had received instructions to inquire what view Her Majesty's Government would take of such a proceeding.

That, as we were of course aware, the Powers represented at the Conference of Paris, 1856, signed a Declaration on the 16th April of that year abolishing privateering, with the proviso, however, that the Declaration should not be binding except between those Powers who had acceded or should accede to it.

That the Declaration was subsequently acceded to by other Powers, the Netherlands among the number. Venezuela, however, declined to accede to the Declaration, on the ground that, having no national navy, privateering would be her only resource in extreme cases against a superior enemy.

That copies were sent therewith of the Declaration of Paris, of the note from the Netherlands Minister for Foreign Affairs notifying the accession thereto of his Government, and of a despatch from Her Majesty's Minister at Carácas, inclosing a note from the Venezuelan Minister for Foreign Affairs announcing the refusal of the Venezuelan Government to accede to the Declaration; and that Lord Tenterden was to request that we would take those papers into our consideration, and favour your Lordship with our opinion as to the course that should be pursued by Her Majesty's Government with regard to Venezuelan privateers, in the event of war between the Netherlands and Venezuela, and the Venezuelan Government carrying out its reported intention to issue letters of marque.

That the only case at all similar to the present that had arisen since the date of the Declaration of Paris was that of the war in 1865, between Spain and Chile, in which Peru afterwards took part as an ally of Chile, and that even that case was not exactly parallel.

Chile and Peru had acceded to the Declaration of Paris, but Spain had refused to do so, and the Chilean Government maintained that they were only bound by the Declaration towards other acceding Powers. Spain not being one of the acceding Powers, the Chilean Government held themselves free to issue letters of marque in a war waged against her, and announced their intention of so doing.

That the Spanish Government thereupon issued a Circular to the Commanders of Spanish ships of war, laying down certain conditions under which Chilean privateers were to be treated as pirates; but they did not deny the right of the Chilean Government to issue letters of marque under proper conditions; and that we should see from the inclosed copy of a letter from the Earl of Clarendon to the Lords of the Admiralty and to other Departments, that Her Majesty's Government, in laying down rules for maintaining the neutrality of British waters during that war, made no distinction between ships of war and privateers.

In obedience to your Lordship's commands we have the honour to report—

That the Declaration of the Congress at Paris, 16th April, 1856, provides that such Declaration is not and shall not be binding, except between those Powers who have acceded or shall accede to it.

Venezuela has expressly declined to accede to the Declaration.

We are therefore of opinion that it is not binding upon and between the Governments of the Netherlands and Venezuela, and Her Majesty's Government may properly, in the event of a war between the Netherlands and Venezuela, adopt the course towards ships of war and privateers of both countries which was adopted in 1866, in reference to the ships of war and privateers of Spain and Chile and Peru.

We have, &c.
(Signed) JOHN HOLKER.
HARDINGE S. GIFFARD.
J. PARKER DEANE.

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* Mr. Middleton, No. 10, Commercial.

## Zanzibar.

### No. 154.

*Dr. Deane to the Earl of Derby.*—(*Received February* 4.)

*Temple, February* 2, 1875.

My Lord,

I AM honoured with your Lordship's commands signified in Mr. Bourke's letter of the 1st instant, stating that he was directed by your Lordship to transmit to me despatches from the Acting British Consul-General at Zanzibar respecting the bankruptcy of Captain Frazer.

That in a previous case of a similar nature the papers were referred to the Board of Trade, and a notice, of which a copy was inclosed, was inserted by that Department in the "London Gazette." In the present case, however, the Board of Trade said that they considered that the matter should be dealt with by the Foreign Office.

That, under those circumstances, Mr. Bourke was to request that I would take the accompanying papers into my consideration, and favour your Lordship with my opinion as to whether the notice relating to Captain Frazer's bankruptcy, inclosed in Captain Prideaux's despatch of the 11th December last, might properly be published in the "Gazette."

In obedience to your Lordship's commands I have the honour to report—

That, in my opinion, the notice relating to Captain Frazer's bankruptcy, inclosed in Captain Prideaux's despatch of the 11th December last, may properly be published in the "Gazette."

I have, &c.
(Signed) J. PARKER DEANE.

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## No. 155.

*The Solicitor-General and Dr. Deane to the Earl of Derby.*—*(Received September* 16.)

My Lord, *Temple, September* 16, 1875.

WE, the Solicitor-General and Dr. Deane, in the absence of the Attorney-General, who is at present on the Continent, are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 20th August ultimo, stating that he was directed by your Lordship to transmit to us a despatch, and inclosures, from the Acting Consul-General at Zanzibar,* raising several points in connection with the question of the liability of British Indian subjects to trial on charges of slave-holding in cases where their Arab or native wives may possess slaves; and Lord Tenterden was to request that we would take these papers into our consideration, and favour your Lordship with our opinion on the points raised by Major Smith.

In obedience to your Lordship's commands we have taken these papers into consideration and have the honour to report—

That we are unable, from the facts stated by the Acting Consul-General at Zanzibar, to form any opinion either upon the two cases which have actually happened or upon those which he suggests may occur.

As a general rule, a foreign woman marrying a British subject becomes herself a British subject, and her personal property becomes the property of her husband; but this general rule is subject to a variety of exceptions depending upon the law of the country in which the marriage may take place, the rights of the woman over the property, whether it be settled to her separate use, and numerous other circumstances.

So in the case of mortgage, the ownership if the mortgagee is but qualified in this country, and the nature and effect of a mortgage in Zanzibar we are ignorant of.

We therefore respectfully submit, for your Lordship's consideration, that the proper course in the cases referred to will be for the Consul to send over the charges, the sections of the Penal Code of India or other law, whether of Zanzibar or India, under which the offence is supposed to have been committed, the evidence in support of the charges, and the grounds and evidence in support of the defence in each case, before he delivers his judgment.

By this means a knowledge of the particulars of each case may be ascertained, and the chance of mischief from a judgment contrary to the law or to the institutions of Zanzibar be lessened.

We have, &c.
(Signed) JOHN HOLKER.
J. PARKER DEANE.

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## No. 156.

*The Law Officers of the Crown and Dr. Deane to the Earl of Derby.*—*(Received October* 21.)

My Lord, *Lincoln's Inn, October* 20, 1875.

WE are honoured with your Lordship's commands signified in Mr. Bourke's letter of the 7th instant, stating that he was directed by your Lordship to transmit to us the accompanying draft of an Order in Council which had been drawn up by the Legal Adviser to the Treasury in Slave Trade matters, for the purpose of giving effect to the Supplementary Treaty which was entered into with the Sultan of Zanzibar on the 14th July last; and that he (Mr. Bourke) was to request that we would take the draft into our consideration, and favour your Lordship with our opinion whether it is right and proper to be passed.

In obedience to your Lordship's commands we have the honour to report—

That the Order in Council, of which the draft is inclosed with Mr. Bourke's letter, may be, in our opinion, rightly and properly passed.

We have, &c.
(Signed) RICHARD BAGGALLAY.
JOHN HOLKER.
J. PARKER DEANE.

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* Major Smith, No. 91, June 28, 1875.

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